

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 2801 OF 2025

Nanda Gulabrao Erande]
Age 68 Years,]
W/o Gulabrao Erande, Mu. Maldevwadi,]
P.O. Bhujinj, Satara]
Maharashtra 415515.].....Petitioner

Versus

1. State of Maharashtra]
Through The Secretary,]
Department of Housing]
Government of Maharashtra,]
Mantralaya, Mumbai 400 021.]
2. The Additional Chief Secretary (Home)]
State of Maharashtra]
Mantralaya, Mumbai 400 021.]
3. Commissioner of Police]
Greater Mumbai, Crawford Market,]
Mumbai.]
4. Deputy Commissioner of Police,]
Mukhyalay-2 Officer of Commissioner of]
Police, Mumbai.]
5. Maharashtra Housing & Area Development]
Authority,]
Through its Chief Executive Officer Kalanagar,]
Bandra (E), Mumbai 400 051.].....Respondents

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Ms. Revati Desai i/b Mr. Chetan Mali, for the Petitioner.

Mr. Milind More, Addl. G. P., for the Respondent-State.

Ms. Sayali Apte i/b Mr. P. G. Lad, for the Respondent No.5-MHADA.

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CORAM : M. S. KARNIK &
SANDESH D.PATIL, JJ.
RESERVED ON : 11th AUGUST 2026
PRONOUNCED ON : 18th AUGUST 2026

JUDGMENT [PER SANDESH D. PATIL, J.] :-

1. By the present Writ Petition filed under Article 226 of the Constitution of India, the Petitioner is challenging the communication dated 16th February, 2022 of the Respondent No.4 to the extent it rejects the Petitioner's request to be considered eligible under the Government Resolution (G.R. for short) dated 18th August, 2021 for allotment of room in the Bombay Development Department Chawl (B.D.D. Chawl for short).

2. The case of the Petitioner is that, her husband was in the service of the Police Department. By virtue of the service of the Petitioner's husband, he was allotted Room no.74 in B.D.D Chawl No.9 on 1st January, 1978 as service quarters (the said premises for short). In the year 1994, the State vide G.R. dated 11th October, 1994 granted benefit of tenancy to the government servants residing in B.D.D Chawl and the tenancy of the rooms which were allotted to them by the State Government as service quarters came to be directly

transferred in their respective names. The benefits of the G.R. dated 11th October, 1994 was gradually extended to the several employees in the service and even the retired employees working in Class II, Class III and Class IV posts in different Department of State of Maharashtra. The same was however, not extended to the Police Personnel residing in the B.D.D. Chawls and hence, the Petitioner filed Writ Petition in this Court for extension of the benefit to the Petitioner's husband.

3. The husband of the Petitioner retired from the service on 31st May, 2009. The Petitioner's late husband was asked to vacate the premises in the year 2010 by a letter dated 7th January, 2010. The Petitioner's husband therefore, filed Writ Petition No.876 of 2011 *inter alia* contending that the benefits of the 1994 G.R. be made applicable to them in respect of grant of benefit of tenancy. The matter was pending before this Court. Ultimately on 11th September, 2015, this Court dismissed the said Petition. The late husband of the Petitioner thereafter vacated the premises on 31st October, 2015.

4. The Respondent No.1 issued a G.R. on 30th March, 2016 whereby it decided to develop B.D.D Chawls. By the said G.R., the

Respondent No.5-Maharashtra Housing and Area Development Authority (MHADA for short) was appointed as a Nodal Agency. On 2nd October, 2020, the husband of the Petitioner passed away. The issue in respect of the tenancy rights of the police personnel was pending. Hence, a committee was constituted to look into the issues of the police personnel residing in B.D.D. Chawl.

5. The Government ultimately passed a Resolution dated 18th August, 2021 granting benefit of ownership rights to all police officers (retired or dead) residing in the premises in B.D.D. Chawls till 1st January, 2011. Such Police Officers were to be allotted premises in the redeveloped B.D.D. Chawls on ownership basis.

6. The Petitioner's son on behalf of the Petitioner addressed a letter dated 1st November, 2021 to the Respondent No.4 *inter alia* requesting to be considered eligible as per the G.R. dated 18th August, 2021. The Respondent No.3 vide a communication dated 16th October, 2022 rejected the request of the Petitioner's son on the ground that the Petitioner's late husband had vacated the premises before passing of the said G.R. dated 18th August, 2021 and the said premises has been allotted to another employee. The Petitioner

therefore, has approached this Court impugning the communication-Order dated 16th February, 2022 passed by the Respondent No.4-Deputy Commissioner of Police, Mukhyalay-2, Mumbai.

7. An affidavit is tendered by the learned A.G.P. which was affirmed by Mr. Vijaykumar H. Panhale for and on behalf of the Respondent Nos.1 to 4. In the said affidavit, it is admitted that, the husband of the Petitioner was allotted an accommodation in B.D.D. Chawl No.9, Room No.74 pursuant to the G.R. dated 11th October, 1994. The affidavit further notes about Writ Petition No.876 of 2011 filed by the deceased-husband of the Petitioner before the Court seeking tenancy rights for the B.D.D. Chawl accommodation. The bone of contention of the affidavit is that the G.R. dated 18th August, 2021 stipulates that the police personnel (whether currently serving, retired or deceased) who were residing in B.D.D. Chawl service quarters as on 1st January, 2011 could be allotted a redeveloped unit admeasuring at about 500 sq. ft. on ownership basis under the B.D.D. Chawl redevelopment project. However, the said scheme is not applicable to the husband of the Petitioner.

8. We have heard learned Counsel appearing for the parties. We have perused the Petition, the affidavit-in-reply and the impugned letter dated 16th February, 2022.

9. In the impugned letter, the ground for rejection of the claim of the Petitioner is that, the predecessor of the Petitioner had vacated the premises in October, 2015. It is further stated that the G.R. by virtue of which the right to reside in the premises were conferred on the police personnel who were residing in the said premises on 1st January, 2011 was issued on 18th August, 2021. It is further mentioned that, the predecessor of the Petitioner having surrendered the premises before the issuance of G.R. dated 18th August, 2021, the Petitioner is not entitled to any premises in the B.D.D. Chawl.

10. A careful reading of G.R. dated 18th August, 2021 indicates that, the police personnel who were residing till 1st January, 2011 in the B.D.D Chawl by virtue of their employment (presently in employment, retired, legal heirs of the deceased personnel) would be entitled for 500 sq. ft. of constructed Gala on ownership basis. The G.R. dated 18th August, 2021 does not mention that the person should be residing in the premises as on 18th August, 2021. By the

impugned Order, an interpretation is tried to be given that, in order to get the benefit of G.R. dated 18th August, 2021, the person should be residing in the premises of the B.D.D. Chawl as on the day of issuance of the G.R. dated 18th August, 2021. The G.R. does not stipulate a condition that the person must be residing in the premises on the date of issuance of the G.R. itself.

11. As a matter of fact, the G.R. proceeds to give a preface as to under what circumstances the Committee of nine members was formed to look into the demands of the housing of the police personnel. It mentions that the police officers are required to work day in and out and answer all sort of exigencies. One of the objective of the G.R. is to give the premises to the legal heirs of the deceased police personnel. In these circumstances, it would be too preposterous to contend that the police personnel should have been living in the B.D.D. Chawl as on 18th August, 2021 in order to make them or their family members entitled to the benefits of the G.R. dated 18th August, 2021.

12. The G.R. should speak for itself. The G.R. dated 18th August, 2021 will have to be read in its entirety. The Authority must interpret

the G.R. dated 18th August, 2021 as it is without adding their own interpretation contrary to the intention of the G.R. The Hon'ble Supreme Court in the Judgment of ***Sisir Kumar Mohanty v. State of Orissa***¹, has made some significant observations in the context of interpretation of resolutions. Paragraph 10 reads thus;

“10. Adverting to the rival contentions, it has been a definite assertion for the appellants herein that by virtue of the resolution noticed above, the police ministerial officers serving under the IG/DGP, Orissa constitute a separate cadre within the general cadre of police officers and as such claim that police ministerial officers holding the post of Junior Clerks in the district offices besides being entitled to promotion in the district offices to the ranks of Senior Clerk and Junior Accountant, which are posts equivalent to the rank of Assistant Sub-Inspectors are entitled to promotion to the post of Senior Assistants in the office of the IG/DIG and in the same manner Head Clerks and Senior Assistants of district offices having the rank of SI of Police are entitled to promotion to the rank of Section Officer in the rank of Inspector of Police in the office of IG/DIG. It has been contended that the language itself having reference to paragraph 2 of the resolution cannot but depict a clear intent to create a single cadre and not two, irrespective of the offices in which they have to work and as such no artificial barrier can be introduced between the selfsame officers. The submissions advanced no doubt require a serious consideration as to the true interpretation of the

1 (2002) 9 SCC 219

resolution — no addition or deletion can ever be said to be permissible as otherwise an order which happens to be bad at the beginning may through the process of affidavits get validated by additional grounds later brought out : as a proposition of law, there cannot be any manner of doubt in regard thereto. The effect of the resolution shall have to be judged on the basis of the document itself and no other external aid is permissible. A careful scrutiny of paragraph 2 of the resolution dated 7-9-1974 (as noticed hereinbefore) and in particular the user of the language along with “the existing police ministerial officers will form a separate cadre within the general cadre of the Orissa Police and will be designated as Police Officers (Ministerial)” makes the situation abundantly clear as regards the creation of a separate cadre called “Police Officers (Ministerial)”. ”

(emphasis supplied by us)

13. The G.R. dated 18th August, 2021 only specifies that the police personnel should be residing in the B.D.D. Chawl as on 1st January, 2011 to be eligible for the benefit and nothing else. In this case, admittedly the late husband of the Petitioner was residing in the B.D.D Chawl till 2015. The learned A.G.P would argue that the husband of the Petitioner retired in the year 2009 however, he was staying in the premises till 2015 only because he along with some other police personnel filed a Writ Petition and therefore, the residence of the husband of the Petitioner in the premises in question

was only because of pendency of the Writ Petition. We are afraid that this submission of the learned A.G.P. can only be stated to be rejected. There is nothing in the G.R. which disqualifies the Petitioner's husband from the benefits of the G.R. dated 18th August, 2021 only because the husband of the Petitioner was residing by virtue of the pendency of Writ Petition No.876 of 2011 in this Court. Such is not the purport of the G.R.

14. Let us test the contention of the Respondents that the personnel/ legal heir must be actually residing in the premises as on the date of the G.R. i.e. 18th August, 2021 to get the benefit from another angle. The G.R. itself provides for a cut off date as 1st January, 2011 for granting the benefit of allotment of premises on ownership basis. Thus, the benefit of ownership allotment in redeveloped B.D.D. chawl is available to all police officers (retired or dead) residing in the B.D.D. Chawls till 1st January, 2011.

15. Take a case of a police personnel who has retired on 1st January, 2011. To get the benefit he must actually continue to occupy the premises as on 18th August, 2021. Therefore, if someone can hold on to the premises till 18th August, 2021, almost 10 years since his

retirement, he gets the benefit. But a retired person though residing in the premises as on 1st January, 2011 cannot hold on to the premises and is forcibly evicted before 18th August, 2021, does not get the benefit of G.R. dated 18th August, 2021.

16. Post retirement, the personnel is supposed to vacate the premises within a reasonable time. The argument of learned A.G.P that the personnel must be found occupying the premises almost 10 years after his retirement is not only fallacious but encourages conferring benefits on those who continue to occupy the premises for long period contrary to the Rules.

17. The G.R. does not make any distinction between a person who has vacated the premises after 1st January, 2011 or the one who is occupying the premises as on 18th August, 2021. To expect a person who has retired on 1st January, 2011 to be actually occupying the premises on 18th August, 2021 is not only a fundamentally flawed approach but is also clearly discriminatory.

18. There is a absolutely no logic to discriminate between retired employees occupying the premises on 1st January, 2011 for the

purpose of applicability of G.R. dated 18th August, 2021 only on the ground that one set of retired employees continue to occupy the premises on the date of issuance of the G.R. dated 18th August, 2021. The plain reading of the G.R. reveals the true intention that the police personnel (retired or dead) must be in occupation of the premises on 1st January, 2011.

19. The police personnel (retired or dead) occupying the premises on 1st January, 2011 constitutes a class. To deprive the Petitioner on the ground that she is not occupying the premises on 18th August, 2021 amounts to hostile discrimination. The G.R. dated 18th August, 2021, as discussed already, is clear and unambiguous. The stand of the Respondents denying the benefit of the G.R. dated 18th August, 2021 is irrational and discriminatory.

20. The impugned communication dated 16th February, 2022 is contrary to the G.R. dated 18th August, 2021 and hence, needs to be quashed and set aside. Hence, the following Order:

ORDER

- (i) Writ Petition No.2801 of 2025 is allowed.

(ii) The impugned communication dated 16th February, 2022 is quashed and set aside and the Petitioner is held eligible for the benefit of the G.R. dated 18th August, 2021.

(iii) The Respondents are further directed to forthwith allot suitable tenament to the Petitioner in accordance with G.R. dated 18th August, 2021.

(iv) Accordingly, Writ Petition No.2801 of 2025 is disposed of.

(SANDESH D.PATIL, J.)

(M. S. KARNIK, J.)