

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2710 OF 2017

BAJYA DEDYA VASAVE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioners : Shri Choudhari N. L.
AGP for Respondents 1 to 3 : Shri S.R. Yadav Lonikar

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CORAM : RAVINDRA V. GHUGE
&
S.G. MEHARE, JJ.

DATE :- 31st August, 2021

Per Court :-

1. On 16.06.2021, we had passed the following order :-

- “1. We have heard the learned Advocate for the petitioners and the learned AGP on behalf of respondent Nos. 1 to 3. The grievance of the petitioners is that though their lands have been acquired by the respondents for the Sardar Sarovar Project and though the petitioners are project affected persons and entitled for alternate land for their livelihood by way of rehabilitation, they have not been granted suitable lands.
2. The learned Advocate for the petitioners submits that initially petitioner No.1 was allotted land admeasuring 1 Hectar in Gat No.81/7. Since the said land was already in possession of another person, the allotment was cancelled by respondent No.2 on 29/12/2016. Petitioner No.2 was also granted land admeasuring 1 Hectar in Gat No.81/7. The said allotment was cancelled as the said land was under a dispute. Petitioner No.3 was granted

land admeasuring 2 Hectors in Gat No.40/1. This portion of land was also in possession of another person and hence respondent No.2 cancelled the said allotment. All these lands allotted to them earlier were situated at Vadchil, Tal.Shahada, Dist.Nandurbar.

3. *The learned AGP has brought to our notice that now petitioner No.1 has been allotted 2 Hectors land, one each in Gat No.81/7/A and Gat No.97/1/A, at Vadchil Shivar, as per his choice. Mutation entries, bearing Numbers 1171 dated 12/09/2007 and 1436 dated 08/03/2013, respectively, have been carried out in the name of petitioner No.1. A separate 7/12 extract has been prepared in his name. Petitioner No.2 has been allotted 1 Hector land in Gat No.88/1/A/1 in Vadchil Shivar as per his choice and mutation entry No.1386 dated 02/11/2011 has been carried out in his name. Petitioner No.3 has been allotted land admeasuring 2 Hectors in Gat No.40/1 and 7/12 extract is prepared in his name.*
4. *The learned AGP further submits that the earlier order of cancellation of allotment of the lands to the petitioners, has been recalled. The Special Officer Incharge of Rehabilitation, can grant specific dates and time to each of these petitioners for remaining present at the land site now allotted to them and the markings would be carried out by the competent authority in their presence and they would be put in peaceful possession of the said parcel of land. This entire exercise would be completed within 4 weeks.*
5. *The learned Advocate for the petitioners submits that if the above exercise is carried out and these petitioners are put in peaceful possession of the said parcels of land, they would be satisfied and would make a statement before this Court. Thereafter, this petition can be disposed of.*
6. *In view of the above, we record the statement made by the learned AGP on instructions. The Special Officer Incharge of Rehabilitation, respondent No.3, would issue notices to each of these petitioners so as to enable them to remain present at the land site on the allotted day and time*

so as to be put into possession. This exercise shall be completed within 4 (four) weeks from today. Compliance report shall be placed before us on the next date.

7. *Stand over to 16/07/2021.”*

2. On 27.07.2021, we had considered the grievance of the petitioners and had recorded in paragraphs 3 to 7 as under:-

“3. *The learned A.G.P. has brought to our notice through a bunch of papers that have been tendered across the bar with a covering letter dated 14/07/2021, addressed by the Additional District Collector, Nandurbar to the learned A.G.P., that the directions of this Court in paragraph No.6 of the order dated 16/06/2021 have been complied with from the side of the Government. The petitioners, however, did not even visit the said site, much less participate in the measurement of lands and for excepting the possession. They even refused to accept the notice of the Revenue Authorities issued in deference to our order dated 16/06/2021.*

4. *The learned Advocate for the petitioners submits that these petitioners, considering that they were not allotted lands since 2013, reallocated themselves in Jeevan Nagar, Gopalpur, Tq. Taloda, Dist. Nandurbar. The lands which the Revenue Authorities are allotting to them fall in Taluka Shahada, Dist. Nandurbar. These petitioners are scared of retaliation by the villagers in Taluka Shahada, as they would be treating these petitioners as outsiders and there is every likelihood that they may be physically harmed. As they are presently residing in Jeevan Nagar, Gopalpur, Tq. Taloda, Dist. Nandurbar, where sufficient Government land is available so as to allot some portion of lands to them by way of*

rehabilitation, the State of Maharashtra may consider their request.

5. *The learned A.G.P. submits that he cannot make a statement across the bar and would need to take instructions.*
6. *In view of the above, list this petition on 13/08/2021 so as to enable the learned A.G.P. to take instructions on the request put forth by the petitioners.*
7. *The learned Advocate for the petitioners submits on specific instructions with an assurance that the petitioners would not resile from such statement that the Government may consider allotting them lands for rehabilitation, at any place in Jeevan Nagar, Gopalpur, Tq.Taloda, Dist. Nandurbar.”*

3. On 18.08.2021, as the petitioners tendered two affidavits signed and executed by the biological brothers of petitioner Nos.1 and 2 and uncle (Mausa) of petitioner No.3 declaring that the lands in Gat Nos.81/7/A and 97/1/A at Vadchil, Taluka Shahada, District Nandurbar, are clear of encroachment, that we had accepted the said affidavits as X-1 and X-2 and original thereof were handed over to the learned AGP. We had observed in paragraph 4 of the order dated 18.08.2021 as under :-

- “4. *In order to place things in proper perspective, we are adjourning this matter to 31.08.2021 so as to enable the revenue authorities to take possession of the said land by virtue of the affidavits tendered in this Court so that this controversy is put to an end. The learned AGP would intimate to this Court as regards such developments on the next date.*

Pursuant to such developments, we would then consider the willingness of the State Government in granting parcels of land to these petitioners in Taloda Taluka, on the next date.”

4. The learned AGP points out the communication received by him dated 11.08.2021 from the Additional Collector, Nandurbar, in his capacity as the Rehabilitation Officer, Sardar Sarovar Project. The said communication dated 11.08.2021 (05 pages) is taken on record and marked as X-3 collectively for identification.

5. The learned AGP then places on record the communication dated 30.08.2021 received from the Additional Collector, Nandurbar/ Rehabilitation Officer, Sardar Sarovar Project along with the report of the Tahasildar, Shahada. The said communication dated 30.08.2021 (six pages) is taken on record and marked X-4 collectively for identification.

6. The learned AGP, therefore, submits that the lands Gat Nos.97/1/A and 81/7/A with reference to petitioner No.1 and Gat No.88 with reference to petitioner No.2 and Gat No.40/1 with reference to petitioner No.3, all situated at Mauje Vadchil, Taluka Shahada, District Nandurbar, earlier allotted to the petitioners, are now in possession of the Revenue Authorities

without any encroachment. The panchanama has been drawn and the said properties have been taken into possession and the Revenue Authorities do not have any complaint as regards any alleged encroachment.

7. In the above backdrop, the learned AGP submits, in the light of the communication X-3, that the petitioners can be allotted the lands in taluka Taloda, District Nandurbar as has been recorded in paragraphs 3 and 4 of the order dated 27.07.2021. He further submits, on instructions, that as this is a rare occasion on account of peculiar facts that change of allotment of lands is being done, this should not be treated as a precedent and this order should not be cited by any project affected person for seeking similar reliefs.

8. In view of the above, this Writ Petition is disposed off with the following directions :-

(a) The petitioners shall approach the Additional Collector, Nandurbar, who is also the Rehabilitation Officer, Sardar Sarovar Project, on 06.09.2021 at 12:00 noon.

(b) Considering the lands available in taluka Taloda, District Nandurbar, the said officer shall allot the lands to these three petitioners i.e. admeasuring 2 hectors in favour of petitioner

No.1, 1 hector in favour of petitioner No.2 and 2 hectors in favour of petitioner No.3.

(c) To the extent of the lands available for allotment to these three petitioners as noted above, the said Rehabilitation Officer would have an interaction with the petitioners and if possible, permit them to choose the parcel of land without disturbing the areas earmarked for allotment.

9. This order does not lay down any law and shall not be cited by anyone as a precedent in any proceedings.

kps

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)