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

WRIT PETITION NO.9057 OF 2021

Balajirao Ramrao Bhosle and Another

PETITIONERS

VERSUS

The State of Maharashtra Through
The Secretary and Others

RESPONDENTS

.....
Mr. Anil M. Gaikwad, Advocate for the petitioner
Mr. A. R. Kale, AGP for respondent - State
.....

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ &
KISHORE C. SANT, J.**

DATE : JULY 26, 2024

P.C. :

1. Heard learned advocate for the petitioner and learned AGP representing the State.
2. It is unfortunate that the Court is called upon to adjudicate an issue raised in this writ petition, which, in our opinion, ought not to have travelled to this Court.
3. The petitioners are Government Pleaders / District Government Pleaders and have instituted this petition seeking a direction that the respondents may be directed to

release the fee, which they owe to the petitioners, on account of conducting their matters in the Court / Tribunals, relating to land acquisition.

4. A Division Bench of this Court as far back as on 9th May, 2014, dealt with such a matter in writ petition No. 11417 of 2012 (*"Suresh Shamrao Kamble V/s State of Maharashtra and Others"*) and had issued certain directions. Apart from the direction to make payment of bills, one of the directions issued was that, State Government shall take appropriate policy decision in terms of what was directed by the Court in Paragraph No. 15 of the said judgment and place the policy decision before the Court on / or before 30th July, 2014.

5. It has been informed by the learned counsel representing State respondents that in compliance of the said decision of this Court in the case of *"Suresh Shamrao Kamble"* (*supra*), State Government has issued Government Resolution dated 31st July, 2014, wherein it has been stated that so far as fee to be paid to the advocates conducting matters on behalf of the State authorities relating to land acquisition are concerned, the bill is to be raised by the

concerned advocate with the Collector and payment of fee has to be made by the acquiring department / body. Our attention is also drawn by the learned State counsel to Rule 139 of the Maharashtra Law Officers (appointment, conditions of service and remuneration) Rules 1984, which also provides that the concerned advocate contesting matters for the State authority shall raise bills with the Collector and ultimately, payment will have to be made by the acquiring department / body. Despite the rules and the Government Resolution dated 31st July, 2014 being in place, petitioners, as averred by them in the writ petition, have not been paid their fees.

6. Such a situation cannot be appreciated. Even the Hon'ble Supreme Court has outlined a mechanism to be in place to ensure that lawyers representing State Government would be paid their fees promptly. In an order dated 12th February, 2024, in the case of *"State of Uttar Pradesh and Others V/s Gopal K. Warma"* in Civil Appel Nos. 2142-43 of 2024, the Hon'ble Supreme Court has again expressed its hope and trust that the State will not create a situation where an advocate representing the State is required to

approach the Court for recovery of fees. It has been further observed by the Hon'ble Supreme Court that if such a situation arises, where an advocate is required to be brought to court for realization of his fees, it will discourage talented members of the Bar from appearing for the State. Observations made by the Hon'ble Supreme Court in its order dated 12th February, 2024 in "State of U.P." (supra), are extracted here:

"2. The order dated 08..01.2024 takes a note that the State of Uttar Pradesh has agreed to set up a machinery which will ensure that the lawyers representing the State Government will be paid their fees promptly. We hope and trust that the State will not create a situation, where an Advocate representing the State is required to approach the Court for recovery of his fees. If this scenario of creating a situation where the Advocate is compelled to approach the Court of law to recover fees from the State of Uttar Pradesh continues, it will discourage the talented Members of the Bar from appearing for the State of Uttar Pradesh. We, therefore, hope and trust that a proper and rational policy is effectively implemented so that the fees of the Advocates representing the State will be paid promptly and within a reasonable time."

7. Thus, what we notice is that despite repeated concern expressed by this Court as well as by the Hon'ble Supreme Court and also despite having issued Government Resolution dated 31st July, 2014 and existence of Rule 139 of 1984 rules, Government Pleader / Advocate representing the cause of State / its instrumentality and authorities are compelled to approach the Court for realization of their fee, which is due to the State authorities. It has been urged by learned counsel for petitioners that petitioners have already submitted their bills to the Collector concerned, however, same have not yet processed and payment of their fees is yet to be made.

8. In these circumstances, we direct that the concerned Collector shall process the said bills and ensure that the acquiring department / body immediately releases the amount payable to the petitioners. For the said purpose, we permit the petitioners to submit duplicate bills with the Collector within 10 days from today and once said bills are presented, the same shall be verified and after necessary inquiries, the Collector shall direct the concerned acquiring department / body to immediately make payment to the

petitioners, within a period of four weeks thereafter.

9. With the aforesaid observations and directions, writ petition is finally disposed of. We also provide that any laxity in compliance of this order will be viewed seriously by the Court.

(KISHORE C. SANT, J.)

(CHIEF JUSTICE)