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

WRIT PETITION NO.2174 OF 2025

1. Kusheba Namdev Jadhav
2. Ganesh Kusheba Jadhav

VERSUS

1. The State of Maharashtra, thr. Secretary, Revenue and Forest
Department, Mantralaya, Mumbai
2. The District Collector, Nanded
3. The Deputy Collector (Rehabilitation branch), Nanded
4. The Special Land Acquisition Officer (B & C), Nanded

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Mr Menezes Joslyn A., Advocate for petitioners
Mr M. M. Nerlikar, Addl.G.P. for respondents/State

**CORAM : MANGESH S. PATIL
AND
PRAFULLA S. KHUBALKAR, JJ.**

DATE : 13th February, 2025

PER COURT:

1. The petitioners are before us questioning sustainability of the communication dated 27.11.2024 (Exhibit 'A), whereby their request for issuance of 'Project Affected Person' (PAP) 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 the sides.

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

4. Learned A.G.P. 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

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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.)

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