

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

956 WRIT PETITION NO.3225 OF 2021

NASHIB KHA DAGDU PATHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioners : Mr D.A. Bide h/f Mr Vitthal B. Wayal
AGP for Respondent Nos. 1 to 3: Mr A.S. Shinde
Advocate for Respondent 4 : Mr Shyam C. Arora

AND

957 WRIT PETITION NO.3635 OF 2021

RAMDAS RAGHUBA KHADKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioners : Mr D.A. Bide h/f Mr Vitthal B. Wayal
AGP for Respondent Nos. 1 to 3: Mr P.K. Lakhotiya
Advocate for Respondent 4 : Mr Shyam C. Arora

AND

WRIT PETITION NO. 3292 OF 2021

DWARKADAS SANDU KOLHE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ORS.

Advocate for Petitioners : Mr D.A. Bide h/f Mr Vitthal B. Wayal
AGP for Respondent Nos. 1 to 3: Mr A.S. Shinde
Advocate for Respondent 4 : Mr Shyam C. Arora

**CORAM : MANGESH S. PATIL AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 28-02-2023

PER COURT :

1. Not on Board. Taken on Board the Writ Petition No. 3292 of 2021.

2. Heard both the sides.

3. The petitioners are aggrieved by the the fact that the application under section 28-A of the Land Acquisitions Act, 1894 was rejected by the communication dated 10-03-2017 on the ground that the certified copy of the Award of the Reference Court was not produced within 90 days of the application and that an affidavit about having not received any benefit under *the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* was not filed.

4. There are several other circumstances which according to us for the time being need not be addressed like some orders passed by the self-same authority directing restoration of the application under section 28-A, a copy of which is tendered across the bar.

5. *Ex-facie*, there is no provision which requires production of certified copy of the award of the Reference Court that too within a stipulated time as a condition precedent for entertainment of an application under section 28-A.

6. Needless to state that the Land Acquisition Officer must be a party to the reference before the Civil Court and must be knowing the position atleast that can be a legitimate expectation. In any case, the ground resorted to reject the application under section 28-A regarding non-production of the copy of the Reference Court award is not sustainable.

7. Again, the second ground regarding filing of an affidavit by the applicant about having not derived any benefit under the rehabilitation act, there is no such law which mandates it, albeit the fact may be relevant, but its non-production would not go to the root of the matter so as to disentitle a claim under section 28-A.

8. We dispose of the writ petitions, quash and set aside the orders dated 10-03-2017 and direct the respondent Nos. 2 and 3 to take a decision afresh by extending an opportunity of being heard to the petitioners and acquiring body as expeditiously as possible and in any event, within a period of 12 weeks.

[S.G. CHAPALGAONKAR, J.]

[MANGESH S. PATIL, J.]

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