

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1424 OF 2024

Bhagwan Dagadu Yadav	}	
Since deceased through his heir	}	
(Major Son) namely	}	
Vijay Bhagwan Yadav,	}	
Aged 44 years, Occu: Advocate,	}	
R/at. Saspade, Tal. Satara,	}	
District: Satara	}	.. Petitioner

Versus

SNEHA
NITIN
CHAVAN

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- | | | | |
|----|----------------------------------|---|----------------|
| 1. | District Collector, Satara | } | |
| | District Satara | } | |
| 2. | Sub Divisional Officer, Satara | } | |
| | Sub-Division, Satara | } | |
| 3. | Tahasildar, Satara | } | |
| | (Copy served to Asst. Government | } | |
| | Pleader) | } | .. Respondents |

...

Mr. Ashutosh Kulkarni with Mr. Vaibhav R. Gaikwad, Advocates for the Petitioner.

Mr. S. B. Kalel, Assistant Government Pleader for the respondent nos.1 to 3.

**CORAM : A.S.CHANDURKAR AND
M.M. SATHAYE, JJ.**

DATE : 10th FEBRUARY 2025

P.C. :

1. Rule. Rule made returnable forthwith. Heard finally by consent of learned Counsel for the parties.

2. The Petitioner is challenging the order/communication dated 09/11/2023 passed by the Respondent No.2 and praying that his Applications dated 22/11/2016 and 11/09/2020 be allowed, thereby directing the Respondents to allot plot No. 31, Village Saspade, Tal. &

Dist. Satara as demanded by the Petitioner claiming to be a ex-serviceman. The Petitioner has expired during pendency of his applications for allotment of land and presently, it is being pursued by his son.

3. The learned Counsel for the Petitioner has relied on the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971. He pointed out that under definition clause, i.e. Rule 2(g), 'family' is defined and for the purpose of grant of land, it includes husband, wife, minor sons, unmarried daughters and dependents whether or not they are separate in estate, as provided therein. He has also relied upon Rule 28 providing for grant of land to freedom fighters, members of armed forces and contended that it provides for grant of building sites etc. without auction to a person like the Petitioner and such grant can be made on payment of occupancy price. It is submitted that the reason given in the impugned communication is that under earlier order in Writ Petition No. 13154 of 2023, the eligibility of the Petitioner was to be examined, however, the same is denied on the ground of Petitioner's ancestral house at mouje Saspade, Taluka-District Satara. It is contended that Rule 28(2) relied upon in the impugned communication is not justified, inasmuch as the bar would apply in case a building plot or building is owned in the name of the candidate or his family in urban area. He submitted that such is not the case of the Petitioner.

4. No affidavit-in-reply has been filed by the Respondent/State.

5. We have perused the earlier order passed in the Writ Petition No. 13154 of 2023 dated 20/10/2023. The said petition was disposed of

without expressing any opinion on merits when the Assistant Government Pleader has stated that Petitioner's application is under process and he is called upon to submit documents and order will be passed. It was also stated that the concerned Sub-Division Officer is entitled to examine the eligibility of the Petitioner.

6. We have perused the said Rules relied upon by the Petitioner. We have also perused the impugned order / communication which shows that neither the aspect of Rule 2(g) about definition of the family nor the aspect of Petitioner's case of not having any property in his name or in the name of his family in urban area, is considered. The Petitioner's applications ought to have been considered after giving due weightage to all relevant aspects under the statutory scheme.

7. In the aforesaid circumstances, in our view, Petitioner's case needs re-consideration on merits and therefore, we pass following order.

(a) The impugned communication dated 09/11/2023 passed by Respondent No.2, is quashed and set aside. The petitioner's applications dated 22/11/2016, 17/05/2018, 27/01/2020 and 11/09/2020 shall be re-considered in accordance with the observations made in this judgment. The needful be done within a period of six weeks of receiving copy of this judgment.

(b) Rule is made absolute in aforesaid terms with no order as to costs.

All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)

(A.S.CHANDURKAR, J.)