

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

**WRIT PETITION NO.10413 OF 2019
WITH CA/6481/2022 IN WP/10413/2019**

**MURLIDHAR RAMA VEER AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioners : Mr. V.D. Sapkal, Senior advocate
AGP for Respondents: Ms. M.A. Deshpande
Advocate for Respondent No.5 : Mr. Shirish G. Sangle
...

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

DATE : 28.09.2022

FINAL ORDER :

Heard both the sides finally.

2. The petitioners who are the project affected persons are partially aggrieved by the allotment of land under the Maharashtra Project Affected Persons and Rehabilitation Act, 1999 (herein after the Act).

3. The learned senior advocate Mr. Sapkal points out that the petitioners apparently have been treated as one unit when the definition of 'affected person' given under Section 2(2) of the Act requires every member of the joint family to be treated as an affected person. He would also point out that in the impugned order, only 80 Are portion has been allotted to the petitioners even when it is not falling under benefited zone which allotment is also in violation of Section 16 read with Part-III, second proviso of the Act.

4. The learned senior advocate further submits that the petitioners are not seeking any benefit out of turn for which they are not entitled to. They are ready to pay necessary charges. As indicated in the impugned order, 65% of the compensation payable to them has already been deposited. He also submits that enough land is available to be allotted to the petitioners.

5. The learned AGP supports the order but fairly concedes that it does not specifically indicate whether the authorities have applied their minds to the definition of 'affected person' contained in Section 2(2) of the Act and have also failed to indicate whether the lands allotted fall under benefited zone or otherwise.

6. We are in complete agreement with the submissions made at the bar. The impugned order does not precisely indicate that the authority has applied his mind to the definition of 'affected person' as contained in Section 2(2) of the Act while making the allotment. Going by the statements in the affidavit-in-reply, attempt has been made to treat the petitioners as members of one unit and thereafter the allotment has been made which *prima facie* would run contrary to the definition of affected person.

7. The impugned order is absolutely silent as to on what basis the authority has decided to allot 80 Are portion. It also does not indicate that that 80 Are portion falls under benefited zone nor assigns any reason as to why, when the second proviso to Part-III requires a minimum of 1 Hectare

60 Are portion to be allotted if the land is not falling under benefited zone.

8. In view of all the above state of affairs, it would be appropriate to relegate the matter back to the authority and call upon it to pass a fresh order in the light of the observations made herein above. We, therefore, to the extent of the petitioners, quash and set aside the order dated 18.03.2019 and call upon the Deputy Collector (Rehabilitation) Aurangabad to consider the petitioners' case strictly in accordance with the observations made herein above.

9. The Writ Petition is disposed of.

10. We clarify that this order shall not be treated as depriving the petitioners of the benefit which they have already derived on the basis of the impugned order.

11. Pending civil application is disposed of.

(SANDEEP V. MARNE, J.)

(MANGESH S. PATIL, J.)