



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

WRIT PETITION NO. 7007 OF 2022

West Khandesh Dalit Shikshan,
Prasarak Mandal, Dhule
Through its Chairman
Shri, Mahendra Ashok Nile,
Age: 62 years, Occup: Chairman,
R/o. 44/B, Professor Colony,
Deopur, Tq. Deopur, Dist. Dhule

.....PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Revenue Department,
Mantralaya, Mumbai-32.
2. The Divisional Commissioner
of Revenue, Nashik.
3. The District Collector,
Nandurbar.
4. Nandurbar Taluka Vidhayak Samiti,
Through its Chairman
Manoj Battersinh Raghuwanshi,
Age: 58 years, Occu: Business,
Having its Office at Khodai Mata Mandir,
Nandurbar, Tq. & Dist. Nandurbar.
5. Rajiv Charitable Trust,
Through its Chairman,
Chandrakant Battersinh Raghuwanshi,
Age: 58 years, Occu.: Business,
Having its Office at Khodai Mata Mandir,
Nandurbar, Tq. & Dist. Nandurbar.

.....RESPONDENTS

Mr. V. D. Sapkal, Sr. Advocate a/w Mr. A. S. Gadekar i/b Mr. S. R. Sapkal, Advocates for petitioners
Mr. P. D. Bachate, Advocate for respondent no.4
Mr. D. S. Bagul, Advocate for respondent no.5.
Mr. V. M. Chate, AGP for respondents-State

CORAM : ROHIT W. JOSHI, J.
RESERVED ON : 05TH AUGUST, 2025
PRONOUNCED ON : 19TH AUGUST, 2025

JUDGMENT :-

. The petitioner claims to be a public trust registered under the Maharashtra Public Trusts Act, 1950. The petitioner/trust claims to be working towards welfare and upliftment of students belonging to Schedule Caste and Schedule Tribes. It is claimed by the petitioner that one of its aims and objectives was to provide hostel facility to students belonging to the said category in the districts of Dhule and Nandurbar. The dispute in the present petitions pertains to land bearing survey no.639 admeasuring 7.39HR and land bearing survey no.638/1 admeasuring 8.77HR, both situated at Nandurbar. It is the case of the petitioner that these lands were allotted to him by the government for the purpose of cultivation so as to augment funds for meeting the expenses

for running the hostel. Land bearing survey no.638/1 was initially allotted to one Sammishra Vidhyarthi Vastigruha, vide allotment order dated 28.12.1959. The said land resumed from the said society and allotted to Dr. Ambedkar Hostel vide order dated 25.06.1963. Subsequently, the land was resumed from Dr. Ambedkar Hostel and allotted to the petitioner vide order dated 20.05.1981. Another land bearing survey no.639 came to be allotted to the petitioner vide order dated 23.04.1984.

2. The petitioner had submitted a proposal for transfer of land bearing survey no.639 in favour of respondent no.4 and land bearing survey no.638/1 in favour of respondent no.5. The respondent nos.4 and 5 are also public trusts registered under the Maharashtra Public Trusts Act,1950. In view of the said application, the Collector, Nandurbar forwarded report dated 06.12.2012 to the respondent no.1 providing history of the matter in which the lands were allotted to the petitioner and the circumstances under which the petitioner had made application seeking approval for proposed transfer. The Collector has recorded in his report that the trustees of the

petitioner had expressed that it was not possible for them to bring the land under cultivation and therefore, despite holding the lands for a very long period, they could not generate any income from the lands for maintenance of the hostels.

3. The Collector also referred to litigation with respect to land bearing survey no.639. Vide order dated 12.12.2005, the Collector had made allotment of 1HR land out of survey no.639 for the office of Integrated Tribal Development Project and 2.00HR land for Police Training Centre. The petitioner had filed a Civil Suit being Regular Civil Suit No.72 of 2007, challenging the said order. The application for grant of temporary injunction in the said suit was rejected and appeal preferred by the petitioner was also dismissed. In such circumstances, the petitioner had filed Writ Petition No.3457 of 2008, in which an order to maintain status-quo with respect to possession of the said land was passed by this Court. The petitioner had also filed a revision before the Additional Collector Nashik, challenging the order dated 12.12.2005, in which the matter was remanded back to the Collector to decide the matter afresh after giving opportunity of hearing to

the petitioner. The Collector had passed an order maintaining allotment of 1HR land to the office of Integrated Tribal Development Project. However, the order of allotment of 2HR land to Police Training Centre was recalled. In this circumstances, petitioner filed an application dated 21.05.2012, seeking permission for transfer of both lands before the Hon'ble Revenue Minister.

4. The Hon'ble Minister passed order dated 28.02.2014 on the application by the petitioner thereby granting permission for transfer of land bearing survey no.639 and 638/1 to the respondent nos.4 and 5 respectively. It will be pertinent to mention that the Hon'ble Minister had heard the parties before passing the order. The petitioner, who is referred as applicant no.1 in the proceeding before Hon'ble Minister had filed written note of argument in support of the application seeking permission for transfer. The respondent nos.4 and 5 stated that they agreed with the contents of notes of arguments filed by the petitioner. In such circumstances, the order dated 28.02.2014, granting permission for transfer came to be passed by the Hon'ble Minister. Permission is granted on

the condition of payment of unearned income to the government.

5. This order dated 28.02.2014 is not challenged by the petitioner any further. However, one Jivan Majnu Gavit filed an application for review of the order dated 28.02.2014. The said application for review came to be rejected vide order dated 04.09.2019. The Hon'ble Minister has observed in the order that the review petitioner could not point out any breach of violation of legal provision in the matter of allotment of land to the respondent nos.4 and 5 and also that the review petitioner had failed to make out any other ground for assailing the said order.

6. After the order dated 28.02.2014, was passed granting permission for transfer and the application for review was rejected, the respondent nos.4 and 5 approached the Collector for permission to convert the status of land from occupant class-II to occupant class-I. The said application was allowed by the Collector vide order dated 22.02.2021. The respondent no.3 Collector has directed the respondent nos.4 and 5 to pay amount of Rs.2,89,27,500/- and Rs.2,40,97,500 for

conversion of the land to occupant class-I.

7. The petitioner has filed the present petition in order to challenge the order dated 28.02.2014 and 04.09.2019 passed by the Hon'ble Minister granting permission for transfer of land and rejecting application for review respectively and subsequent order dated 22.02.2021, passed by the respondent no.3/Collector granting permission to convert the status of land into occupancy class-I.

8. Heard Mr. V. D. Sapkal, learned Senior Advocate for the petitioner and Mr. V. M. Chate, learned AGP for respondent nos.1 to 3, Mr. P. D. Bachate for respondent no.4 and Mr. D.S. Bagul for respondent no.5.

9. Mr. V. D. Sapkal, learned Senior Advocate for the petitioner contends that the allotment of land in favour of the petitioner was revoked and thereafter, the said land was allotted to respondent nos.4 and 5. He contends that while making allotment of land in favour of respondent nos.4 and 5, the mandate of the Maharashtra Land Revenue Code (Disposal of Government Lands) Rules, 1971 and particularly Rules 26 and 27 thereof was not followed. He contends that the lands

could not have been allotted to the respondent nos.4 and 5 without public auction.

10. As against this, the learned Advocates for the respondents contend that the foundation of argument of the petitioner is completely misplaced. They contend that Hon'ble Minister has granted permission for transfer of land which was allotted to the petitioner to the respondent nos 4 and 5. They dispute the contention of the petitioner that allotment of land in favour of petitioner was cancelled and thereafter, fresh allotment was made in favour of respondent nos.4 and 5. Referring to the lease deed, the learned Advocates contend that the lease was transferable and permission for transfer is granted by the Hon'ble Minister. They also contend that permission for transfer is granted subject to payment of unearned income. Learned Advocates apart from the merits of the matter also raised an objection with respect to locus of the petitioner to challenge the orders. In this regard, it is contended that permission for transfer of land is granted pursuant to application made by the petitioner. It is pointed out that it was the case of the petitioner that it was not able to

cultivate the lands and as such could not generate any income from the lands for meeting expenses for running hostel. The learned Advocates therefore contend that challenge to the said order at the behest of the petitioner cannot be entertained.

11. Having heard the rival submissions as aforesaid and on perusal of the documents on record, it needs to be mentioned that the order dated 28.02.2014 is passed by the Hon'ble Minister on an application made by the petitioner. Perusal of the order will demonstrate that petitioner and respondent nos.4 and 5 are referred as applicant nos.1,2 and 3 respectively in the said order. The order further demonstrates that notes of arguments in the matter were filed by the petitioner and the respondent nos.4 and 5 had agreed with contentions raised by the petitioner. It is on the application of the petitioner that the Hon'ble Minister has granted the permission for transfer of land, which was allotted to the petitioner in favour of the respondent nos.4 and 5. The lands were allotted to the petitioner in order to generate income for running hostel for students belonging to Schedule Castes and Schedule Tribes. The petitioner has stated that it was unable

to earn any income from the land and as such the purpose for which land was allotted to the petitioner was not served. It will also be pertinent to mention that the respondent nos.4 and 5 are also registered as public trusts. In that view of the matter, the objection raised by the respondents that petitioner does not have locus to challenge the order dated 28.02.2014 needs to be upheld.

12. As regards the subsequent order dated 04.09.2019, whereby application for review of the order dated 28.02.2014 came to be rejected, the preliminary objection with respect to locus of the petitioner to challenge the said order dated 28.02.2014 holds good for this subsequent order of review as well. Apart from this, admittedly, the application for review was not filed by the petitioner, it was filed by some other person. This is another reason for holding that petitioner has no locus to challenge the order dated 04.09.2019.

13. Mr. V. D. Sapkal, learned Senior Advocate contends that after cancellation of the lease in favour of the petitioner, fresh allotment was required to be made, if any, in favour of the respondent nos.4 and 5. He contends that fresh allotment

could be made only by holding auction as contemplated under the Maharashtra Land Revenue Code (Disposal of Government Land) Rules, 1971. The contention of the learned Senior Advocate cannot be accepted. It was all through out the case of the petitioner that he was holding the land on lease pursuant to allotment of the same in his favour. The petitioner has not averred that the lease in its favour was ever revoked. There are averments in the petition with respect to Petition 3457 of 2008 filed by the petitioner.

14. In this regard, it needs to be stated that the Writ petition was filed by the petitioner with respect to land bearing survey no.639. The total area of land bearing survey no.639, which was allotted to the petitioner was 8.39HR. Out of this, 1.00HR land was allotted for office of Integrated Tribal Development Project and 2.00HR land was allotted for Police Training Centre. These orders were challenged by the petitioner by filing a Civil Suit in which application for temporary injunction was rejected. Miscellaneous Appeal preferred by the petitioner was also dismissed and therefore, petitioner filed Writ Petition before this Court, in which by an

interim order, possession of the petitioner was protected. The petitioner in fact moved application for seeking permission to transfer the land in such circumstances.

15. It will also be pertinent to mention that perusal of the order of allotment filed on record by the petitioner demonstrates that the petitioner was competent to transfer the land subject to prior permission of the authorities. The judgment in the matter of *Wilfred Anthony Jose Pereira & Anr Vs. State of Maharashtra & Ors*, reported in *2014 (2) Mh.L.J 614*, relied upon by the petitioner is not applicable to the present case, since, the present case is not one of cancellation of lease and fresh allotment of land, as was the case before this Court in the said judgment. As regards judgment in the matter of *Dadaji Shankar Patil Versus Secretary Revenue and Forest Department*, reported in *2021 (1) Mh.L.J 330*, the said judgment provides that allotment of land without occupancy price, or free of land revenue or both cannot be granted without sanction of the State Government. In the present case, the State Government has granted sanction for transfer of the subject properties earlier held by the petitioner in favour of

respondent nos.4 and 5. Perusal of the order demonstrates that the Hon'ble Minister has also directed payment of unearned income of 75 percent amount of the ready reckoner rate prescribed for the said lands in the year 2013 as a condition for granting permission for transfer of lands. The Hon'ble Minister has made a reference to government resolution dated 08.09.1983 while granting permission as aforesaid (page 62). The judgment in the matter of *Dadaji Shankar Patil*, therefore, does not come to the aid of the petitioner.

16. As regards the subsequent order dated 22.02.2021, the Collector has merely permitted conversion of land into occupancy class-I. The Collector has directed payment of appropriate charges for permitting the said conversion. The petitioners have not challenged the computation of amount in the said order. Since, the challenge to the order dated 28.02.2014, granting permission for transfer and subsequent order dated 04.09.2019 rejecting application for review is rejected, it must be held that petitioner has no right to challenge the subsequent order dated 22.02.2021, passed by the Collector.

17. It will also be pertinent to mention that the order granting permission is passed on 28.02.2014, the present petition is filed on 20.06.2022 i.e. after a period of eight years and four months. There is an inordinate delay in challenging the order, for which, no plausible explanation is offered. As regards the subsequent order dated 04.09.2019, the application for review was not filed by the petitioner. Apart from locus and merits, the Writ Petition also deserves to be dismissed on account of inordinate unexplained delay on the part of the petitioner.

18. In view of the reasons aforesaid, it needs to be held that the petition is without any substance and deserves to be dismissed. Writ Petition is accordingly dismissed.

19. Civil Application, if any, stands disposed of.

(ROHIT W. JOSHI, J.)