

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

**WRIT PETITION NO. 7588 OF 2019**

Shaikh Iliyas Khalil Ahmed .. Petitioner

**Versus**

The State of Maharashtra and another.. Respondents

Shri Ashwin V. Hon, Advocate for the Petitioner.

Ms. Rashmi Gour, A.G.P. for Respondent Nos. 1 to 4.

Shri Bhushan B. Kulkarni, Advocate for the Respondent No. 5.

**CORAM : MANGESH S. PATIL AND  
SANDEEP V. MARNE, JJ.**

**DATE : 18.08.2022.**

**FINAL ORDER (*Per Sandeep V. Marne, J.*) :-**

. The petitioner is serving member of Border Security Force, which is a paramilitary force of the Government of India.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner is seeking allotment of Government land in Parbhani district for cultivation. The petitioner's prayer for allotment of land has been rejected by the Collector Parbhani vide communication dated 07.05.2018.

3. Mr. Hon, learned advocate appearing for the petitioner relies upon letter dated 22/24.06.1976 addressed by the Government of India, Ministry of Home Affairs to the Chief Secretaries of all the State Governments. Para 4 of the letter

dated 22/24.06.1976, reads thus :

4. It is, therefore, requested that you may consider issuing necessary instructions to the State Co-operative Housing Societies State Housing Boards, Home Guards, Fire Brigades and other state organizations to accord some priority to the serving/ex-BSF personnel as well as the dependents of those killed in action for their re-settlement/rehabilitation etc. as is given to the Defence personnel/particularly in respect of the following :-

- (a) Preference in providing re-employment.
- (b) preferential allotment of house/residential flats
- (c) Grant of loans to purchase the house/plots.
- (d) Allotment of land to landless BSF personnel during the course of re-distribution of land in rural area.
- (e) Grand of scholar ships to the children of personnel killed or wounded/disables in action.

4. On careful perusal of the letter dated 22/24.06.1976, it is clear that the Government of India had merely requested the State Governments to consider issuance of necessary instructions to accord some priority to the serving/ex - BSF personnel as well as dependents of those killed in action for their re-settlement/rehabilitation, etc. Therefore, entire matter was left to the discretion of the State Governments.

5. The State Government has filed affidavit in reply and in para No. 5 thereof, it is stated as under :

"5. I say and submit that, there is no provision or directions to allot land to the Soldiers of Border Security Force. The petitioner has produced letter of Government of India Ministry of Home affairs dated 24.06.1976. Which is addressed to the Principal Secretary of all the states by the said letter it has been requested to accord some priority to the serving/Ex Border Security Force personnel, as well as their dependents for their resettlement, rehabilitation etc. as is given to the defense personnel for boosting of the morals of the Border Security Force personnel (the said letter is annexed to the petition at Exhibit-A page no. 15). I say and submit that, the State of Maharashtra has not made any provision pursuant to the above mentioned letter dated 24.06.1976 for allotment of land to the Border Security force, personnel."

6. Thus, we have a situation where despite request being made by the Central Government in the year 1976, the State Government has not formulated any policy for allotment of land to the members of the B. S. F. In exercise of writ jurisdiction under Article 226 of the Constitution, we cannot issue directions to the State Government to formulate such policy, nor the petitioner has made any specific prayer before us for formulation of such policy.

7. We, therefore, cannot issue any directions to the State Government for allotment of land to the petitioner.

8. In her usual fairness, Mrs. Gour learned Assistant Government Pleader appearing for the State Government has invited our attention to Rule 11-A of the Maharashtra Land Revenue (Disposal of Government Land) Rules, 1971 (for short

“Said Rules”) which came to be inserted by way of amendment effected on 28.06.2018. She submits that the impugned communication of the Collector Parbhani was issued on 07.05.2018 i. e. before insertion of Rule 11-A in the said Rules.

9. Ordinarily we would have remanded the matter for reconsideration to the Collector, Parbhani in view of insertion of Rule 11A of the said Rules after rejection of petitioner’s request. However, on perusal of provision of Rule 11A of the said Rules, we find that same is not of any assistance to the petitioner. Rule 11A reads thus :

11A. Notwithstanding anything contained in these Rules, but subject to the provisions of Rule 12, the Collector shall be copetent to allot the un-occupied allotable land for agricultural purpose, free of occupancy price, without auction, to the widow or legal heir of such soldier or officer of armed forces or paramilitary forces, who had been domiciled in the state and had attained martyrdom during any war or warlike situation or any action. While making such allotment of land, there will be no income limit for widow or legal heir of such soldier or officer of armed forces or paramilitary forces.

10. Rule 11A applies only to such members of paramilitary forces who attain martyrdom during any war or warlike situation or any action. The petitioner before us is a serving member of B.S.F. and, therefore, Rule 11A will not have any application to him. Therefore, no fruitful purpose would be served in remanding the matter back to the Collector.

11. We, therefore, find that there is no merit in the petition and same is dismissed without any orders as to costs. However, it would be open for the petitioner to make an appropriate representation to the State Government for formulation of policy in accordance with letter dated 22/24.06.1976.

[SANDEEP V. MARNE, J.]

[MANGESH S. PATIL, J.]

*bsb/Aug. 22*