



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition (WP) No. 4962 of 2023

Ravidas son of late Kashinath Madavi

Versus

The Commissioner, Nagpur Division, Old Secreteriate Building, Civil
Lines, Nagpur and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A. Shelat, Advocate for the petitioner.

Shri N.R.Patil, AGP for the respondent nos. 1 to 3.

CORAM : ANIL S. KILOR, J.

DATED : 9th AUGUST, 2023.

The present matter pertains to forfeiture of land allotted to the father of the petitioner who was ex-serviceman on the ground that for continuous two years the land was not cultivated.

2. Shri Shelat, learned counsel for the petitioner has pointed out the conditions of allotment, more particularly, condition no. (b) which shows that it is a condition of allotment to bring the land under cultivation before expiry of two years from the date of grant. It is submitted that it is evident that after the allotment of the land, the land should be cultivated

within two years. He submits that, however, this condition will not apply subsequently for not cultivating the land continuously for two years, once after the allotment, the land was cultivated within two years.

3. It is submitted that in the present matter, it is not the case of the respondent that after the land was allotted to the father of the petitioner, the land was not brought under cultivation within two years.

4. He further submits that there is no such condition for subsequent period and as such there is no breach of any condition of allotment of land.

5. Shri Shelot, learned counsel for the petitioner further submits that the petitioner belongs to Schedule Tribe and therefore the land should not be forfeited.

6. On the other hand, Shri Patil, learned Assistant Government Pleader for the respondent nos. 1 to 3 strongly opposed the present petition and submits that the intention and the purpose of such clause must be looked into.

7. Shri Patil, learned Assistant Government Pleader has drawn attention to the statements recorded during the spot inspection wherein Shriram Chendu Bhoyar, Shri Ravindra Jairam Netam and Yeshwant

Kodape had categorically stated that no one was cultivating the land for years together and the land had fallen barren therefore, they started cultivating the lands in question. They have further stated the petitioner never visited the said land and never objected to them. Some of the witnesses have also stated that they never seen the petitioner or his father.

8. In the light of rival contentions of the parties, I have perused the record and the impugned order.

9. The submission made by the learned counsel for the petitioner that since the petitioner belongs to Schedule Tribe, the land allotted to his father should not be forfeited, cannot be accepted for the reasons that the ground for allotment of the land to the father of the petitioner was not because he was belonging to the Schedule Tribe but because he was ex-serviceman. Hence, the said contention is rejected.

10. As far as the condition no (b) of allotment of land is concerned, it says the land shall bring under cultivation before the expiry of two years from the date of the grant. It is clear from the language of the said condition that the intention and purpose was not to keep the land without cultivation for more than two years.

11. If the strict constructing of clause (b) is applied, it will defeat the public purpose and therefore to avoid mischief, it is necessary to interpret the said clause which will serve the public purpose.

12. It is evident in the present matter that the petitioner has failed to cultivate the land for years together and some third persons are cultivating the land without any authority. Hence, no illegality is committed by the respondents in forfeiting the land in question.

13. It is a well settled law that the scope of judicial review of an administrative action is very limited. Unless the Court comes to a conclusion that the decision-maker has not understood the law correctly that regulates his decision-making power or when it is found that the decision of the decision-maker is vitiated by irrationality and that too on the principle of “Wednesbury unreasonableness” or unless it is found that there has been a procedural impropriety in the decision-making process, it would not be permissible for the High Court to interfere in the decision-making process. It is also equally well settled that it is not permissible for the Court to examine the validity of the decision but this Court can examine only the correctness of the decision making process. Hence, no

interference is required in this matter. Accordingly, writ petition is dismissed.

[ANIL S. KILOR, J.]