

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 566 OF 2025

Lokesh Nandram Raipure

Vs.

State of Maharashtra, through its Secretary, Revenue and Forest Department, Mantralaya, Mumbai
and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Yash Maheshwari, Advocate for petitioner

Shri H.D. Dubey, AGP for respondent/State

Shri S.S. Ghate, Advocate for respondent Nos. 6 to 8

CORAM : SMT M.S. JAWALKAR, J.

DATE : 21.04.2025

Heard learned Counsel for the petitioner, learned Counsel for respondents and learned Assistant Government Pleader for State.

2. This Court vide order dated 30/08/2024, directed parties to remain present before the Hon'ble Minister for Revenue, Animal Husbandary, Dairy Development. There is further direction that respondent No.1 shall decide the appeal/revision in question within a period of four weeks. It was further directed that the respondent No.1 shall decide the issue of maintainability of appeal/revision, if raised. Accordingly parties appeared before the respondent No.1 and

respondent No.1 passed the impugned order dated 07/01/2025. While passing order, the Additional Chief Secretary having power of Ministers decided the issue. He has considered the provisions of Sections 247 and 249 of the Maharashtra Land Revenue Code, 1966 (for short the MLR Code), however, failed to consider provision of Section 257 under which appeal/revision was registered.

3. On perusal of Section 257 of the MLR Code, it appears that it is revisionary powers of the State, if there is no appeal provided under Section 247 or 249, the State Government i.e. Minister ought to have invoked its revisionary power under Section 257 of the MLR Code. It appears that the said application earlier registered under Section 257 of the MLR Code and interim order came to be passed. However, after remand, the Hon'ble Minister through Additional Chief Secretary has failed to consider the provision of Section 257 of the MLR Code. It is settled position of law that even if wrong sections quoted, the authority can consider the contents in the application and decide the same.

4. While remanding the matter back, this Court specifically directed to take into consideration preliminary objection in respect of appeal/revision. As such, impugned order is liable to be set aside and the matter is liable to be remitted back to the Minister for Revenue, Animal

Husbandary, Dairy Development to decide the maintainability of revision also. Hence, I proceed to pass the following order :

ORDER

- (i) The impugned order dated 07/01/2025, passed by respondent No.2, Additional Chief Secretary, Revenue and Forest Department in Appeal-2024/P.K.58/J-8, is hereby set aside.
- (ii) The Hon'ble Minister to pass fresh order after hearing both the parties if necessary and record its finding about maintainability of the revision under Section 257 of the MLR Code also.
- (iii) Parties to appear before the Hon'ble Minister on 05/05/2025.
- (iv) The Hon'ble Minister is requested to decide preliminary objection within a period of four weeks.

(SMT M.S. JAWALKAR, J.)