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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION NO.40 OF 2010

Rajan Dattatray Parkar

..Petitioner.

V/s.

State of Maharashtra & Ors.

..Respondents.

Mr.Harshad Sathe with Harshad Bhadbhade i/b. Swati Sawant for the petitioner.

Ms.Anjali Helekar, AGP for respondent No.1 – State.

Mr.S.P.Thorat for respondent Nos.2 & 3.

**CORAM : A.S.OKA AND
A.K. MENON, JJ.**

DATED : 2ND FEBRUARY, 2015

P.C. :-

1. Respondent No.3 which is a Regional Board established by the respondent No.2 published an advertisement for allotment of various tenements constructed by it. The contention of the petitioner is that there is no reservation provided in the advertisement for the category of other backward class and for sports persons. The petitioner is relying upon the Government Resolution dated 23rd March, 1994 (Exhibit-A to the petition).

2. There is an affidavit-in-reply filed by the respondent No.2 in which it is stated that the respondent No.3 passed resolution on 6th February, 2009 recommending certain

reservations to be inserted in the list of reservations. The said reservations proposed were for other backward class, for sport persons and for other categories. It is stated that the respondent No.2 informed the petitioner that only the State Government can take appropriate decision. There is an affidavit of Smt. Rohini R. Puralkar, the Under Secretary to the Government of Maharashtra, Housing Department. In the said affidavit, reliance is placed on the various reservations provided in the Maharashtra Housing and Area Development (Disposal of Land) Rules, 1981 [for short 'Land Disposal Rules']. It is, therefore, submitted in the affidavit that if additional reservation as suggested by the petitioner are provided, the total reservation will exceed 50%.

3. We have perused the averments made in the petition and the reply filed by the respondent No.2 and the State Government. The respondent No.3 is a board established under section 18 of the Maharashtra Housing and Area Development Act, 1976 (for short 'the MHADA Act'). The Land Disposal Rules have been framed by the State Government in exercise of Rule making powers under the MHADA Act. In Rule 13, the reservations for tenements have been provided for. Rule 13 provides reservations for the Scheduled Castes, Scheduled Tribes, De-notified Tribes, Ex-servicemen, Artists, etc. There is no

reservation provided under Rule 13 for other backward classes or for sport persons. Grant of relief prayed for in the petition will be completely contrary to Rule 13. There is no challenge in this petition to the validity of the Land Disposal Rules.

4. Therefore, no relief as prayed for in this petition can be granted. However, it is for the petitioner to make appropriate representation to the State Government for the purposes of making appropriate modifications to the Rules. Subject to what is observed above, the PIL is rejected.

(A.K.MENON, J.)

(A.S.OKA, J.)