

V/s.

The State of Maharashtra and Anr. ... Respondents

Mr. Amey C. Sawant i/by Mr. S.M. Sabrad for the petitioner.

Mr. A.I. Patel – Additional G.P with Ms. K.N. Solunke – AGP for the Respondent No.1 / State.

**CORAM : PRASANNA B. VARALE AND
KISHORE C. SANT, JJ.**

DATED : AUGUST 29, 2022.

P.C. :

Heard learned counsel for the Petitioner as well as learned AGP for the respondent no.1.

2. An affidavit-in-reply is filed on behalf of respondent no. 1 State through Shri Ajit Sopanrao Deshmukh, Deputy Secretary to the Government of Maharashtra, Mantralaya, Mumbai.

3. Vide an order dated 17th August 2022, two weeks time was granted to comply with the order dated 10th October 2014 by which the learned AGP to file affidavit-in-reply subject to depositing cost of Rs. 5000/- in this Court within the period of one week from the date of order i.e. 17th August 2022. In bunch of petitions an order dated 10th

October 2014 was passed by this Court in subject matter. All these bunch of Petitions, the grievance was raised by the petitioners for non deciding the application seeking sanction for transfer of lands held by a tribal to a non-tribal in accordance with sub section (1) of Section 36 and 36A of the Maharashtra Land Revenue Code. Admittedly, though the present petitioners were not before this Court in that round of litigation. Vide an order dated 10th October 2014, the State Government was directed to ensure that all such applications / proposals for grant of prior approval under clause (b) of sub-section (1) of Section 36A be decided within stipulated period of four months from the date on which the proposal was received from the Divisional Commissioner.

4. In the affidavit-in-reply filed on behalf of respondent no.1/State it is submitted that due to certain difficulties the order of this Court could not be complied within the stipulated period.

5. Learned AGP invited our attention to the statement made in the affidavit-in-reply that these difficulties faced by the concerned officer were beyond his control. In paragraph 4, it is stated that son namely Siraj Yazdi Patel of prospective purchaser i.e. Smt. Silu Yazdi Patel has made a request to the Circle Officer, Tal-Khalapur, District-Raigad on 7th January 2020 and it is submitted in the application that as it may take some time for effecting the entries of legal heirs of deceased -Silu Patel, the application/proposal for grant of approval be kept pending. There was also another deficiency namely the prospective purchaser failed to submit the layout plant and the project

report which is pre-requisite for grant of conversion of agricultural land.

6. Considering these deficiencies, and as parties particularly the prospective purchaser failed to take require steps within a reasonable period, the application/proposal was rejected.

7. The decision of the State Government was communicated to the Collector, Raigad on 17th March 2020 and in turn office of the Additional Collector, Raigad, District-Alibaug informed the decision of the State Government along with the communication received by the office of the Collector, Raigad to the petitioner – Dagdu Lakhya Katkari who is the legal heirs of Lakhya Katkari. The decision of the State Government was also communicated to the son-Siraj Patel of prospective purchaser on 30th September 2020.

8. Learned AGP then submitted before this Court that the addressee of the communication dated 30th September 2020. i.e. Mr. Dagadu Waghmare along with Mr. Siraj Patel, son of prospective purchaser and some other persons namely Balu Lakhu Katkari, Bayo Savla Pawar who had filed Writ Petition (St) No. 16332/2021, challenging the decision of the State Government informed to the Collector, Alibagh on 17th March 2020.

9. Learned AGP submits that as the order of this Court is now duly complied with, though belatedly and the decision of the State Government is under challenge in Writ Petition pending consideration

by this Court, the contempt petition practically lost its efficacy. It is also submitted by the learned AGP that act of State Government for taking decision and communicating to the District Collector, Raigad, Alibagh was much prior to the order of this Court dated 17th August 2022, whereby the cost was imposed upon the State Government. The order of State Government dated 17th August 2022 be recalled and the affidavit-in-reply filed on behalf of respondent – State opens with the statement of the deponent where he expressed unconditional apology and as the above referred facts namely the decision taken by the State Government though belatedly which was communicated to the District Collector, Raigad in turn the District Collector, Raigad informed the decision to the present Contempt Petitioners i.e. Dagadu Katkari and the contempt petitioners along with other petitioners raised challenge to the decision of the State Government pending consideration of this Court.

10. We are not inclined to pass any further order now in the Contempt Petition, it can safely be stated that Contempt Petition duly served its purpose. The grievance / challenge raised in the Contempt Petition no more survives. Accordingly, by accepting an unconditional apology expressed by the deponents, the Contempt Petition is disposed of and Paragraph 2 of the order dated 17th August 2022, wherein cost was imposed upon the respondent is recalled.

(KISHORE C. SANT, J)

(PRASANNA B. VARALE , J)