



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1735 OF 2025

1. YADAV MAMTAJI THORAT

2. ANAND YADAV THORAT

VERSUS

1. THE STATE OF MAHARASHTRA THROUGH THE SECRETARY,
REVENUE AND FOREST DEPARTMENT, MANTRALAYA, MUMBAI.

2. THE DISTRICT COLLECTOR, NANDED

3. THE DEPUTY COLLECTOR (REHABILITATION BRANCH),
COLLECTOR OFFICE, NANDED

4. THE SPECIAL LAND ACQUISITION OFFICER (B & C), NANDED

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Advocate for the Petitioners : Mr. Menezes Joslyn A.

AGP for Respondents/State : Ms. S. S. Joshi

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CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR , JJ.

DATE : 06.02.2025

PER COURT :

1. The petitioners are before us questioning sustainability of the communication dated 28.11.2024 (**Exhibit – ‘A’**), whereby their request for issuance of ‘project affected person’ certificate under the relevant law has been rejected solely on the ground that the application was submitted beyond the period of 42 years.

2. We have heard both sides.

3. Learned advocate for the petitioner places before us couple of decisions of this Court: *Champati s/o. Lobhaji Dhokale V/s. The State of Maharashtra and Others; WP No. 11253 of 2010* and *Maroti s/o. Kondji Kshirsagar (Died) V/s. The State of Maharashtra; WP No. 14819 of 2019*, to buttress his submission that a statutory right cannot be taken away by administrative circulars.

4. Learned AGP submits that the communication originating from the revenue department of the state, addressed to the Collector, Raigad, dated 12.09.1988, seems to be the basis for the competent authorities in applying the period of limitation and rejecting such applications.

5. Since it is a matter of right created by a statute, even if there is some administrative circular, wherein under the guise of providing a mechanism for having a certificate, it could not have been with a stipulation providing for a limitation. A right under the benevolent legislation cannot be taken away in such a manner by resorting to the departmental or administrative circulars.

6. There is one more aspect, when Section 5 creates an obligation on the part of the collector to issue a certificate, merely because, at a later point of time, someone through him is soliciting a

similar certificate by resorting to clause 'c' of Section 5, it would be also a matter of a statutory obligation on the part of the concerned competent authority to consider the request and issue a certificate.

7. In view of the above, the petition is allowed. The impugned order is quashed and set aside, with a direction to respondent No. 3 to consider the petitioner's application on its own merits but he shall not reject it on the ground of limitation. The decision shall be taken as expeditiously as possible and in any case within four (04) weeks.

(PRAFULLA S. KHUBALKAR, J.)

(MANGESH S. PATIL, J.)