

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

WRIT PETITION NO.7288 OF 2022

Shriram s/o Pandurang Ubhedal,
Age : 60 years, Occupation : Agriculture,
R/o Warur (Khurd), Tq.Shevgaon,
Dist.Ahmednagar.

...PETITIONER

-VERSUS-

1. The State of Maharashtra.
Through it's Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.
2. The Collector and Resettlement
Officer (Land), Collector Office,
Ahmednagar,
Tq. & Dist. Ahmednagar.
3. The Deputy Collector (Rehabilitation),
Collector Office, Ahmednagar,
Tq. And Dist.Ahmednagar.
4. The Tahsildar,
Tahsil Office, Rahuri,
Tq.Rahuri, Dist.Ahmednagar.

...

Advocate for the Petitioners : Shri Banik Rajdeep S.
Government Pleader for Respondents 1 to 4/ : Shri D.R. Kale

...

**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 13th June, 2023

ORAL JUDGMENT (Per Ravindra V. Ghuge, J.):-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioner has put forth prayer clauses B, C and D as under:-

- “B) This Hon'ble Court by issuing appropriate Writ, order or directions in like nature be pleased to direct the Respondent authorities to allot the land bearing Gat No.187/1/B admeasuring 01H 92R situated at village- Rahuri (Bk.), Tq. Rahuri, Dist. Ahmednagar, which is available for resettlement, to family of the Petitioner and for that purpose issue necessary orders.*
- C) This Hon'ble Court by issuing appropriate Writ, order or directions in like nature be pleased to direct the Respondent authorities to hand over the possession of the land bearing Gat No.187/1/B admeasuring 01H 92R situated at village-Rahuri (Bk.), Tq. Rahuri, Dist. Ahmednagar, which is available for resettlement, to family of the Petitioner and for that purpose issue necessary orders.*
- D) Pending hearing and final disposal of this Writ petition the Hon'ble Court may be pleased to restrain the Respondent authorities from making any allotment of land bearing Gat No.187/1/B admeasuring 01H 92R situated at village-Rahuri (Bk.), Tq. Rahuri, Dist. Ahmednagar to any other person or disposal of the same in any other way.”*

3. The lands bearing Survey Nos.7/2, 12/2A, 12/2B, 22/1, 27/2, 30/1 plus 2C, 37/1B, 37/2A, 38/1 and 39/2

admeasuring 52 acres and 07 gunthas, owned by the father of the Petitioner, was acquired for the Jayakwadi Project vide the order of the Special Land Acquisition Officer, Jayakwadi Project-1 bearing No.696 dated 22.10.1974. It is contended that the Petitioner was one of the 16 members in the family at the time of acquisition.

4. The Petitioner applied to acquire the status of Project Affected Person (PAP) vide his application dated 08.06.1984. As per the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1986, the Petitioner prayed for 81 R land in Gat No.21/1 at village Sultanpur, Taluka Newasa. He claims that he was entitled to 7 acres of land.

5. The Petitioner's father approached this Court in Writ Petition No.4736/2013. By the order dated 31.03.2015, this Court recorded that if the Petitioner's father is not entitled to claim a parcel of land in Gat No.14, his grievance may be considered for allotment of land in accordance with law. The Petitioner's father moved Contempt Petition No.699/2015. By the order dated 12.01.2016, this Court was informed that the grievance of the Petitioner's father would be considered as per the policy applicable, within four months.

6. We do not find any pleading in the memo of the petition to the effect that the Petitioner has deposited 75% of the compensation amount so as to be eligible for an alternate land to facilitate his rehabilitation, instead of receiving compensation. Nevertheless, if the rules and policies applicable are followed, the Petitioner would be entitled for a parcel of land in accordance with law.

7. Having perused the affidavit in reply tendered by Pallavi Sonyabapu Nirmal, Deputy Collector (Resettlement), Ahmednagar, dated 01.12.2022, on behalf of Respondent Nos.2 and 3 herein, it appears that the Petitioner's father was offered the land for rehabilitation on three occasions. On each occasion, he created an issue and kept on suggesting other parcel of land. Eventually, no land could be allocated to him because of his changing stand.

8. The learned Advocate for the Petitioner submits that if the Petitioner is eligible for allocation of such land, he would be agreeable to receive any land, which is cultivable, as may be allocated to him by Respondent No.3.

9. In view of the above, **this Writ Petition is partly allowed** with the following directions:-

(a) Respondent No.3 would verify as to whether, there is any cultivable land available, which can be allocated to the Petitioner, within 45 (forty five) days from today.

(b) After Respondent No.3 offers a cultivable parcel of land to the Petitioner, the Petitioner would accept the same without raising any protest since he is agreeable to receive any parcel of land as may be granted.

(c) Respondent No.3 would verify as to whether, the Petitioner has fulfilled all the relevant conditions for being eligible to be granted a parcel of land by way of rehabilitation and upon fulfilling all the conditions and formalities as may be required, the allocation of land may be done.

(d) The Petitioner shall accept the land as is being offered to him, unless it is a land in which there has been no cultivation anytime before and is not cultivable land, for example rocky field/fallow land, etc.

10. Rule is made absolute in the above terms.

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)