

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1709 OF 2020

PETITIONER :

Namdeo s/o Dajiba Kakde
Aged about 75 years, Occu. Agriculturist
R/o. Chinchkhed, Tah. Deulgaon Raja
District – Buldana.

Vs.

RESPONDENTS :

1. The State of Maharashtra
Through its Secretary,
Irrigation Department,
Mantralaya, Mumbai – 400 032
2. The Divisional Commissioner,
Amravati Division, Amravati
3. The Collector, Buldana Dist. Buldana
4. The Special Land Acquisition Officer /
Sub Divisional Officer, Khadakpurna
Project, Sindkhed Raja, Dist. Buldana

Mr. R. N. Ghuge, counsel for the petitioner.
Mr. S. P. Deshpande, Addl. G.P. for respondents No.1 to 4.

CORAM : MANISH PITALE, J.

DATE : DECEMBER 14, 2020

ORAL JUDGMENT

Rule. Rule is made returnable forthwith.
Heard finally with the consent of learned counsel
appearing for rival parties.

2. By this writ petition, the petitioner has challenged impugned orders dated 01/12/2016, at Annexure – B, passed by the Land Acquisition Officer, Khadakpurna Project, Sindhkhedraja District Buldana, whereby his application under Section 28-A of the Land Acquisition Act, 1894 has been rejected.

3. The only ground on which the application filed by the petitioner has been rejected is that he was not entitled to file such an application because, he had already picked up compensation under the scheme of rehabilitation framed by the Government under Government Resolution dated 03/05/1988.

4. The learned counsel appearing for the petitioner has invited attention of this Court to order dated 23/04/2019, passed in cases where the petitioner were identically situated. A perusal of the said order shows that this Court has followed the dictum laid down in an earlier judgment of this Court in the case of **Motiram Zingar Wawre Vs. State of Maharashtra and others 2017 (4) Mh.L.J.627**, wherein it has been categorically held that any amount received by claimants under rehabilitation packages of the Government, would not disentitle such claimants from receiving statutory amounts under the provisions of the aforesaid Act. On this basis, by the said order, this Court has allowed the said writ petition and directed that applications under Section 28-A of the said Act filed by the petitioner therein shall be considered afresh by the Land Acquisition Officer, on merits.

5. The learned Additional Government Pleader has appeared for the respondents and sought to oppose the relief in the present writ petition. But, since the petitioner herein is identically situated like the petitioner in the Writ Petition Nos.1046/2019 and 1730/2019, which were allowed by order dated 23/04/2019, passed by this Court, the present writ petition also deserves to be allowed.

6. In view of above, the writ petition is allowed by following ratio of judgment in the case of **Motiram Zingar Wawre Vs. State of Maharashtra and others** (supra). The impugned orders at Annexure – B dated 01/12/2016, is quashed and set aside. The Land Acquisition Officer i.e. the respondent No.4 is directed to consider the application filed by the petitioner herein under Section 28-A of the aforesaid Act, afresh on merits.

7. It is made clear that the respondent No.4 – Land Acquisition Officer, shall not refuse relief to the petitioner under the said provision only on the ground that he had taken rehabilitation compensation under scheme floated by the Government.

8. The application filed by the petitioner shall be decided expeditiously by the respondent No.4.

9. Rule is made absolute in above terms.

JUDGE