

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8908 OF 2023

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Suresh Vinayak Deshpande

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

Ms. Manisha A. Devkar and Ms. Siddhi Patil for the petitioner.

Mr. Bapusaheb B. Dahiphale, AGP for the State-respondent Nos.1 to 4.

CORAM : AMIT BORKAR, J.

DATED : APRIL 22, 2025

P.C.:

1. Challenge in the present writ petition is to the order dated 26th September 2018 passed by the Additional Commissioner (Resettlement), Pune Division, Pune, and the subsequent order dated 12th February 2019 passed by the same authority, whereby the petitioner's claim for benefit under the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (hereinafter referred to as "the 1999 Act") came to be rejected.

2. The learned advocate appearing for the petitioner submitted that the petitioner's land has been acquired for the purposes of an irrigation project, and therefore, in terms of the Government Resolution dated 23rd August 2004 issued by the State Government, the petitioner is entitled to be treated as a project-

affected person and be extended all benefits under the 1999 Act. It is contended that the nature of acquisition is such that it squarely falls within the definition of "project-affected person" as contemplated under Section 2 of the said Act.

3. On the other hand, the learned Assistant Government Pleader appearing for the State submitted that the Government Resolution dated 23rd August 2004 specifically limits its application to those cases where the land has been acquired for the purposes of *Sandva* (सांडवा) and *Prucchha Kalva* (पृच्छा कालवा), which are major components of canal systems under the project. According to the State, in the present case, the land in question has been acquired for a *distributory canal* (वितरिका क्र. १३), and hence, the benefits of the 1999 Act, as modified or clarified by the Government Resolution, would not be applicable.

4. On careful perusal of the impugned orders passed by the Additional Commissioner, this Court finds that the crucial issue as to whether the land acquired for distributory canal No.13 qualifies for rehabilitation benefits under the 1999 Act in light of the Government Resolution dated 23rd August 2004 has not been considered at all. There is no discussion in the impugned orders as to the applicability of the Government Resolution or its scope. The authority has failed to examine whether the term *distributory* falls within the extended meaning of canal systems as per policy or administrative interpretation.

5. In my considered view, once such a material issue is raised by the petitioner and a legal benefit under a welfare legislation is

being claimed, it is incumbent upon the Resettlement Officer to consider the applicability of the relevant Government Resolution and statutory provisions in detail.

6. In the facts of the present case, the omission to consider this core issue vitiates the impugned decisions. Accordingly, in the interest of justice, the impugned orders dated 26th September 2018 and 12th February 2019 are set aside. The matter is remanded back to the Resettlement Officer to decide afresh the petitioner's claim for benefit under the 1999 Act, after taking into account the nature of acquisition, the scope and applicability of the Government Resolution dated 23rd August 2004, and the petitioner's claim of being a project-affected person.

7. The Resettlement Officer shall afford an opportunity of hearing to the petitioner and thereafter pass a reasoned order in accordance with law. The said exercise shall be completed within a period of eight (8) weeks from the date of communication of this order.

8. The writ petition is disposed of in the above terms. No order as to costs.

9. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)