

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 WRIT PETITION NO. 998 OF 2025

DINESH PANDURANG BAGLE

VERSUS

STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

...

Mr. B.V. Thombre, Advocate for the petitioner.

Mr. S.V. Hange, A.G.P. for respondent / State.

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

DATED : 23 JANUARY 2025

ORDER:-

. Heard the learned advocate for the petitioner extensively across two sessions.

2. The petitioner is seeking to take exception to the order dated 30.12.2024 whereby, the respondent collector has cancelled his Project Affected Person (PAP) certificate dated 01.11.1998.

3. Learned advocate for the petitioner submits that the land was an ancestral land. Petitioner's grandfather was the real brother of the affected person. Since his grandparents had died at early stage, his father was being maintained by the affected person who had nominated him and on the basis of which the PAP certificate was issued and he could get the employment. He would take us to the definition of 'affected person' as well as to sections 5 and 6 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 in

respect of the family. He would submit that the partition was effected after the land was acquired and he would constitute an affected person and even the member of the family. These aspects were not considered. No appropriate opportunity of being heard was extended. Even the petition was drafted hurriedly and the petitioner may be protected by giving notice to the other side.

4. Though the submissions of the learned advocate are in tune with the stand being taken in the petition memo, pertinently he was called upon by notice and had participated in the enquiry which ultimately resulted in passing of the impugned order. He had submitted his written statement which now forms the basis for the respondent to pass the impugned order. The petitioner he had expressly mentioned that even before the land was acquired, the partition had taken place and that land was allotted to the share of his cousin grandfather, who is the affected person, albeit his entire family was depending on the cousin grandfather. This clearly demonstrates that the petitioner's cousin grandfather was exclusive owner of the property and was affected by the public project and would constitute the affected person.

5. Going by the explanation to section 6, wherein the 'family' has been defined, it is only the immediate family, meaning thereby, the spouse, son, married or unmarried daughter or brother or sister or daughter in law or grand son or grand daughter of the

affected persons or adopted son or daughter residing with and dependent on such affected person, would be covered. The petitioner, admittedly, is not falling under any of these categories.

6. For this reason, without being a family member even if, may be at the instance of the affected person, the petitioner was issued with a project affected person's certificate, having seen that he cannot be described as 'family' of the affected person, the view taken by the collector in the impugned order for recalling the certificate, cannot be taken any exception to.

7. Rather, in all probability, to come out of the stand taken in the reply filed to the notice, there is no disclosure in the petition about the initial stand before the collector taken by him wherein he himself disclosed that the partition had taken place before the land was acquired and the property had fallen to the share of his cousin grandfather.

8. The petition memo is conspicuously silent on any explanation regarding such stand taken in the written statement / reply. No fault can be found with the order under challenge.

9. The petition is dismissed.

(PRAFULLA S. KHUBALKAR)
JUDGE

(MANGESH S. PATIL)
JUDGE