

(1) **Ramlal @ Ramchandra Mahadeo Vaidya,**
Aged about 55 years, Occ. Agriculturist,

(2) **Pramod Natthuji Vaidya,**
Aged about 60 years, Occ. Agriculturist,
Both R/o. Seldoh, Tah. Seloo, District Wardha

.... **PETITIONER(S)**

// VERSUS //

(1) **State of Maharashtra,**
Through its Secretary, Department of
Revenue and Forest, Mantralaya,
Mumbai-32

(2) **The Secretary,**
Budan Yegna Mandal, Collector Office
Premises, Civil Lines, Nagpur

(3) **The Collector,**
Wardha, District Wardha

(4) **The Tahsildar,**
Seloo, Tah. Seloo, District Wardha

.... RESPONDENT(S)

Shri B. Dafle, Advocate for the Petitioner(s)
Ms. D.I. Charlewar, AGP for the Respondent/State
Shri V.M. Gadkari, Advocate for the Respondent No. 2

CORAM : M.S. JAWALKAR, J.
JANUARY 13, 2025

ORAL JUDGMENT:-

(1) The Petition is taken up for final hearing at the stage of admission by consent. Heard learned Counsel for the respective parties.

(2) The present Petition is filed challenging the order dated 16/10/2023 passed by the Respondent No. 2 – Secretary, Bhudan Yagna Mandal, Nagpur. It is submitted that grandfather of the present Petitioners namely Zingruji Vaidya was allotted agricultural land bearing Survey No. 141/1 ad-measuring 2.89 HR land of Mouza Khadki, Tahsil Seloo, District Wardha under the scheme of Section 24 of the Madhya Pradesh Bhudan Yagna Act, 1953 (hereinafter referred to as “the said Act”). The said land was inherited by the father of the Petitioners and after him, the Petitioners have got half share therein and since then, they are in cultivating possession of the same. On 19/08/2023, on the report of the Respondent No. 4 – Tahsildar, the Respondent No. 2 – Secretary had issued Show Cause Notice to the

Petitioners as to why their right to cultivate the said agricultural land ought not to have been extinguished as they have violated the provisions of Section 24 of the said Act. It is alleged that out of 2.89 HR agricultural land, the Petitioners have let out 0.80 HR land to Shri Murlikrushna Construction Company, Hyderabad vide Lease Deed dated 12/11/2015 and further they have made construction of cement concrete. The notice further says that 0.37 HR land have been acquired by the Government for construction of National Highway No. 361 and some portion is barren. As the Petitioners have accepted the amount of compensation in respect of 0.37 HR land, they ought to have intimated the same to the Authority under the said Act. It is also alleged that some portion of the said land is kept barren and as the Petitioners have violated the provisions of Section 24(e) of the said Act, their right to cultivate the said agricultural land is said to have been forfeited.

(3) It is contended that though the Petitioners have filed their reply, the Respondent No. 2, without granting any opportunity of hearing, passed the impugned order dated 16/10/2023 and thereby ordered that the right to cultivate *qua* the holding of

said land has been extinguished against the present Petitioners. It is submitted that on the basis of the report of the Respondent No. 4 and without granting any opportunity of hearing to the Petitioners, the said illegal and unsustainable order came to be passed, because of which, the principles of natural justice are violated. Therefore, the impugned order needs to be quashed and set aside. So far as the alleged inspection is concerned, neither there was any notice given to the present Petitioners, nor the copy of the inspection report was supplied to the Petitioners. It is also contended that 1.27 HR land has been kept barren by the present Petitioners and on that count, the Petitioners have incurred disqualification, however, it is against the Revenue Records. The Revenue Records show that on the said land, there are mango and chickoo trees, so also cotton is grown on the said land. As such, the impugned order deprives the Petitioners from their legitimate right to cultivate the land and hold the same.

(4) As against this, the Respondent submitted that the Petitioners were granted liberty to file their say to the Show Cause Notice and the Petitioners could have filed copies of the

Revenue Records along with reply. The Respondent No. 4 - Tahsildar's report shows that the Petitioners have leased out some portion of the land without permission of the Competent Authority to Shri Murlikrushna Construction Company, Hyderabad. However, it is the contention of the Petitioners that copy of said report was neither supplied to the Petitioners nor the inspection was conducted in their presence. Some 7/12 Extracts are placed on record along with Petition at Page No. 73. In the reply filed by the Petitioners to the Show Cause Notice, they have denied about leasing out of the property in question. It appears that there is mention of cotton crop, mango and chickoo trees. If opportunity of hearing was granted by the Respondent No. 2 to the Petitioners, they would have satisfied the Authorities about the factual position. The Respondent No. 2, in order to give effective decision, should have granted opportunity of hearing to the Petitioners, specifically when certain facts are denied by the Petitioners about leasing out of the property or non-cultivation of the land. Moreover, the acquisition of land for National Highway is not within the control of the Petitioners and by acquisition, their right to cultivate the said portion of land is taken away. Insofar as the

compensation awarded to the Petitioners for acquisition of land is concerned, in my considered opinion, the same cannot be said to be in violation of Section 24(e) of the said Act. As such, the order passed by the Respondent No. 2 cannot sustain in the eyes of law and needs to be quashed and set aside.

(5) Hence, I proceed to pass following order:-

ORDER

- (a) The Writ Petition is **allowed**.
- (b) The order dated 16/10/2023 passed by the Respondent No. 2 – Secretary, Bhudan Yagna Mandal, Nagpur is hereby quashed and set aside and the matter is remanded back to the Respondent No. 2 for fresh decision.
- (c) The Respondent No. 2 is hereby directed to grant personal hearing to the Petitioners and allow them to place on record the additional documents, if any, to satisfy the Authorities.

(d) The parties to appear before the Respondent No. 2 on 27/01/2025 at 11:00 am.

(e) The Respondent No. 2 shall take a decision in the matter within a period of one month from the date of appearance of the parties.

The Petition stands **disposed of** in the above terms.
Pending Application(s), if any, stand(s) **disposed of**.

(M.S. JAWALKAR, J.)