

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

26 WRIT PETITION NO.5485 OF 2018

**MANOHAR DATTATRAYA SHRINGARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Advocate for Petitioner : Mr S. C. Yeramwar h/for Mr Irale Eknath G.
AGP for Respondents State: Mr K N Lokhande

CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.

DATE : 6th January, 2020

ORDER:

1. Heard. By consent of the parties, the petition is taken up for final hearing and disposal.

2. The petitioner challenges the order dated 19.03.2018 whereby, the application submitted by the petitioner for allotment of land is rejected. Learned counsel for the petitioner invited our attention to the order of this Court dated 21.12.2017 in Writ Petition No.15024/2017. It was submitted before this Court that since long i.e. since 1992, the petitioner was approaching the Collector, Latur for allotment of land. The petitioner is Ex-serviceman. By taking recourse to Government Resolution dated 08.07.1998, the petitioner prayed for allotment of land so as to earn his livelihood. Considering this fact, the Division Bench of this Court thought it fit to dispose of the writ petition with direction to respondent no.2 to decide the application of the petitioner on its own merits, in accordance with law and policy within stipulated period of six months. The learned counsel vehemently submitted that while rejecting

the application of the petitioner a mechanical reliance is placed on the judgment and order of the Hon'ble Apex Court in the matter of Jagpal sing and others Vs. State of Punjab and others. As such, rejection order is unsustainable.

3. Per contra, learned AGP appearing for the respondents submitted that the reference to the order of the Hon'ble Apex Court is one reason, whereas the District Collector Latur also referred to another reasons for rejection. Learned AGP further submitted that the petitioner submitted his application for allotment of land from the area of Gat Nos. 539 and 542. Learned AGP then submitted that the petitioner, in his application itself, admitted that the land sought for allotment under the two Gat Nos. is a part of forest land. Learned AGP also invited our attention to the communication forwarded from the office of the Collector to the Tahsildar, Chakur on application of the petitioner dated 07.06.2008, copy of the same is placed on record. Learned AGP then submitted that in view of the order of the Hon'ble Apex Court, the State Government issued Government Resolution dated 12th July, 2011 and taking the matter of removal of encroachment of Government land serious. The learned AGP also invited attention of this Court to Clause 9 of the Government Resolution dated 12th July, 2011 to submit that allotment of land from the area of Gairan land would be only restricted for achieving purpose of making available the public utility facility or the lands to be utilized for the public purposes.

Thus it is the submission of the learned AGP that as the petitioner is seeking land from Gairan land and more particularly reminder representation of the petitioner dated 23.09.2005 specifically states that there is activity of social forestation carried out in the area of Gat Nos. 539 and 542 and in such situation, it will not be possible for the Collector, Latur to allot any part of such land.

4. Considering these rival submissions and though there is some merit in the submission of learned AGP that the State Government is making serious attempt so as to prevent encroachment over the Government lands/Gairan lands, redressal can certainly be provided to the grievance of the petitioner. Perusal of the communication dated 07.06.2008 clearly show that there are certain Government Resolutions issued so as to achieve the object of providing lands to Ex-servicemen for earning their livelihood. Now it is not in dispute that the petitioner is Ex-serviceman. Considering this aspect, we deem it appropriate to provide opportunity to the petitioner to submit his claim afresh to the Collector.

5. Accordingly, we permit the petitioner to submit fresh representation to the Collector, Latur i.e. respondent No.2 for allotment of land to the petitioner for earning his livelihood. The petitioner may submit representation within two weeks from today. On receipt of representation, the Collector, Latur to decide the representation on merits of the representation, considering various Government

Resolutions or the Government decisions in regard to the allotment of lands to Ex-servicemen. The decision be taken as expeditiously as possible and not later than within eight weeks from the date of receipt of representation by the office of the Collector, Latur.

6. With these directions, the writ petition is disposed of.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

JPC