

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

930 WRIT PETITION NO.1315 OF 2020

Tukaram s/o Bhujanga Waghmare
Age : 65 years, Occu: Agri,
R/o : Mohija (p.), Tq: Kandhar,
District : Nanded.

...Petitioner

Versus

1. State of Maharashtra.
Through its Secretary,
Revenue and Forest Department,
Hutatma Rajguru Chowk,
Madam Cama Road,
Mantralaya, Mumbai-32.
2. Collector,
Collector Office, Nanded District
Collectorate, Wazirabad, Nanded.
3. Deputy Collector Rehabilitation,
Rehabilitation Department,
Collector Office, Nanded District
Collectorate, Wazirabad, Nanded.
4. Divisional Commissioner
Aurangabad Divisional
Divisional Commissioner Office,
Near Delhi Gate, Fazilpura,
Aurangabad. Pin Code 431 001.

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Ms. Savita N. Solunke, Advocate for the Petitioner.
Mr. S.B. Yawalkar, AGP for Respondent Nos.1 to 4.

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**CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, J.J.**

DATED : 18th AUGUST, 2021

ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J.) :-

1. Rule. Rule made returnable forthwith and heard finally by consent of the parties.

2. By this petition, the petitioner has put-forth prayer clause (B) and (C) as under:

“B. By issue of writ of Mandamus or Order in the like nature, the Hon’ble Court may kindly direct the Respondent No.3 to issue Project Affected Person Certificate in the name of Balaji Tukaram Waghmare who is the son of Petitioner.

C. Pending hearing and final disposal of the writ Petition, the Respondent No.3 may be directed to issue Provisional Project Affected Person Certificate in the name of Balaji Tukaram Waghmare who is the son of Petitioner.”

3. While issuing notices on 21.01.2021, we had summarized the plea of the petitioner as under :

“. An application for issuance of Project Affected Persons Certificate is rejected on the ground that the land acquired from the petitioner is only 17R and the petitioner is not landless. Said order is passed purportedly on the basis of G.R. dated 03rd May, 2010 and the petitioner’s land is acquired in the year 2004 and at that time G.R. dated 03.05.2010 was not in force.”

4. The learned AGP has placed reliance upon the affidavit in reply filed by the Deputy Collector, Rehabilitation Branch, Office of the District Collector, Nanded stating therein that though the land of the petitioner to the extent of 17R was acquired for a public project in 2004, he had made an application in the name of his son seeking a Project Affected Persons (PAP) Certificate on 18.03.2016. By that time, the Government Resolution dated 03.05.2010 was introduced whereby such PAP certificate could be granted to a person whose land ad-measuring a minimum of 20R is acquired. As the land of the petitioner acquired in a

public project is 17R, the petitioner was not entitled for a PAP certificate considering the Government Resolution dated 03.05.2010.

5. There is no dispute that the petitioner has approached the appropriate authorities as late as on 18.03.2016 when he filed an application seeking a PAP certificate in the name of his son. It is also admitted that the petitioner never applied for such a certificate for himself when his 17R land was acquired in 2004.

6. There is no dispute that a PAP certificate can be obtained even in favour of a son or such a close relative as is permissible vide Government Resolution dated 21.01.1980. The said government resolution also prescribes the category of persons who can take benefit of such a certificate for seeking employment or other benefits from the government.

7. It is crystallized law that a government resolution cannot be made applicable with retrospective effect. Notwithstanding that the petitioner did not move an application for seeking PAP certificate to which he was admittedly entitled to as in 2004, yet the Government Resolution dated 03.05.2010 cannot apply to his case.

8. In view of the above, this petition is partly allowed. The petitioner shall tender documentary evidence before respondent no.2 to indicate that Balaji Tukaram Waghmare is his son. Such document shall be filed on or before 15.09.2021. After respondent no.2 carries out the verification of such relationship and if Balaji turns out to be the biological son of the petitioner, a PAP certificate shall be issued, preferably on or

before 30.10.2021.

9. Rule is made partly absolute in the above terms.

(S.G. MEHARE. J)

(RAVINDRA V. GHUGE, J)