

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

WRIT PETITION NO. 917 OF 2020

Tulsiram son of Gomaji Tekam,
Aged about 70 years,
Occupation - Agriculturist,
Resident of Dhamna,
Hudkeshwar Road, Nagpur.

... **PETITIONER**

V E R S U S

1. State of Maharashtra,
through its Secretary,
Revenue Department,
Having its Office at
Mantralaya, Mumbai
(Maharashtra).
2. Divisional Commissioner,
Nagpur, Having his office
at Commissioner Office,
Civil Lines, Nagpur.
3. The Collector,
Nagpur.

... **RESPONDENTS**

Shri Vikas Kulsange, Advocate for petitioner.
Shri A. M. Kadukar, Assistant Government Pleader for respondent
Nos.1 to 3.

CORAM : A.S. CHANDURKAR AND
G. A. SANAP, JJ.
DATED : 20/12/2021

ORAL JUDGMENT : (PER A.S. CHANDURKAR, J.)

1. Rule. Rule made returnable forthwith. Heard finally
with the consent of learned counsel for the parties.

2. By this writ petition, the petitioner seeks a direction against the respondent No.1 to favourably consider his application dated 17/04/2017 under Section 36-A of the Maharashtra Land Revenue Code, 1966 (for short, "the Code") and grant permission to sell his land. The petitioner claims to be a Tribal and has sought permission to convert the land bearing Field Survey No.67/1 of Mouza Waroda, Tah. Nagpur (Rural), Dist. Nagpur. It is stated that the petitioner then intends to sell the aforesaid land to persons who are non-tribals.

3. In this backdrop, the petitioner sought permission under Section 36-A of the Code by moving application dated 17/04/2017. The Collector favourably considered the application on 02/05/2018 and the same has now been forwarded to the State Government through the Divisional Commissioner. Since the matter is pending before the State Government since long and no decision has been taken, the petitioner has approached this Court.

4. Along with the writ petition, an order passed in Writ Petition bearing No.3551/2018 (Suresh Sarate Vrs. State of Maharashtra and another) dated 08/10/2018 is placed on record. By that order, in similar circumstances the State Government was

directed to take appropriate decision on the application seeking permission within a period of two months and communicate the same to the petitioner. It was further directed that if such decision was not taken within the aforesaid period, permission would be deemed to have been granted.

5. We find that though this Court issued notice on 17/02/2020 and also passed an interim order directing the State Government to take decision on the petitioner's application, no such decision has been taken till date. Further time is being sought by the learned Assistant Government Pleader for want of necessary instructions.

6. We find that in the aforesaid facts, interest of justice would be served by passing following order :-

i] By adopting the course followed by this Court in Writ Petition No.3551/2018, the State Government is directed to take appropriate decision on the application filed by the petitioner seeking permission under Section 36-A of the Code and communicate the same to the petitioner within a period of two months from today. This order be communicated to the respondent No.1 through the learned Assistant Government Pleader. If no such decision is taken, the

permission applied for shall be deemed to have been granted at the end of two months. If any such decision is taken, the same shall be communicated to the petitioner.

ii] The petitioner by filing an additional affidavit has expressed willingness to file an undertaking that after transfer of the land, the same would be strictly used for the purposes as stipulated under Regulation 4.11 of the Unified Development Control And Promotion Regulations, 2020. Accordingly, the petitioner is directed to submit such undertaking stating therein that the land that is intended to be transferred by way of sale under Section 36A falls within the "Agricultural Zone" as stipulated under Regulation 4.11 of the Unified Development Control And Promotion Regulations, 2020 and that the land which is intended to be transferred shall be sold to the prospective Vendor/s with a clause / undertaking that the said land shall be used strictly used for the purposes as stipulated under Regulation No.4.11 (Agricultural Zone) / bonafide non-agricultural purpose and in accordance with the Unified Development Control And Promotion Regulations, 2020 as also, under any other law / Regulations as applicable before the Collector within a period of two weeks from today.

7. With the aforesaid directions, the writ petition is disposed of. Rule accordingly. No costs.

(G. A. SANAP, J.)

(A.S. CHANDURKAR, J.)

Choulwar

VITHAL
MAROTRAO
CHOULWAR

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VITHAL MAROTRAO
CHOULWAR
Date: 2021.12.23
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