



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

39 WRIT PETITION NO. 8183 OF 2024

MANDABAI SITARAM AHER

VERSUS

THE STATE GOVERNMENT OF MAHARASHTRA THROUGH THE
POLICE SUPERINTENDENT JALNA AND OTHERS

...

Mr. Bhale Vikas S, Advocate for the Petitioner-Absent

Mr. S. K. Tambe, AGP for the Respondents State

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRADE, JJ.

DATE : 6th August, 2024

ORDER:

1. Yesterday, none was present when the matter was called out.

We sou-moto granted a pass over and the matter was thereafter called out post lunch, for the second time. Yet, none appeared for the Petitioner. Finally, the learned Advocate of the Bar Shri A. P. Kulkarni called up the learned Advocate Shri Vikas Bhale and informed him that the Court is waiting him for his matter. Based on such communication, the learned Advocate Shri Bhale appeared before the Court before the rising time, when the matter was called out for the third time. After the matter was heard, we started dictation of the order and we dictated four paragraphs, which read as under:

"1. A 65 years old widow has approached this Court under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 ('the 2007 Act'). The elder son is Respondent No.6. The younger son, with whom the Petitioner is residing, is neither the Petitioner nor the Respondent in this Petition.

2. The grievance of the Petitioner is that, Respondent No.3/Sub Divisional Magistrate, Bhokardan directed the Petitioner to approach the Police Station, Paradh (Bk.), Tq. Bhokardan, Dist. Jalna. The Station House Officer (S.H.O.) of the said Police Station stated that this is a civil dispute.

3. In view of the above, we direct Respondent No.2/ District Collector, Jalna, to issue appropriate directions to the Authorities in the light of the provisions of the 2007 Act. The Petitioner shall also array the younger son since it is stated that, she is presently residing with him. Such application shall be made to the Tribunal under Section 5(1c) of the 2007 Act. The Tribunal is the 'Maintenance Tribunal' constituted under Section 7 as defined under Section 2(j). The District Collector would advise the Tribunal to consider the grievance of the Petitioner on its own merits. The application tendered by the Petitioner to the District Collector, dated 12/07/2023, shall be placed before the Tribunal by the District Collector.

4. Let the above action be concluded within a period of 90 days from today. We direct Respondent No.3/Sub Divisional Magistrate, Bhokardan, who has been nominated by a Notification as the 'Presiding Officer' under Section 7(1) and (2) of the 2007 Act, to ensure that the proceedings are taken to a logical end. The Tribunal will not shunt its responsibility on any other Authority and follow the provisions of the 2007 Act scrupulously."

2. After the above order was dictated, the learned Advocate Shri Bhale sought an overnight pass over. We cautioned him that if he

would not appear tomorrow (i.e. today), we would proceed to dictate the order.

3. Today, this matter was called out in the first session. Adv Bhale was not present. Post lunch, this matter is called out. He is still not present.

4. Nevertheless, for such conduct of the learned Advocate, we cannot ignore the grievance of the Petitioner, who is a 65 years old widow.

5. In view of the above, the directions set out in the four paragraphs which we had dictated yesterday in the open Court, shall be implemented by the Tribunal under the said Act, expeditiously and without causing any delay.

6. With this observation, **this Writ Petition is disposed off.**

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan