

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

WRIT PETITION NO.2085 OF 2021

**MADHAV SHANKAR SURYAWANSHI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for the Petitioner : Shri Kanade Angad L.
AGP for the Respondents/ State : Shri P.S. Patil
Advocate for Respondent 8 : Shri S.V. Mundhe

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**CORAM : RAVINDRA V. GHUGE
&
S.G. DIGE, JJ.**

DATE :- 28th March, 2022

Per Court :-

1. The petitioner is aggrieved by the allotment of a small portion of land to his wife under the “Dadasaheb Gaikwad Scheduled Castes and Nav Boudh Empowerment and Self Esteem Scheme”. The Resident Deputy Collector, Parbhani, has made allotment in favour of the wife of the petitioner on the ground that she is a deserted woman.

2. We have considered the strenuous submissions of the learned advocate for the petitioner and have gone through the grounds put forth in the memo of the petition. We have also perused the affidavit in reply filed by the wife of the petitioner

i.e. respondent No.8 herein, dated 27.08.2021.

3. We have also considered the submissions of the learned AGP, who submits that the said scheme is aimed at rehabilitating poor persons and between the eligible candidates, a deserted lady is to be given preference. The learned AGP further points out that the Sarpanch had issued a certificate to respondent No.8. However, the said certificate contains deficiency to the extent of the signature and the name of the lady and the same was ignored. Respondent No.8 lady has been selected by the competent committee and the land is yet to be allocated to her.

4. We find from the chart placed on record that the petitioner is at Sr.No.6 and who is held to be eligible. His wife is at Sr.No.7.

5. We are quite surprised by two certificates issued by the Sarpanch dated 11.08.2020 and by the Police Patil dated 11.08.2020 wherein, it is stated that the petitioner and respondent No.8 are husband and wife and that the wife of the petitioner is at liberty to cohabit with him. What shocks us is that the Sarpanch and the Police Patil virtually are suggesting that the lady could cohabit with the petitioner. Apparently, these two certificates are issued to favour the petitioner.

6. However, we are not required to look into the certificates issued by the Sarpanch and the Police Patil for the reason that respondent No.8, along with her two daughters who are minors, had approached the learned JMFC at Parbhani in Misc. Criminal Application No.888/2014. She succeeded in establishing that the petitioner has deserted her on the ground that two daughters were born to her. Considering the said situation, the learned JMFC has directed the payment of maintenance. The fact remains that though as per the petitioner, this order is ex-parte, the same is yet to be set aside and the said order indicates that the petitioner has deserted respondent No.8.

7. In view of the above, we decline to exercise our extra ordinary jurisdiction under Article 226 of the Constitution of India. This Writ Petition, being devoid of merit is, therefore, dismissed.

kps

(S.G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)