

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.6077 OF 2019

Shankar Tukaram Bangale, Tq. Deulgaon Raja, Dist. Buldhana and ors.

-vs-

The State of Maharashtra, Thr. Its Secretary, Irrigation Dept. Mantralaya, Mumbai and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri R. N. Ghuge, Advocate for petitioners.

Ms T. Udeshi, Assistant Government Pleader for respondent Nos.1,2
and 4.

Shri A. M . Kukday, Advocate for respondent No.3.

CORAM : A. S. CHANDURKAR AND URMILA S. JOSHI-PHALKE, JJ.

DATE : June 20, 2022

P.C.

Rule. Rule made returnable forthwith and heard the
learned counsel for the parties.

The lands of the petitioners came to be acquired pursuant
to the award dated 28/03/2008 for Khadakpurna project. The
grievance of the petitioners is that they have not been paid the
additional amount payable under Section 23(1A) of the Land
Acquisition Act, 1894 (for short, the said Act) while passing
such award. On the contrary other land owners from the same
village whose lands were acquired pursuant to the Notification
dated 15/02/2009 have been granted such benefit. The
petitioners have therefore on 08/03/2019 made a

representation to the respondent No.3 for grant of similar benefit in the form of compensation under Section 23(1A) of the said Act. Since there has been no response from the concerned respondent, the petitioners have approached this Court.

2. The learned counsel for the petitioners by referring to the decisions in *State of Punjab vs. Amarjit Singh and anr. (2011) 4 SCC 734* and *Jaikishan (Dead) Thr. Legal Representatives vs. State of Uttarakhand and ors. (2014) 12 SCC 164* submitted that the additional amount under Section 23(1A) of the said Act is required to be mandatorily paid along with other amounts of compensation while passing the award. Though such additional amount has been paid to the other land owners under the subsequent award dated 15/02/2009, the petitioners have been deprived of such benefit. It is therefore prayed that the petitioners be granted the aforesaid benefit.

3. The learned counsel for the respondents seek time to take instructions in that regard.

We find that the legal position in this regard is clear from the decisions relied upon by the learned counsel for the petitioners. In that backdrop the interests of justice would be

served by directing the respondent No.3 to consider the aforesaid decisions and apply the same to the petitioners by deciding their representation dated 08/03/2019. If necessary the representative of the petitioners can be heard in the matter by the respondent No.3 while adjudicating upon the said representation within a period of four weeks from receipt of copy of this order. If the petitioners are found entitled to the relief as prayed for, same shall be expeditiously released in favour of the petitioners within eight weeks from the date of such decision. If the grievance of the petitioners remains unredressed they are free to take legal recourse in accordance with law.

Rule is made absolute in aforesaid terms. No costs.

(Urmila S. Joshi-Phalke, J.)

(A. S. Chandurkar, J.)

Asmita