



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 WRIT PETITION NO. 3814 OF 2016

HAUSABAI LIMBAJI ADSUL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....

Mr. Ameet R. Vaidya, Advocate for the Petitioner
Ms. R. R. Tandale, AGP for the Respondent/State

CORAM : R. M. JOSHI, J.
DATE : 24th JULY, 2025

PER COURT :-

1. By consent of both sides, this Petition is heard finally at the stage of admission.
2. This Petition takes exception to the order passed by the Additional Collector-cum- Deputy Director (Rehabilitation), Jalna dated 21st January 2015, whereby the Application filed by the Petitioner Hausabai Limbaji Adsul under the provisions of Section 16 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (for short 'Act of 1999') came to be rejected.
3. It is a case of the Petitioner that her husband Limbaji was owner of the land bearing Survey No. 49/1 of house property bearing No. 54 at village Gangalwadi, Tal. Paithan, District Aurangabad, which came to be acquired in the year 1971 for Jaykwadi Dam Project. The Petitioner

is heir and successor of deceased of Limbaji. She claims herself to be a person belonging to Backward Class community. On 5th February 2008 she filed an Application to Respondent No.2 seeking benefit of the provisions of the Act of 1999 and sought allotment of land in her favour, being project affected person. Since the said Application was not decided by the concerned Authorities, Writ Petition bearing No. 8174 of 2014 came to be filed. This Court by order dated 27th October 2014 directed the Authorities to take a decision on the representation. The Additional Collector-cum- Deputy Director (Rehabilitation), Jalna passed impugned order dated 21st January 2015 rejecting the claim of the Petitioner. Hence this Petition.

4. Learned Counsel for the Petitioner at the outset submits that the Authority has proceeded from wrong premise that Section 16(2)(a) (b) of the Act of 1999 would have applicable to the present case. It is his submission that the said provision would apply only to the person who is held to be eligible for grant of land and it is thereafter within 45 days his willingness is not communicated or 65% amount of compensation received is not deposited towards occupancy price. It is his submission that since the eligibility of the Petitioner was never decided by the Authority under the Act, question of Application of Section 16(2)(a) and (b) does not arise. On the point of making an Application for seeking the

allotment land on 5th February, 2008, it is the contention that the Petitioner is an illiterate lady, belonging to Scheduled Caste Community and that for want of appropriate advice, the Application was not moved earlier. It is his submission by relying upon the judgment of Division Bench of this Court dated 3rd December, 2019 in ***Writ Petition Stamp No.18371 of 2019 (Shri. Babulal Tulakchand Marwadi Vs. The State of Maharashtra and Anr.)*** that considering the fact that the Act of 1999 is a beneficial legislation, the delay if any caused in making of the Application be condoned.

5. Learned AGP opposed the Petition firstly on the ground that the order passed by the Authority is not only on the ground of Section 16(2)(a) and (b), the representation/Application of the Petitioner has been rejected on the ground of delay. It is her contention that relying upon the judgment of the Division Bench of this Court in ***Writ Petition No. 5847 of 2012 (Mohan s/o Gopalrao Gondge Vs. The State of Maharashtra)*** with other petitions, the rejection of the Application is justified. She also placed reliance on another judgment of the Division Bench of this Court in ***Writ Petition No. 8192 of 2022 (Dnyanu Bhiku Tanpure Vs. Shankar Abaji Kshirsagar)***.

6. At the outset the contention of the learned Counsel for the Petitioner with regard to the applicability by Section 16(2)(a) and (b),

the present case needs to be considered. Perusal of the provision of Section 16 indicates that an eligible affected person who is desirous of getting land or plot or both in the area shown for the purpose in the scheme published under section 15 may make an application to the Collector in the prescribed form for grant of land or plot. Sub Section 2 states about an affected person eligible for the grant of land or plot under sub-section (1) shall forfeit his right to get the same if he fails to communicate his willingness to accept the grant of land or plot made to him, to the Collector within a period of forty-five days from the date of receipt of notice in this behalf from the Collector. Similarly if he fails to deposit occupancy price of the land to the extent of 65% of the amount of compensation which he has received, he can be held to be ineligible to get the allotment. In the instant case, there was no communication by the Authority holding the Petitioner to be eligible for the grant of land and therefore, there was no question of the Petitioner having failed to communicate her willingness to accept the grant of land or to pay the occupancy price as contemplated by clause B of Sub Section 2. The findings recorded in impugned order in this regard are not sustainable.

7. Perusal of the order impugned, however, indicates that in the said Application of the Petitioner has been rejected not only on the ground of non compliance of Section 16(2)(a)(b), but also on the ground

of delay. It is sought to be argued that no specific period has limitation has been prescribed by the statute for making such Application and hence question of rejection therefore is not justified.

8. Herein this case, the land of husband of Petitioner has been acquired in the year 1971 and the Application under Section 16 of the Act of 1999 is filed for the first time on 5th February, 2008 i.e. after 37 years of the acquisition. Even if no period of limitation has been provided for making of such Application, the test of reasonability must be applied. The process of law also is required to be put to an end, after lapse of unreasonably long period. In such circumstances, it is difficult for this Court to accept the contention of the learned Counsel for the Petitioner that such in such inordinate delay can be condoned only on the ground that the Petitioner is illiterate and a lady.

9. In so far as the judgment in case of ***Babulal Tulakchand Marwadi*** (supra) is concerned, in the said case, there was already allotment in favour of the Petitioner therein and since he has failed to deposit the amount, the Division Bench of this Court found it appropriate to direct him to pay the said amount along with interest. Needless to say that this judgment has no application to the facts of the present case. On the contrary the judgments cited by the learned AGP supports impugned order.

10. As result of above discussion, dismissal of Petition is inevitable. Accordingly, Petition is dismissed.

(R. M. JOSHI, J.)

ssp