



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

WRIT PETITION NO. 4180/2017

Shri Chindhu s/o. Mahadeo Mangate and Anr.

Vs.

Collector (Rehabilitation), Nagpur and Anr.

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

Court's or Judge's orders

Mr. A. B. Patil, Advocate for Petitioners.

Mr. S. S. Hulke, A.G.P. for Respondent No.1/State.

Mr. A. D. Mohgaonkar, Advocate for Respondent No.2.

CORAM : NITIN W. SAMBRE AND

MRS.VRUSHALI V. JOSHI, JJ.

DATED : 01/04/2025.

1. Heard.

2. The petitioner No.2 is the daughter of petitioner No.1 and in favour of mother of the petitioner No.1 Smt. Sakhu an Award under Section 11 of the Land Acquisition Act, 1884 was passed on 09.03.1973.

3. Based on the above, it is the case of the petitioners that on 20.09.1971, the office of the Collector, Nagpur certified the status of the land holder Smt. Sakhu as 'project affected person'.

4. In the aforesaid background, the petitioner No.1 being son of the landlady, namely Sakhu, and petitioner No.2 being grand-daughter of the landlady have approached this Court for issuance of the following directions :

“i) By issuing appropriate writ, order or direction to quash and set aside the impugned order dtd.19.12.2016 (Annexure-1) and

13.01.2017 (Annexure-2) passed by respondent no.1 and 2;

ii) Further by an appropriate writ, order or direction direct the respondent no.1 to grant and issue transfer certificate of project affected person dtd. 20.09.1971/73 (Annexure-3) from the name of Sakhubai Mahadeo Mangate in the name of petitioner no.2 Ku. Vishakha Mahadeo Mangate forthwith;

iii) By an appropriate writ, order or direction direct the respondent no.2 to consider and grant the appointment to the petitioner no.2 on the basis of transfer certificate issued by respondent no.1 in the name of petitioner no.2 forthwith and in the interest of justice, equity and fair play.”

5. It is the contention of the learned Counsel for the petitioners that unless the right conferred under the provisions of the project affected person is exhausted the same stands continued in perpetuity and in such an eventuality, the claim of the petitioner No.1 being granddaughter of the original land owner whose land was acquired by virtue of the Award dated 09.03.1973 entitles her not only for the certificate of being a project affected person but also for employment as project affected person.

6. So as to substantiate said contentions, support is drawn from the Award dated 09.03.1973 issued under Section 11 of the Land Acquisition Act, 1884 and the certificate of project affected persons dated 20.09.1971 in

favour of the landlady. Further the relationship between petitioner Nos.1 and 2 with that of the landlady is not disputed.

7. As against above, the learned Counsel for the respondents would urge that, leave apart the delay caused in preferring the present writ petition, this Court is also required to be sensitive to the fact that the relatives of the original landlady namely O. C. Mangate, elder brother of the petitioner No.2 and one Mr. K. M. Barve husband of paternal aunt of the petitioner No.2 are granted appointment as land affected persons.

8. It is claimed that these persons were granted appointment way back in 1972 and 1982, who stood superannuated in 2018 and 2003 respectively. As such, it is urged that the petitioners are not entitled for the relief claimed.

9. As against above, drawing support from the authoritative pronouncements given by this Court in the matter of *Writ Petition No.406/2017 [Ku. Pratibha d/o. Ramaji Mahajan Vs. The Deputy Collector (Rehabilitation), Nagpur & Ors.]* decided on 06.10.2017 and *Writ Petition No.1834/1998 [Ramesh s/o. Banshilal Awarkar Vs. The Chief General Manager and Ors.]* decided on 12.12.2014, it is urged that even if the employment was granted to these persons i.e. the aforesaid two relatives of the landlady, the same cannot come to act as an embargo *qua* the claim of the petitioners and as such, it is urged that the petitioners' claim is requires to be entertained.

10. On merit, we were about to entertain the claim of the petitioners in the light of the aforesaid authoritative pronouncement. However, we are required to be sensitive to the age of the petitioner No.2. At the time of filing of the petition, the age of the petitioner No.2, who is seeking compassionate appointment is shown to be 40 or 41 years.

11. In such an eventuality, if we consider the claim of the petitioner No.2, we fail to understand as to what prompted the petitioners to approach this Court at such a belated stage when she has already attained majority way back i.e. almost 20 years back before the date of filing of the petition.

12. The fact remains that the petitioners even otherwise have applied for grant of employment in the regular course and have incurred disqualification having regard to the age.

13. In the aforesaid background, considering the age of the petitioner No.2 so as to claim employment on the basis of the status as a project affected person, that too after a lapse of almost 20 years of her attaining majority, in our opinion, does not warrant consideration as the petition suffers from delay and laches.

14. That being so, there is no substance in the petition, it having suffered from delay and laches, as such fails and stands dismissed accordingly. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)