



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

WRIT PETITION NO.5794 OF 2013

- 1) Rajendra s/o Bhagirath Bansile,
Aged about 40 years,
Occupation-Cultivation.
- 2) Suresh s/o Bhagirath Bansile,
Aged about 47 years,
Occupation-Cultivation.

1 & 2 R/o. Village Pimpalgaon
(Chilamkha), Tahsil-Deulgaon Raja,
District-Buldhana.
- 3) Ghevarchand s/o Rupchand Gadiya,
Aged about 74 years,
Occupation-Cultivation & Business.
R/o. Chalisgaon, District-Jalgaon.
- 4) Premraj s/o Jasraj Jain,
Aged about 87 years,
Occupation-Cultivation & Business,
R/o. Chalisgaon, District-Jalgaon.
- 5) Subhashchand s/o Manikchand Bhatvera,
Aged about 69 years,
Occupation-Cultivation & Business,
R/o. Sillod, District-Aurangabad.
- 6) Anup Ashok Agrawal,
Aged about 39 years,
Occupation-Business,
R/o. Chikhli, District-Buldhana.

- 7) Ashish Jawahar Waghvani,
Aged 32 years, Occ : Business,
R/o. Chikhali, District-Buldhana.
- 8) Saurabh Subhashchandra Jain,
Aged about 38 years,
Occupation-Business,
R/o. Chikhali, District-Buldhana.
- 9) Amit Rajendra Agrawal,
Aged about 43 years,
Occupation-Business,
R/o. Chalisgaon, Tahsil and
District-Jalgaon. .. Petitioners

.. Versus..

- 1) The Up Lok-Ayukta, Maharashtra
State, New Administrative Building,
1st Floor, Opposite Madam Cama
Road, Opposite Mantralaya,
Mumbai-32.
- 2) Vishnu s/o Govindrao Satkar,
Aged-Major, R/o. Ahinsa Marg,
Ward No.5, Deulgaon Raja,
District-Buldhana. .. Respondents

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Shri Akshay A. Naik, Senior Advocate assisted by Shri
R.R.Deo and Shri V.V. Joshi, Advocate for Petitioners.

Ms. D.V. Sapkal, Assistant Government Pleader for
Respondent No.1.

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CORAM : PRAVIN S. PATIL, J.
RESERVED ON : 01.09.2026.
PRONOUNCED ON : 07.09.2026.

JUDGMENT

1. This court by order dated 27.01.2014 granted Rule in the present matter by considering the controversy involved in the matter. Thereafter, fresh notices were issued to the Respondents on merit. The said notices were duly served on the Respondent No.2. However, the counsel appearing for Respondent No.2 states that he has tried to contact the Respondent No.2 by sending the registered post letter, but there is no response from him. Therefore, he seeks discharge from present proceeding. Accordingly, Advocate Chhabra is discharged from present proceeding. It is thus clear that the Respondent No.2 is not interested to contest the present petition, therefore, this Court has proceeded to decide the petition on its own merits.

2. In the present matter, the challenge is to the order dated 07.08.2013 passed by the Respondent No.1 on the ground that by exceeding his jurisdiction, the impugned order came to be passed and, therefore, seeks indulgence of this Court in the matter.

3. It is the submission of the Petitioners that they are the co-owners of agricultural land bearing Gat No.216, Old Survey No.84/3 of village Pimpalgaon (Chilamkha), Tahsil-Deulgaon Raja, District-Buldhana. It is further stated that Shri Bhagirath Ramdas Bansile, father of Petitioner Nos.1 and 2, was in cultivation and possession of a piece of agricultural land ad-measuring 5.05 HR, out of Survey No.84/3. His name was also recorded in the crop statement since year 1973-74. In the month of March-1989, the land ad-measuring 5.05 HR was partitioned in between Bhagirath Ramdas Bansile and his four sons i.e. Petitioner Nos.1 and 2 along with Pravin Bhagirath Bansile and Kiran Bhagirath Bansile. The names were then mutated in the revenue record as per the partition-deed.

4. It is the submission of the Petitioners, particularly 3 to 5 that on 05.02.2009 by registered sale deed, they have purchased 3.05 HR land from Bhagirath Bansile and his four sons. Accordingly, their names were mutated in the revenue records. After the execution of the sale deed, they are in peaceful cultivating possession of the portion of land purchased through sale deed.

5. In this background, the Respondent No.2 lodged a complaint with Respondent No.1 on 07.08.2009 *inter-alia* alleging that land bearing Survey No.84/1 and 84/2 which were held by owners thereof as occupant Class-II, were wrongly shown in the revenue record as a Class-I land. Therefore, the land which was sold by Bhagirath and his sons to Petitioner Nos.3 to 5 without obtaining the permission of the Collector and without depositing the amount of unearned income with the Collector, is illegal. It is further alleged that land bearing Survey No.84/3 was not allotted in favour of Shri Bhagirath Bansile, during the consolidation proceeding in the year 1984, but the said land was wrongly mutated in his name during the course of said consolidation proceeding. According to him, the Consolidation Officer had extended undue favour to Bhagirath Bansile i.e. the father of Petitioner Nos.1 and 2 in getting the property mutated in his name. Hence, according to Respondent No.2, mutation effected in favour of Petitioner Nos.1 and 2 and their father in the year 1984 is illegal and, therefore, Respondent No.1 shall initiate enquiry into the matter.

6. In view of this allegations levelled by the Respondent No.2, Respondent No.1 initiated an enquiry into the matter. The reports were called for from the Revenue Officers in the matter and the said proceeding was pending on his file since the year 2009.

7. It is specifically pointed out that during the pendency of enquiry in the matter before the Respondent No.1, by order dated 24.05.2013 passed in Revenue Proceeding No.LEN-39/Pimpalgaon Chilamkha/01/2012-13, the Sub-Divisional Officer, Buldhana has granted permission for regularization of land in the name of the petitioners and the said order was forwarded to the Tahsildar, Deulgaon Raja for taking further steps in the matter. The said order was also apprised by the authorities to respondent no.1 by placing the same on record before the respondent no.1 during the pendency of proceeding.

8. In the light of this factual aspect, the Respondent No.1 passed the impugned order dated 07.08.2013 and thereby recommended for cancellation of mutation entries in the names

of the petitioners with respect to the land and also asked to take steps for recovery of possession from the petitioners. The said order is under challenge before this Court in the matter.

9. The first submission of the petitioners is that the order was passed by the Respondent No.1 without considering the provisions of the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971 (hereinafter referred to as Act of 1971). The petitioners have relied upon Section 8(5) of the Act of 1971 which reads as under :

Section 8 : Matters not subject to investigation :

(1)

(2)

(3)

(4)

(5) The Lokayukta or an Upa-Lokayukta shall not investigate :

(a) any complaint involving a grievance, if the complaint is made after the expiry of twelve months from the date on which the action complained against becomes known to the complainant;

(b) any complaint involving an allegation, if the complaint is made after the expiry of three years from the date on which the action complained against is alleged to have taken place :

Provided that, the Lokayukta or an Upa-Lokayukta may entertain a complaint referred to in clause (a), if the complainant satisfies him that he had sufficient cause for not making the complaint within the period specified in that clause.”

10. According to the petitioners, the Respondent No.1 is not permitted to investigate into the matter, if the same is in the nature of “allegation” and lodged after expiry of three years. According to him, if the complaint involving a “Grievance”, then respondent no.1, after the expiry of twelve months, can initiate proceedings by stating sufficient reason for not making the complaint within specified period. The petitioner to justify his submission has specifically relied upon the definition of “Allegation” and “Grievance” which is prescribed under Section 2 (b) and (d) of the Act of 1971 reads as under :

2 (b) : “Allegation”, in relation to a Public Servant, means any affirmation that such public servant -

(i) has abused his position as such to obtain any gain or favour to himself or to any other person or to cause undue harm or hardship to any other person,

(ii) was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motives, or

(iii) is guilty of corruption, or lack or integrity in his capacity as such public servant.

(d) "Grievance" means a claim by a person that the sustained injustice or undue hardship in consequence of maladministration.

11. It is pointed out that the case of the Respondent No.2 does not fall under the category of "Grievance" because the term grievance as defined, clearly states, the grievance of a person in particular of causing him injustice or undue hardship in consequence of mal-administration to him. A grievance therefore must relate to a particular act or omission which has caused injustice or undue hardship to the person raising the grievance. It should not relate to some action or conduct amounting to mal-administration.

12. It is the submission of the Petitioners that looking to the complaint of the Respondent No.2, it is clear that he has made allegation against the authorities by accusing that undue favour was extended to the father of the petitioners by Consolidation Officer while mutating the revenue entries in favour of father of petitioner nos.1 and 2. Hence, these accusation comes under the category of "Allegation".

13. In the light of this submission, I have perused the nature of grievance raised by Respondent No.2 in his complaint. The bare perusal of same reflect that the case falls under the category (b) i.e. complaint involving an “allegation”, therefore, the period of limitation to file such complaint is provided as three years from the date on which the action complained against is alleged to have taken place. In that category, the proviso do not permit the extension of limitation after a period of three years. Hence, it would be necessary in the present matter to verify whether the complaint was filed within three years or not.

14. In the present case, the alleged wrong i.e. entries recorded in the revenue record vide mutation entry no.97 in favour of Bhagirath Ramdas Bansile is of dated 30.04.1984, whereby Bhagirath Ramdas Bansile was shown as the owner of Class-I land, though according to the respondent no.2, same was occupant Class-II. It is alleged that the Consolidation Officer has extended undue favour to the father of the petitioners in mutating the property in his name in the year 1984. Therefore, action complained is of year 1984.

Admittedly, the complaint was lodged in the matter by the respondent no.2 on 07.08.2009. The complaint is accordingly *prima facie* barred by limitation. Therefore, as per the mandate of Section 8(5) of the Act of 1971, the Respondent No.1 cannot investigate into the complaint lodged by the respondent no.2.

15. It is further submitted that during the pendency of the enquiry before the Respondent No.1, the learned Sub-Divisional Officer, Buldhana by considering the factual as well as legal aspect involved in the matter, by his order dated 24.05.2013, has passed the order for regularization of land in the name of the petitioners and forwarded the proceeding to the Tahsildar, Deoulgaon Raja for taking further steps in the matter. Not only this the revenue authorities has brought the said order to the notice of the Respondent No.1 before passing the impugned order dated 07.08.2013, however, there is no consideration in the impugned order about this fact which would materially affect the entire decision in the matter.

16. The learned AGP, however, strongly opposed the present petition. According to the learned AGP, the Respondent No.1 is authorised to look into the complaint lodged by the

Respondent No.2 in the matter. What is restricted is that instead of deciding the complaints on merits, he can submit a report with its recommendations to the authority concerned. As such, the Respondent No.1 is having a recommendatory jurisdiction. In support of submission, the learned AGP has relied upon the judgment of Hon'ble Supreme Court of India in the case of ***Additional Tahsildar and another .vs. Urmila G. and others, reported in (2023) 20 SCC 642*** and particularly relied upon Para 9 of the judgment which reads as under :

9." Insofar as the jurisdiction of Lokayukta is concerned a Division Bench of the High Court in Sudha Devi K. v. Collector had opined that in terms of Section 12(1) of the 1999 Act, Lokayukta was not competent to issue positive direction. He can only submit a report with the authority concerned with its recommendations. They only have recommendatory jurisdiction. A Lokayukta or Upa Lokayukta is not appellate or supervisory authority over other competent forums created under different statutes, as each of those statutes provide its own remedial steps such as appeal, revision, etc. The parties need to follow that procedure. The 1999 Act is not meant to override those procedures. The aforesaid judgment of the Division Bench of the High Court was referred to in the case in hand, however, the same was ignored".

17. From the submission of the learned AGP and the provisions of the Act of 1971, recommendatory jurisdiction of Respondent No.1 is not disputed in the matter even by the petitioners. According to him, the Respondent No.1 can always exercise the powers of recommendation to the concerned authorities, however, he cannot act as an appellate authority over the decisions of competent forums created under the different statutes. Every statute provides statutory remedies such as Appeal/Revision etc. to the aggrieved parties and in that proceeding only the statutory authorities can decide the fate of appeal/revision on its own merits. Recommendatory powers cannot take place of statutory powers. Both have to exercise their powers in different area.

18. In the present case, from the impugned order, the Respondent No.1 though has titled the order passed by exercising the powers under Section 12 of the Act of 1971 in the nature of recommendation, but the contents of the order shows that he has exercised statutory powers under the Maharashtra Land Revenue Code, as he directed the Collector, Buldhana to

cancel the mutation Entry no.97 by exercising the powers under Section 20(2) of the Act of 1971 of Survey No.84/3 bearing Gat No.216 and also directed to forfeit the land to the Government. He further directed the disciplinary action be initiated against the concerned officers.

19. From the perusal of order of the Respondent No.1, it is crystal clear that he has exercised his powers as an appellate authority under the provisions of the Maharashtra Land Revenue Code and, therefore, this order is not sustainable in the eyes of law. Petitioners are correct in stating that the order passed by the Respondent No.1 being passed by exceeding his jurisdiction, the same is liable to be quashed and set aside.

20. In the circumstances, I am satisfied that the impugned order passed in the matter is contrary to the powers available under the provisions of the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971 and further the Respondent No.1 failed to appreciate the factual as well as legal aspect involved in the matter, therefore, the same deserves to be quashed and set aside. Accordingly, the following order is passed :

O R D E R

(i) The writ petition is allowed.

(ii) The order passed by the Respondent No.1-Up Lok-Ayulta, Maharashtra State, Mumbai dated 07.08.2013 in Case No.ULA/COM/104/2010 (T-15) is hereby quashed and set aside.

(iii) The mutation entry bearing No.97 of Survey No.84/3 of Gat No.216 of Mouza-Pipalgaon Chilamkha, Taluka-Deulgaon Raja, District-Buldhana is directed to be restored in favour of the petitioners. No order as to costs.

(Pravin S. Patil, J.)

Gulande