

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

WRIT PETITION NO.9432 OF 2021

Vilas s/o Shivaji Munde

Age: 33 years, Occu: Service as Pragat Kushal,

R/o: At Dabi, Post Tokwadi,

Tq. Parali Vaijnath, Dist. Beed

... Petitioner

Versus

1. The State of Maharashtra
Through Principal Secretary
Energy Department
Mantralaya, Mumbai – 32

2. The Chief Manager,
Thermal Power Station, Parali Vaijnath,
Tq. Parali Vaijnath, Dist. Beed

3. The Collector,
Beed, Tq. & Dist. Beed

4. The Deputy Collector,
(Rehabilitation/General Administration)
Collector Office, Beed, Tq. & Dist. Beed

5. The Tahsildar,
Parali Vaijnath, Tq. Parali Vaijnath,
Dist. Beed

6. Tukaram s/o Jayram Munde
Age: 74 years, Occu: Nil

7. Dnyanoba s/o Bhagwat Munde
Age: 29 years, Occu: Agri.,
Both R/o At Dabi, Post. Tokwadi,
Tq. Parali Vaijnath, Dist. Beed

... Respondents

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Mr. R. R. Karpe h/f Sandeep D. Munde, Advocate for the Petitioner

Mrs. M. A. Deshpande, AGP for the Respondents/State

Mr. A. D. Gade, Advocate for the Respondent No.2

Mr. R. D. Thorat, Advocate for Respondent No.6

Mr. N. R. Thorat, Advocate for Respondent No.7

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

DATE : 04.01.2023

ORAL ORDER: [MANGESH S. PATIL, J.]

1. Heard. Rule. Rule is made returnable forthwith. We have heard the learned advocates for the respective sides finally.

2. The petitioner was granted a project affected person's certificate under the Maharashtra Project Affected Persons Rehabilitation Act, 1999 in the year 2010. Respondent No.7 also obtained a similar certificate in the year 2012. The petitioner applied for appointment on that basis with respondent no.2. The respondent no.2 forwarded a complaint of respondent no.7 to the respondent no.3 – Competent Authority under the said Act. Apparently, the notices were issued, hearing was conducted and the respondent no.4 passed the order validating the petitioner's certificate and further directed prosecution to be launched against the respondent no.7 for having obtained such certificate by practicing fraud.

3. The respondent no.7 preferred Writ Petition No.2471/2019 and put up a challenge to the order passed by respondent no.4, but withdrew it unconditionally. In spite of such finality, the respondent no.4 has once again initiated an inquiry which according to the petitioner is not maintainable in view of the earlier decision. He is also seeking execution of the order of respondent no.4, which has reached finality.

4. The learned advocate for the petitioner submits that in spite of earlier round of inquiry and decision, the respondent no.4 has now undertaken a fresh inquiry, which he is not competent in view of the finality of the earlier decision.

5. Learned advocate for respondent No.6 and the learned AGP submit that fresh inquiry has been initiated at the instance of the former, who is the father of the petitioner and not at the instance of respondent no.7 as is being projected. The learned AGP further submits that only with a view to extend a fair opportunity the notices have been issued calling upon the petitioner and other respondents to participate in the inquiry.

6. Learned advocate for respondent no.7 submits that the writ petition was not decided on merits. He has preferred another writ petition. The petitioner has obtained multiple certificates illegally and having not come with clean hands, no relief should be granted to him.

7. Apparently and even admittedly, already the petitioner, his siblings, including respondent no.7 and their father respondent no.6 were before the respondent no.4 who had heard them and by the order dated 25.10.2018 has decided the issue *inter alia* holding that the respondent no.7 had fraudulently obtained couple of certificates and was liable to be prosecuted.

8. Though the respondent no.7 had preferred a writ petition challenging that order, he withdrew it unconditionally. Since no liberty to file a fresh writ petition on the same cause of action was apparently sought

and granted, he would not be entitled to file a fresh petition. Already original decision passed by respondent no.4 has reached finality and there is no escape from reaching the matter to the logical end.

9. The upshot of the above discussion is sufficient to conclude that the impugned action of the respondent no.4 to once again undertake a fresh inquiry, may be at the instance of the respondent no.6 who was in fact a participant even in the earlier round of inquiry, is certainly arbitrary and needs to be struck down.

10. We allow the writ petition and quash and set aside the impugned notice dated 11.08.2021 bearing No.2021 / Rehabilitation / Hearing / Kavi / E-36578 and direct respondent nos. 3 and 4 to execute/implement the order dated 25.10.2018.

11. Rule is made absolute in the above terms.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)