

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

WRIT PETITION NO. 13656 OF 2019

Sangram Janardhan Tupe .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Rajendra G. Hange, Advocate for the Petitioner.
Shri P. K. Lakhotiya, A.G.P. for the Respondent Nos. 1 to 5.

**CORAM : NITIN W. SAMBRE AND
S. G. CHAPALGAONKAR, JJ.**

DATE : 10TH MARCH, 2023.

FINAL ORDER :

. Heard learned counsel for respective parties.

2. The prayer of the petitioner is for quashing the Government Resolution dated October 26, 2010 issued by the respondent No. 1/State Government and for issuance of directions to acquire land of the petitioner and pay compensation.

3. The petitioner, a lawyer by profession claims to be owner of the land gut No. 614 situated at village Pimpalwandi, Dist. Beed. According to the petitioner the District Road No. 32 from Palwan to Pimpalwandi and Pimpalwandi to Kadamwadi passes through the land of the petitioner. Since the compensation was not paid to him, an application was preferred by him on October 20, 2018

thereby requesting the respondents to initiate acquisition proceedings. Since the respondents have failed to comply with the request of the petitioner, he had chosen to approach the Lokayukta with similar prayer. According to the petitioner based on the Government Resolution dated 26th October, 2010 his prayer referred to above was rejected. As such this petition.

4. Mr. Hange, learned counsel for the petitioner would urge that right to property is a constitutional right under Article 300-A of the Constitution of India. According to him in view of above the petitioner cannot be deprived of his constitutional right thereby encroaching on his land without following due process of law. Mr. Hange, would urge that the Government Resolution dated 26th October, 2010 is illegal as the same runs contrary to the aforesaid constitutional right. Mr. Hange, would urge that right to claim compensation is vested in an aggrieved party by virtue of aforesaid constitutional right. Such right is available to the petitioner in perpetuity and as such claim seeking compensation cannot be deprived of only because the same was lodged at belated stage.

5. Learned counsel Assistant Government Pleader for respondents would support the impugned order and has sought dismissal of the petition as according to respondents not only the petition is suffering from inordinate delay and laches, but the challenge to the Government Resolution is also without any legal basis. As such it is claimed that the petition is liable to be dismissed.

6. We have appreciated aforesaid submissions.

7. The Government Resolution dated 26th October, 2010 was framed having regard to the natural calamity suffered in 1971-1972. During said period a famine occurred, as a sequel of which Government initiated welfare steps for the purpose of providing assistance for the survival of its citizens. During said period, the agriculturists and its owners have consented for use of their lands for the purpose of development of approach road, village road, etc. The government having realized that after 1971-1972 the roads were developed under E.G.S. and owners have started demanding compensation at much belated stage, as such aforesaid Government Resolution came to be issued based on the judgment of the Apex Court in the matter of **State Vs. Digamber** reported in ***AIR 1995 SC 991***. The Government Resolution appears to be based on the directions issued by the Supreme Court in the matter of belated claims for award of compensation in lieu of land which was used for the development of public projects.

8. In the case in hand, the petitioner has initially approached the respondent authorities in October 2018 and prior to which he had approached the Lokayukta in the year 2015. According to the petitioner the Lokayukta having regard to the submissions of the respondent authorities has illegally rejected the claim.

9. The respondent authorities before Lokayukta have relied

on the award No. LAQ/SR/12 and the Government Resolution dated 26th October, 2010. The respondents have claimed that the lands of the agriculturists for the aforesaid development of project was taken 20 years back, now 25 years.

10. Final award came to be passed in file No. LAQ/SR/12.

11. The petitioner have neither produced such award for the perusal of this Court, nor claimed that such acquisition proceedings were taken out by the respondents. As such petitioner, in our opinion is dis-entitled for the relief for not only approaching before this Court at belated stage i. e. after a period of more than 20 years of the acquisition, but also has failed to demonstrate the illegality in framing of the Government Resolution dated 26th October, 2010. The aforesaid Government Resolution appears to be in tune with the judgment of the Apex Court in the matter of **State Vs. Digamber** (supra).

12. In view of above, there is no substance in the petition. The petition fails. As such stands dismissed.

[S. G. CHAPALGAONKAR, J.]

[NITIN W. SAMBRE , J.]

bsb/May 23