

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

WRIT PETITION NO.10637 OF 2022

1. Rajaram Mannuji Gabhe,
Age; 75 years Occ; Agri,
2. Bhaginath Laxman Ladane,
Age; 62 years, Occ; Agri,
3. Bhausahab Sarjerao Hirde,
Age; 57 years, Occ; Agri,
4. Ganesh Janardhan Wadekar,
Age; 44 years, Occ; Agri,

Petitioner Nos. 1 to 4 R/o; Sahajatpur,
Taluka and District; Aurangabad.
5. Vinayak Sominath Kale,
Age; 72 years, Occ; Agri,
R/o; Pisadevi, Tq. & Dist. Aurangabad.
6. Nitin Natwarlal Mehata,
Age; 57 years, Occ; Agri,
R/o; V.K. Market, Pandariba,
Taluka and District; Aurangabad.
7. Bhaurao Bhikaji Wadekar,
Age; 56 years, Occ; Agri,
8. Nivrutti Chhagan Bhesar,
Age; 51 years, Occ; Agri,
9. Vishnu Sheshrao Bhesar,
Age; 55 years, Occ; Agri,
10. Dagadu Gangadhar Wadekar,
Age; 59 years, Occ; Agri,
11. Gangadhar Dagadu Wadekar,
Age; 32 years, Occ; Agri,

12. Janardhan Bhaurao Wadekar,
Age; 51 years, Occ; Agri,

13. Ashok Fakirchand Wadekar,
Age; 53 years, Occ; Agri,

14. Dattu Babu Wadekar,
Age; 49 years, Occ; Agri,

15. Nivrutti Yamaji Wadekar,
Age; 56 years, Occ; Agri,

16. Sanjay Shamrao Wadekar,
Age; 59 years, Occ; Agri,

Petitioner Nos. 7 to 16, R/o; Gopalpur,
Taluka and District; Aurangabad.

17. Laxman Thamji Chauthi,
Age; 68 years, Occ; Agri

18. Jija Kisan Gaikar,
Age; 72 years, Occ; Agri,

Petitioner Nos. 17 and 18 R/o;
Mandaki Tq. & Dist. Aurangabad.

19. Sharad Gabaji Wanekar,
Age; 68 years, Occ; Agri,

R/o; Krushnapurwadi,
Taluka and District; Aurangabad.

...PETITIONER

VERSUS

1. State of Maharashtra
Through Collector, Aurangabad
Tq. & Dist. Aurangabad.

2. The Executive Engineer
Public Works Department Aurangabad
Tq. & Dist. Aurangabad.

3. The Deputy Collector,
(Special Land Acquisition Officer),
Aurangabad.
Taluka and District; Aurangabad.

...RESPONDENTS

...
Advocate for Petitioners : Mr.Malpani Mohit R.
AGP for Respondent Nos. 1 to 3-State : Mr.K.N.Lokhande
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CORAM : SANDEEP V. MARNE, J.

DATE : 13.10.2022.

ORAL JUDGMENT : (PER SANDEEP V. MARNE, J.)

1. Rule. Rule is made returnable forthwith and heard finally with the consent of learned Counsel for both the parties at the stage of admission.

2. Heard. The learned AGP waives service of notice on behalf of respondent Nos. 1 to 3-State.

3. By the present petition petitioners are challenging the order dated 25.02.2021 passed by the Special Land Acquisition Officer and Deputy Collector, Aurangabad rejecting petitioners' application filed under Section 28A of the Land Acquisition Act, 1894 (for short the 'Act 1894') on the ground that the same was filed beyond the period of limitation.

4. On the basis of judgment and order dated 11.03.2020 passed by the Reference Court, petitioners' filed an application for enhancement of compensation under Section 28A of the Act of 1894 on 05.02.2021.

5. It appears that petitioners' application was decided by the Deputy Collector and the S.L.A.O. on 25.02.2021. The order passed by the Apex Court extending period of limitation due to Covid-19 Pandemic, covered period only up to October, 2020. On that ground, the Deputy Collector and the S.L.A.O. has refused to condone the delay in filing of application by petitioners. However, the Apex Court subsequently passed order dated 08.03.2021 extending the period of limitation to 14.03.2021. Again by the order dated 10.01.2022, the period has been finally extended on 28.02.2022. It is clear that when the order was passed by the S.L.A.O. on 25.02.2021, the subsequent orders passed by the Apex Court on 08.03.2021 and 10.01.2022 were not available. It is on this count that the S.L.A.O. has held in his order that no orders were produced by petitioner covering the period from November, 2022 to February 2021.

6. That period has clearly been covered by subsequent orders passed by the Apex Court extending the period of limitation on account of Covid-19 Pandemic. The decision of the Deputy Collector and the S.L.A.O. dated 25.02.2021 appears to be contrary to the orders passed by the Apex Court. Therefore, the order dated 25.02.2021 is liable to be set

aside. Accordingly I proceed to pass following order :

ORDER

- a) The order dated 25.05.2021 passed by the Deputy Collector and the S.L.A.O. rejecting petitioners' application filed under Section 28A of the Act, 1894 is set aside.
- b) The Deputy Collector and the S.L.A.O. is directed to decide petitioners' application dated 05.02.2021 filed under Section 28A of the Act, 1894 on its own merits and shall not reject the same on the ground of limitation.
- c) With these directions the petition is allowed in above term.
- d) Rule is made absolute.

(SANDEEP V. MARNE)
JUDGE

mahajansb/