



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

**903 REVIEW APPLICATION (CIVIL) NO.194 OF 2024
IN
WRIT PETITION NO.6279 OF 2014**

Gopal Gangaram Dawkhar Died Through Lrs. Babasaheb Ravji
Dawkhar Died Through Lrs.

VERSUS

The State Of Maharashtra Through It's Principal Secretary And
Others.

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Advocate for Applicant : Mr. A.B. Kale
AGP for Respondents: Ms V N Patil-Jadhav
Advocate for Respondent 5 : Mr. V R Dhorde

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**CORAM : MANGESH S. PATIL AND
S. G. CHAPALGAONKAR, JJ.**

Dated : January 16, 2025

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ORDER :-

1. We have heard both sides.
2. The applicants, who are the original petitioners, are seeking review of the judgment and order whereby we decided several writ petitions.
3. Learned advocate for the applicants/petitioners submits that though petition was challenging clause nos.3.1.1 to 3.1.5 of the Government Resolution dated 4.5.2012, simultaneously even they were praying for allotment of the

land in light of the list prepared and was placed at Exhibit “D”. He submits that this Court has dismissed the petition to the extent of challenge to the aforementioned clauses. The petitioner is ready to suffer that order, however, this Court did not decide the prayer clause whereby they were seeking allotment of the land in the list prepared by the respondents and that was placed at Exhibit “D”, in terms of the prayer clause “D” from the petition. He submits that in view of the judgment and order under review, even the authorities are refusing to consider their request in tune with the original prayer clause “D” for allotment of the land. He submits that several other individuals from that list were allotted the lands. Petitioners are ready to accept it, but the order under review is being taken aid of by the respondents instead of treating the petitioners at par with the other land owners. He submits that irrespective of the prayers being made in the application, the petitioners are merely seeking a clarification on aforementioned lines.

4. Learned AGP referring to the affidavit-in-reply opposes the review application. She submits that right of the petitioners to receive the land is not in question. However, as

has been mentioned in paragraph no.15 of the affidavit-in-reply, respondents are ready to allot the land. She submits that, in fact, petitioners claim for specific land cannot be entertained in light of the decision under review.

5. We have also heard Mr. Dhorde, learned advocate for respondent no.5-Corporation.

6. We have considered rival submissions, perused judgment and order under review and papers.

7. Indeed, it is a matter of record that the original petitioners were coming with several prayers. Though, he was putting up a challenge to clause nos.3.1.1 to 3.1.5 of the Government Guideline dated 4.5.2012 on the ground that those were ultra vires, section 28-1AA (3) of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961, simultaneously he was also seeking the relief in terms of prayer clause "D" which read as under :-

"D. To direct the respondents to make available the lands from village Shrirampur, Tq. Shrirampur, Dist. Ahmednagar as per list prepared by them which is at Exh.D to this petition and further direct the respondents to allot the said lands to the petitioners as per the said list within period of one month from today and for that purpose issue necessary orders."

8. Perusal of the judgment and order under review would demonstrate that this Court had rejected challenge to the aforementioned clauses for the reasons recorded therein. Even, learned advocate for the petitioners concedes the fact and expressly mentions that the petitioners are ready to suffer that order as they have already done.

9. Obviously, irrespective of the fact that the challenge to the clauses was turned down, independently, petitioners' claim for allotment of the land in accordance with the list prepared by the respondents, which was placed at Exhibit "D" was not precisely considered and decided on merits, albeit it was held that there cannot be any claim for a specific land. Affidavit-in-reply is also conspicuously silent in respect of this fact.

10. It is in the wake of such peculiar state of affairs, in our considered view, it would suffice if we extend a clarification that the judgment and order under review does not decide the petitioners claim contained in prayer clause "D" of the Petition.

11. Review Application is **disposed of** with the clarification that our judgment and order under review shall not be an impediment for the petitioners to make a claim in respect of prayer clause “D” which may be decided by the respondents on its own merits.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)

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