

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

907 WRIT PETITION NO.4477 OF 2021

SHAIKH SAHBBIR GULAB AND ANOTHER
VERSUS
PUSHPA BABAN KALE AND OTHERS

...
Advocate for the Petitioners : Shri S. V. Dixit

...
CORAM : N. J. JAMADAR, J.

DATE : 11th MARCH, 2021

...

PER COURT :

The challenge in this petition is to an order passed by the Divisional Commissioner, Nashik Division, Nashik in RTS Appeal No. 168 of 2018, whereby the Divisional Commissioner was persuaded to reject the appeal and confirm the order passed by Collector Ahmednagar in Adiwasi Restoration Case No. 1/2017 dated 02/02/2019 under Section 36A of the Maharashtra Land Revenue Code, 1966. The authorities recorded the finding that respondent No.1 Pushpa Baban Kale was a member of Scheduled Tribe (Hindu Phanse Pardhi) and the land was transferred without the permission of the Collector as envisaged by Section 36-A of the Maharashtra Land Revenue Code, 1966. Thus, the land was ordered to be restored to respondent No.1.

2. Learned counsel for the petitioner urged that the authorities have not properly appreciated the material on record, especially the

fact that respondent No.1 has not established her tribal status by placing on record the caste validity certificate has not been adequately considered.

3. In view of the provisions contained in Section 257 of the Maharashtra Land Revenue Code, 1966, the petitioner has an efficacious remedy before the State Government in the form of revision against the order impugned herein. It does not appear that the authorities have passed the order in breach of principles of natural justice or fundamental principles of judicial purpose. Nor there are allegations of breach of the fundamental rights of the petitioner. Thus, the case for exercise of writ jurisdiction despite existence of an alternate remedy is not made out.

4. In view of the above, the petition stands disposed of with liberty to the petitioner to approach the State Government under section 257 of the Maharashtra Land Revenue Code, 1966.

5. The period spent in prosecuting the present writ petition shall be excluded by the authority.

6. It is clarified that this Court has not considered the merits of the petition. All contentions are kept open.

(N. J. JAMADAR, J.)

shp/-