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

36 WRIT PETITION NO. 1917 OF 2024

**SURAJ SHESHERAO WAGHMARE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND ANOTHER**

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Mr P. S. Anerao, Advocate for Petitioners;
Mr S. K. Tambe, A.G.P. for Respondents/State

**CORAM : RAVINDRA V. GHUGE
AND
R. M. JOSHI, JJ.**

DATE : 20th February, 2024

PER COURT:

1. The land of the Petitioner's grandfather was acquired for the 'Malegaon Talav' at village Malegaon on 22/09/1982. The Petitioner's grandfather, namely, Bhuja Pochiram Waghmare has nominated the Petitioner for the purposes of securing the 'Project Affected Person' (P.A.P.) certificate. The Petitioner has applied for the said P.A.P. certificate on 18/08/2023 and the said application has been rejected by Respondent No.2/District Rehabilitation Officer, Collector Office, Nanded, vide the impugned order dated 20/12/2023.

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2. The Co-ordinate Bench of this Court has delivered a judgment on 29/11/2022 in Writ Petition No.3027/2022 (Balaji Nivruti Surnar and another Vs. State of Maharashtra and another), wherein it is concluded in paragraph Nos.8 to 10 as under :-

“8. Section 5 and 6 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999, does not create embargo for transfer of project affected person’s certificate from one nominee to another at the request of project affected person, so also, no time limit has been prescribed for issuance of the certificate. It is not the case of respondents that, the nominee of petitioner No.1 had already secured employment with the Government against the reserved quota for project affected persons. The statute does not prohibit for transfer of said certificate if the nominee of project affected person does not get public employment under the reserved quota.

9. In the case of Bhanudas Vaijanath Shinde, cited supra, the Division Bench of this Court considered the issue involved in the present case and observed in para 5 as under:-

“5) The issue raised in this matter is no more res integra and is observed by the decision rendered by the Division Bench of this Court in the matter of Pralhad Kishanrao Ghogre and Ors. Vs. State of Maharashtra and Anr. (Writ Petition No.10912/2015 decided on 4th February, 2016). The Division Bench of this Court, while considering the issue raised therein, has, in para 7 of the said judgment, observed thus, -

“7. In the present matter it is not in dispute that, petitioner No.1 is the project affected person. Initially he had nominated petitioner

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No. 2 for the issuance of Project Affected Person Certificate. Thereafter, petitioner No. 1 applied for transfer of the said certificate in name of petitioner No. 3. The same was permitted. However, petitioner No. 3 could not get any employment because of lack of educational qualification, as such, now petitioner No. 1 again wants the said certificate to be given in the name of original nominee i.e. petitioner No. 2. The statute nowhere creates a bar in this regard. The Circular only lays down that second transfer would not be permissible. The said Circular cannot override the avowed object of the statute. The apprehension of the respondent as is spelled out by the learned A.G.P. that there would not be any record if the certificates are transferred, does not stand to any reason. The Rules, more particularly, Rule 16 sub-Rule 4 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Maharashtra) Rules, 2014, lays down that, when the appointment of project affected person in priority quota is made his original Project Affected Person Certificate shall be send for confirmation to the issuing Authority. The appointment of such person shall be confirmed only after receiving the confirmation letter from the issuing Authority. The certificate is required to be verified and the original certificate is to be retained by them by affixing cancelled. The rules in that regard which are framed under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Maharashtra) Rules, 2014, takes the necessary safeguard in that regard.”

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10. *In view of the decision referred above, the claim of the present petitioner also deserves to be considered favourably and the impugned order dated 10.12.2021 passed by respondent No.2 refusing the request of petitioner No.1 for transfer of the project affected person certificate in the name of petitioner No.2 is liable to be quashed and set aside. So also, it is necessary to direct the respondent No.2 to issue such certificate on the request of petitioner No.1 in favour of petitioner No.2 in order to facilitate the petitioner No.2 to secure employment against reserved quota of project affected person. Accordingly, we are inclined to allow the writ petition and proceed to pass following order:-*

- (a) The impugned order dated 10.12.2021 passed by respondent No.2 is hereby quashed and set aside.*
- (b) Respondent No.2 is held entitled to transfer/issue certificate of project affected on the request of petitioner No.1.*
- (c) The petitioner No.1 shall produce all original certificates and surrender it with respondent No.2 which are standing in the name of Giridhar Balaji Surnar and then the respondent No.2 shall issue the project affected person certificate in the name of petitioner No.2.*

3. We have perused the communication dated 08/08/2023, addressed by the District Collector, Nanded to the Deputy Secretary, Revenue and Forest Department (Assistance and Rehabilitation), R-1, Mantralaya, Mumbai, requesting to take a decision as regards the period, within which the grandson or the

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grandchild could be granted a P.A.P. certificate. Though this letter was sent on 08/08/2023, no decision is still arrived at by the Revenue Authorities.

4. Considering the judicial pronouncement in Balaji Nivruti Surnar (supra), the impugned order dated 20/12/2023 is quashed and set aside, with a direction to the concerned District Collector, Nanded, who has kept the proposal of the Petitioner pending, to decide the said proposal within a period of 60 days.

(R. M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)

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