

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1552 OF 2024

Abhijit Arun Kapse

..Petitioner

Vs.

State of Maharashtra & Anr.

..Respondents

Ms. Seema Dighe i/b. Ms. Priyal Sarda for the Petitioner.

Ms. T. J. Kapre, AGP for State/Respondent Nos.1 & 2.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE : 08 APRIL 2025

P.C. :-

1. This petition under Article 226 of the Constitution of India is filed
praying for the following reliefs:-

- a) Rule be issued and records and proceedings be called for;
- b) By a suitable writ, order or direction in the nature of writ of mandamus of this Hon'ble Court direct the Respondents to consider the Complaints dated 17.09.2023, 08.10.2023, 09.10.2023, 10.10.2023, 11.10.2023, 12.10.2023, 13.10.2023, 16.10.2023 & 18.10.2023 given by the Petitioner, in its true spirit and to inquire into a scam of Rs.2000 Crores in the matter of land allotment and to take immediate action against the errant officers of revenue department.
- c) By way of suitable writ or direction of this Hon'ble Court, be pleased to direct the Respondents to complete the inquiry in respect of complaints given by the Petitioner within the time bound program in accordance with law in respect of the various allegations made against the then Deputy Collector Viz. Mohini Chavan, the then Tahasildar Viz. Abhijit Jadhav, the then employee of Rehabilitation Department – Swati Bargaje and other relevant officers.

d) By way of suitable writ or direction by writ of mandamus or any other writ, be pleased to direct the Respondents to hear and decide the Complaints of the Petitioner dated 17.09.2023, 08.10.2023, 09.10.2023, 10.10.2023, 11.10.2023, 12.10.2023, 13.10.2023, 16.10.2023 & 18.10.2023 forthwith and the direction may kindly be given to the respondents inquire into a scam of Rs.2000 Crores in the matter of land allotment and to take immediate action against the errant officers of revenue department.”

2. The case of the petitioner is of an alleged scam of Rs.2000 Crores in land allotment to the Project Affected Persons, on the basis of forged and fabricated orders. The petitioner is the resident of Jyotibachiwadi, Tal.-Barshi, Dist.-Solapur. The petitioner’s grandfather was owner of land bearing Gat No. 453 & 448 situated at village Jawalgaon, Tal.-Barshi, which was acquired by the State Government for Jawalgaon Madhyam Prkalp and at present, a dam has been constructed over the said acquired land.

3. It is the petitioner’s case that on inquiries as made by the petitioner on the entitlement of alternate land to be allotted to the petitioner, he came to know of several irregularities and glaring illegalities, and that in fact there was big scam in allotment of land, resultantly he will not be allotted an alternate land despite being eligible. The petitioner, on inquiries, received significant information that Mohini Chavan, Deputy

Collector with the help of Abhijit Jadhav, Tahasildar and Swati Barjage, employee from Rehabilitation Department in collusion with other employees had prepared bogus back dated orders and on the basis of said back dated bogus orders, prepared new orders to allot the lands twice to the project affected persons which causes the petitioner being deprived of allotment of an alternate land. In this regard, the petitioner approached the respondent authorities by making a complaint dated 07 September 2023, however, no action was taken on the petitioner's complaint. The petitioner thereafter made several complaints, the dates of which are set out in the prayer clauses as also hereinabove. It is on such premise that the petitioner's complaints are being avoided to be looked into and possibly highhandedly, as it would bring to the fore large scale illegalities as pointed out by the petitioner, as a matter of last resort, the petitioner has approached this Court in the present proceedings.

4. Considering the cause as raised by the petitioner, we may observe that similar issues had before this Court in the proceedings of Contempt Petition No. 201 of 2023 before a co-ordinate Bench of this Court, to which one of us (G. S. Kulkarni, J.) was a member. In such proceedings, the Court passed an order dated 19 July 2023 which reads thus:-

“1. We may note the peculiarity of the present proceedings and more so, when it concerns plea of contempt being urged in regard to non-compliance of the order dated 05 July, 2022 passed by a co-ordinate Bench of this Court. The petitioner had contended that he is a project affected person entitled to a benefit of an alternate land under the scheme of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (for short, the “**1999 Act**”). However, as pointed out by Ms. Bhide, learned AGP, the land of the petitioner was acquired in the year 1961 for the Koyna Project and for such reason the petitioner cannot be a project affected person in terms of the Act. The land acquisition award itself was rendered in the year 1961, at which point of time, as seen from the record, neither the Maharashtra Project Affected Persons Rehabilitation Act, 1999 or the prior Act namely the Maharashtra Resettlement of Project Displaced Persons Act 1976, under which a claim for allotment of land after the said Acts came into force could be made, were in force.

2. The question is whether the petitioner at all had any legal right to claim an alternate land from the State Government under the garb of being a project affected person under the said Acts. Ms. Bhide submits that in fact, the petitioner was held to be not eligible by a prior order. The entitlement of the petitioner to call himself as the project affected person by taking benefit of the orders passed by this Court is an issue which would arise for our consideration, before we initiate any action for non-compliance of the orders passed by this Court and then decide whether to initiate action against the respondents for non-compliance is what is contended.

3. Certainly in exercising contempt jurisdiction, the Court cannot act contrary to the mandate of law and/or be oblivious to any fraud being played on the Court. This, more particularly as urged by Ms. Bhende in the present case which is in respect of a land acquisition of 1961 a claim is being made under the 1999 Act. The law in this regard is well settled. Any order, which the Court would pass, would be in aid of justice and in accordance with law.

4. Ms. Bhide would also contend that recently this Court had come across proceedings [Writ Petition No. 8881 of 2022 (Housabai Maruti Bandal {since deceased} through her legal heir Hanumant Sahebrao Bandal Vs. State of Maharashtra & Ors.) along with connected writ petitions, decided on 12 July, 2023] wherein similar claims of a bonanza of allotment of Government lands/ plots under the 1999 Act, when the Act was not applicable

to a concluded land acquisition of the year 1961, had come for consideration wherein the Court had categorically observed that land of such persons being acquired about 63 years back and who had received compensation, whether could at all seek allotment of lands under the 1999 Act as project affected persons. The relevant extract of the said order dated 12 July, 2023 as passed on a batch of petitions reads thus:-

“2. As per the directions in paragraph 13 of the above order, these petitions were listed from time to time for compliance and accordingly they were listed today, for reporting compliance.

3. On perusal of the record and when we are confronted with the compliance of the said order, what has been revealed shocks the conscience of the Court inasmuch as neither the petitioners nor the AGP on behalf of the State Government had pointed out to the Court when the order dated 30th January 2023 was passed on this batch of the petitions that the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (for short “the 1999 Act”) itself were not applicable, in so far the petitioners were concerned, inasmuch as the lands of the petitioners situated at Village Alande, Taluka Bhore, District Pune described in each of the petitions were acquired for the Veer Project in March 1961. The acquisition proceedings under the provisions of the Land Acquisition Act, 1894 had attained finality. The Maharashtra Project Affected Persons Rehabilitation Act, 1999 or its predecessor 1976 Act was far to be seen when the said acquisition proceedings had taken place and had attained finality. Thus there was no question for the petitioners to claim allotment of any Government land in lieu of the acquisition of their land in the year 1961.

4. When posed with the question as to whether the provisions of the 1999 Act were retrospectively applicable so as to entitle to create a legal right in the petitioners to seek allotment of alternate land in respect of the acquisition proceedings which have been completed in the year 1961, Mr.Deokar, learned counsel for the petitioners is unable to point out any provision under the Maharashtra Project Affected Persons Rehabilitation Act, 1999 which would either make it applicable retrospectively and that too for acquisition in question in respect of which an award was rendered in March 1961. He is not in a position to point

out any legal right in the petitioners de hors the 1999 Act which would entitle the petitioners to allot any alternate lands.

5. In the above circumstances when we are dealing with the compliance of the orders passed by this Court, in our clear opinion, the order passed on this batch of the petitions on 30th January 2023, otherwise than what the law would provide, would not confer any eligibility and/or entitlement to the petitioners to have such lands allotted, inasmuch as the Court in passing such order has not adjudicated on the issue of eligibility and/or entitlement as the Court proceeded on the statements and submissions made on behalf of the petitioners and the State Government as made by the learned Assistant Government Pleader.

6. In our opinion, in the context of compliance of the order dated 30th January, 2023, the petitioner cannot seek compliance of the order 30th January 2023 passed by this Court.

7. We accordingly observe that this batch of the petitions would stand closed without any further compliance on behalf of the State Government. Accordingly removed from the board.

8. This order be forwarded to the Divisional Commissioner, Pune and the Collector (Resettlement).
(emphasis supplied)”

5. From what is urged before us and as noted above certainly shocks our conscience. If what has been pointed out on behalf of the State Government is correct that the persons who claim to be the project affected persons and whose lands were in fact acquired for the Koyna project in the year 1961 or in the similar projects prior to the coming into force of either the Maharashtra Resettlement of Project Displaced Persons Act, 1976 or the Maharashtra Project Affected Person Rehabilitation Act, 1989, or the Maharashtra Project Affected Persons Rehabilitation Act, 1999, were not entitled for allotment of any alternate land there was no question of they being allotted alternate lands. This, unless there was a notified policy of the State Government, after coming into force these legislations to retrospectively apply such legislation to concluded land acquisitions of the past, (here of the year 1961). Certainly there is nothing in the provisions of these enactments

which would show that the same were made retrospectively applicable to the concluded land acquisition of the year 1961.

6. We may also observe that in the absence of any legal right, if persons under the garb of the project affected persons of Koyana project or any other similar projects have grabbed and/or have become illegal beneficiaries of Government lands, it is a matter of serious concern and the Government would be required to institute an enquiry in that regard so as to ascertain whether any fraud is played in allotment of valuable government lands. If it is found that false and bogus allotments of land are made to such persons, without specific determination of the entitlement and legal status of such persons, in any legal proceedings and/or merely on a concession or a non-contest by any officers on behalf of the State Government, such allotments would not have any legal sanctity and such allotment would be required to be considered to be fraudulent and illegal grabbing or securing of government land, by such persons. It is settled principle of law that fraud vitiates everything. Once such allotment itself is *void ab initio*, such land would be required to be re-claimed by the State Government by reopening such allotments as public largess cannot be usurped / siphoned off in such illegal manner.

7. Such allotment of Government lands appear to have been allotted almost free of cost. This for the reason that under the scheme of the 1999 Act, concerning the rehabilitation of project affected persons, 65% of the amount of compensation received under the land acquisition award being deposited with the State Government, is the basis for claiming allotment of an alternate land. Illustratively, assuming the land acquisition is of the year 1961, the compensation received at that point of time (that is about 62 years back), assuming was Rs.1000/-. On the basis of such award an amount of claim for allotment of land is made say in the year 2015, on the purported ground that 65% of the award amount which would be Rs.650/- be permitted to be deposited, so as to make a claim for allotment of the land in the year 2022. Large plots of land on such basis at throw away prices appear to have been allotted. It can never be that on the basis of the land acquisition compensation received in the year 1961, a claim at all can be made for allotment of an alternate land under the scheme of the 1999 Act after a long-long lapse of more than 50 years and the government would go on allotting the lands to such persons, under the garb that they are project affected persons. In our opinion, this would not only amount to fraud on the government, but a brazenly illegal in the teeth of the public trust doctrine and which cannot

happen unless there is connivance of the official machinery.

8. We may note that there is a clear *modus operandi* to resurrect such dead matters. Firstly a representation is made after a lapse of 50 to 60 years which is to resurrect an absolutely dead cause of action and in fact to pursue an illegitimate cause of action. Then writ petitions are filed seeking orders that the representation be directed to be decided. Then under the garb of such orders and representation, the official machinery considers such cases of allotment of land and ultimately they are allotted the land in a totally illegal and high handed manner. It is seen that such persons are accordingly held eligible for allotment of lands. Contempt petitions are filed and orders are obtained on such contempt petitions when the allotment is not effected and possession of lands not handed over, and in such coercive manner false claims on government lands are made. We may also observe that the official machinery is totally abused in making such allotments. We are told that in fact there are property agents who are indulging in such matters.

9. We are conscious that certainly these issues are larger issues, however, we find that in large number of matters coming before us the process of the Court is being abused by coercing the official machinery for allotments being made, when admittedly such allotments are without any foundation and/or a semblance of a legal right and more so, in respect of the land acquisition awards which have attained finality. The beneficial legislation for the project affected persons under the 1999 Act cannot be abused in such manner. As the issue is a larger issue, we request the highest officer of the State Government namely the Principal Secretary of the concerned Department to look into the issue and provide instructions so that further appropriate order can be passed.

10. In the light of the above observations, we would intend to hear the parties further. We would also request the learned Advocate General to appear in the present proceedings.

11. We direct the State Government to place on record as to in how many cases, the petitioners/litigants have claimed to be the project affected persons in relation to the land acquired for Koyna project, or other similar projects to which the provisions of such legislations were not applicable, who were granted/favoured by any allotment under the said legislations.

12. Stand over to **2nd August 2023. (First On Board).**"

(emphasis supplied)

5. By a further order dated 04 October 2023 passed on the said proceedings, this Court observed that considering such large scale illegalities in allotment of alternate lands in regard to Project Affected Persons, the State Government would be required to appoint a three member “High Power Committee” to be chaired by the highest officer in the concerned department with other companion officers like Commissioner, Collector of the appropriate district which would look into cases of illegal allotments of land and place on record of this Court an action taken report. The relevant extract of the order dated 04 October 2023 is required to be noted which read thus:-

“.....

2. Today, on such backdrop, we have heard learned Counsel for the Petitioner as also the learned Advocate General. We are of the clear opinion that the issue thus pertains to large scale allotments of lands after many many years to persons who in law would not be entitled to such allotments as noted by us above, and in the absence of specific provision under the law and/or under any Government policy to make a window available for such belated allotments. Such allotments certainly are required to be looked into/investigated and if found to be illegal and/or vitiated by fraud. The State Government would be required to take appropriate action to recall the illegal allotments of any such lands after following the due procedure as per law. There are sufficient precedents in respect of illegal allotments of public largess being cancelled by public bodies after following a lawful procedure. The law in this regard is well settled.

3. Thus, in our opinion, the only course of action for the State Government would be to appoint a three member “High Power

Committee” to be chaired by the highest officer in the concerned department with other companion officers like Commissioner, Collector of the appropriate district which would look into cases of illegal allotments of land and place on record of this Court an action taken report. Learned Advocate General has fairly stated that the State Government would certainly take cognizance of the issues as involved and shall take further appropriate steps on the issues as involved.

4. We, accordingly, adjourn the proceedings for two weeks to enable the State Government to form such a High Power Committee.”

6. By further order dated 18 October 2023, the co-ordinate Bench of this Court accepted on record Government Resolution dated 11 October, 2023 as placed by the learned Advocate General Dr. Saraf. Under the said Government Resolution, a three Member Committee was constituted to look into the illegal allotment of lands to alleged project affected persons, who had illegally taken benefits as Project Affected Persons. The Court, accordingly, has passed the following order:

“1. In pursuance to the order dated 4 October, 2023 Dr. Saraf, learned Advocate General has placed on record Government Resolution dated 11 October, 2023 whereby a three member Committee has been constituted to look into the illegal allotment of lands to persons who have taken benefits as project affected persons, as set out in our orders passed on the present proceedings.

2. We have also been informed by Dr. Saraf, learned Advocate General that the first meeting of the Committee is likely to be scheduled for tomorrow. The State Government needs to place on record the procedural modalities which the Committee would adopt to examine such issues which are serious issues affecting the State largesse.

3. Dr. Saraf has also fairly stated that the Committee would require some time to look into all these issues, hence the proceedings be listed after reasonable intervals so that the progress made by the Committee on the task being undertaken by it can be monitored.

4. Accepting the submissions of Dr. Saraf, we adjourned the proceedings to 1 November, 2023, so that the procedural modalities to be adopted by the Committee are placed on record. Thereafter, further appropriate orders can be passed.

5. Copy of the Government Resolution is taken on record and marked as 'X' for identification.

6. Stand over to 1 November, 2023 (HOB)."

7. By a further order dated 6 December, 2023, the Court made the following observations:

"1. The proceedings are listed today in pursuance of our order dated 19th July 2023, followed by the orders dated 23rd August 2023, 4th October 2023 and finally 18th October 2023.

2. Today, Mrs. Gayhane, learned Assistant Government Pleader has placed on record affidavit of Mr. Shrinivas Pundlikrao Kotwal, who is holding additional charge of Deputy Secretary (Rehabilitation), Revenue and Forest Department to Government of Maharashtra to apprise the Court on further steps being taken in relation by the High Power Committee as appointed by the State Government in pursuance of our order dated 4th October 2023, in considering cases of illegal allotments of alternate lands for the Koyna and other similar projects.

3. The affidavit sets out the procedure which the High Power Committee would intend to adopt by categorising the cases of such allotments. We do not comment on the details of such methodology at this stage. However, we find that the categorisation of such allotments of land does not take within its ambit, cases where allotments have been made on bogus and fabricated documents. This aspect is also required to be looked into by the High Power Committee and appropriate mechanism in that regard would be required to be included. This more particularly, when the entire exercise is being meticulously proposed to be undertaken by the High Power Committee, considering the monumental public interest as involved. Let such exercise be undertaken and informed to the Court on the adjourned date of hearing.

4. We may observe that the proceedings being of public importance, we shall continue to monitor the proceedings. We hope that all the officers involved in such enquiry and who would be part of the High Power Committee would examine each and every aspect of which a serious concern has been raised by us in our order as noted above.

5. Stand over to 20th December 2023, High on Board.”

8. It appears that the said High Power Committee is functional as on date. In this view of the matter, we direct that the complaints/representations which are made by the petitioner be placed before the High Power Committee. The High Power Committee shall grant an opportunity of hearing to the petitioner and other officers whose names are set out by the petitioner to be involved in illegal allotment of lands and an appropriate report in that regard be prepared similar on the lines as directed by this Court in the aforesaid proceedings which we have noted hereinabove. Let an appropriate action in this regard be taken within a period of six months from today. We keep open all contentions of the parties.

9. The petition stands disposed of in the aforesaid terms. No costs.

10. List the petition for compliance on **18 October 2025**.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]