

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10794 OF 2022

Chandrakant @ Raju S/o
Ramakant Navghare

.. Petitioner

Versus

The State of Maharashtra
and others

.. Respondents

...
Advocate for petitioner : Mr. P.R. Katneshwarkar, Advocate
i/b. Mr. Sambhaji S. Tope,
GP for the respondents nos. 1 to 6 : Mr. D.R. Kale
Advocate for the respondent no. 7 : Mr. S.V. Dixit
...

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

DATE : 06 FEBRUARY 2023

ORDER (MANGESH S. PATIL, J.) :

Heard learned advocate Mr. Katneshwarkar h/f. Mr. Tope for the petitioner, learned Government Pleader and Mr. S.V. Dixit, learned advocate for the respondent no. 7.

2. The petitioner is a member of the Legislative Assembly from Vasmat constituency. He states that the State government had decided to establish a modern agricultural market at Vasmatnagar and sanctioned an amount of Rs.10 Crores vide government resolution dated 28-07-2009. The amount of Rs.6.44 Crore was also sanctioned by the government resolution dated 20-12-2021. The tenders were

floated. However, with the change of the government, the project has been replaced by another project called Balasaheb Thackeray Haridra (Turmeric) Research and Training Center and the land which was allotted for setting up modern agricultural market, has now been transferred to the training center by notification dated 22-09-2022.

3. Learned advocate Mr. Katneshwarkar would submit that the decision to allot the land from gat no. 70 for a particular project is now being abandoned at the whims and fancies of the government which has taken over the reigns in July 2022. There are no grounds for such change in the mind. A long standing decision which has been in place to establish the modern market has been disturbed and the land is now being allocated for setting up the research center. The decision taken by the previous government is now being changed arbitrarily and contrary to the decision of the Supreme Court in the matter of ***State of Haryana Vs. State of Punjab; 2022 AIR (SC) 685*** and ***the State of Karnakata and Anr. Vs. All India Manufacturers Organization & Others; (2006) AIR SC 1846***.

4. Mr. Katneshwarkar would further point out that the decision to establish the modern market was followed by allotment of funds and floating of tenders which was responded to by the bidders one of which was found to be qualified. Merely because for whatever reason, the modern market could not be established, the decision is now being

taken to allot the same land for setting up some research center and the decision is prompted by politics.

5. The learned Government Pleader submits that the petitioner does not have any *locus standi*. The land vests with the government. No rights has accrued to anybody else. The decision to use the property which was earlier allotted for setting up modern market is now being decided to be used for a research center. It is purely a policy decision and no individual can have any say in the matter. He would further submit that though the land is now transferred from one department to another department of the government it still continues to be the property of the government. The government is the best judge of its need and priorities.

A project for setting up modern market could not take off for last so many years and the land remained un-utilized and a decision has now been taken to set up a turmeric research center in the area where there is huge yield of turmeric. It is not that the decision has been taken without any research. The committee was constituted under the chairmanship of a Member of Parliament. Pursuant to the report submitted by it, the research centre is being set up and the un-utilized land is now transferred to it for setting up such research center and to some other department of the government and even possession has been handed over.

6. He would further submit that even the procedure has been followed as is contemplated under the Maharashtra Land Revenue Code, 1966 for such transfer. The learned government pleader would further submit that the decisions cited at the bar were rendered in the peculiar facts and circumstances of the case wherein the work had progressed considerably.

7. The learned advocate Mr. Dixit for the respondent no. 7 submits that the land was transferred to it for setting up a modern market but it is no longer interested in setting up the modern market. The project for setting up modern market has not been revoked and the petitioner cannot insist for setting up of modern market at the same place. It is the prerogative of the State to decide as to how it intends to use its property.

8. We have carefully considered the rival submissions and perused the papers including the decision cited at the bar.

9. Admittedly, the State government had transferred this land to the respondent no. 7 for setting up a modern market the decision regarding which was taken way back on 30-05-2009. For whatever reason, admittedly, the market could not be set up till date. It is true that even budgetary provision was made for setting up such market and some

funds were also released. The fact remains that the purpose for which the land was allotted to the respondent no. 7 did not materialize.

10. It is to be borne in mind that it is nobody's case that the project of setting up modern market as was disclosed by the government decision dated 03-12-2008, has now been abandoned.

11. There is inherent limitation for this Court in exercise of the extra-ordinary jurisdiction under Article 226 of the Constitution of India. This Court would be slow and must exercise self-restraint in interfering with the policy decision of the government. When the policy makers in their wisdom have decided to use the writ land for some other project like research center, it should be left to its wisdom. If in place of the modern market, the land is now decided to be used for the research center, it cannot be said that any right was created in someone's favour which is now being divested. There is no material before us to reach an emphatic conclusion that the decision is prompted by some *mala fide* or is actuated by some political motives.

12. In appropriate cases, this Court may have to exercise the powers under Article 226 of the Constitution of India like the facts which were in the matter of ***State of Haryana*** (supra) ***and State of Karnataka*** (supra) where the works had progressed considerably and still the decision was taken belatedly to abandon those.

13. In our considered view, there is no sufficient material to disclose that the decision to set up research center in the land which was earlier decided to be used for modern market, is arbitrary or capricious to enable this Court to entertain the grievance.

14. The writ petition is dismissed.

[S. G. CHAPALGAONKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/