

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3806 OF 2014**

Mr. Lalsahab Ramdayal Upadhya
Versus
The State of Maharashtra & Ors.

....Petitioner.

...Respondents.

Mr. Sameer Khedekar i/by Yogesh Sankpal, advocates for the Petitioner.
Ms. Aparna Vhatkar, AGP for the respondent nos.1 to 3-State.
Ms. Pallavi Thakar, advocate for the respondent no.4-BMC.

CORAM : SHRI M.S.SONAK, J.

DATED : February 25, 2015.

P.C.:

Rule. With consent and with request of the learned counsel for the parties, rule is made returnable forthwith.

2 This petition is directed against the order dated 13.8.2013 made by the Administrator and the Divisional Commissioner, Konkan Division, Mumbai dismissing the petitioner's appeal against the order dated 6.8.2012 made by the Deputy Collector, Andheri holding that the petitioner is ineligible for the benefit of rehabilitation under the Mithi River Project.

3 Along with this petition, the petitioner has produced birth certificate of Master Arunkumar, whom the petitioner claims is his son. It is the case of the petitioner that he was not aware that the said birth was recorded with the Municipal Corporation and, therefore, the petitioner did not produce the said certificate before the Deputy Collector and/or before the appellate authority.

3 In view of the same, impugned order dated 13.8.2013 is set aside. The appellate authority is directed to re-consider petitioner's appeal in the light of birth certificate of Master Arunkumar. In case, the petitioner desires to produce any further documents with regard to his eligibility, the petitioner is at liberty to do so.

4 The appellate authority to decide the petitioner's appeal in accordance with law and on its own merits. It is made clear that this Court has not expressed any opinion on merits of the matter and it is for the appellate authority to consider the issue of eligibility afresh.

5 Petitioner to appear before the appellate authority along with authenticated copy of this order on 9.3.2015 at 11.00 a.m. in order to obtain directions for the disposal of the appeal.

6 The appellate authority is directed to dispose of petitioner's appeal within a period of three months from today.

 Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

(M.S.SONAK, J.)