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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION(L)NO. 1917 OF 2015

A S Advertisers

..Petitioner

Versus

State of Maharashtra through
its Principal Secretary & Ors.

..Respondents

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Mr. Mayur Khandeparkar a/w Mr. Kishor Maru for the petitioners.

Mr. J. Reis, Senior Advocate, a/w Ms. T. H. Puranik for the Respondent-BMC.

Ms. Madhubala Kajale, AGP, for the Respondent-State.

Ms. Sharmila Deshmukh for the Respondent-MCZMA.

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**CORAM: MOHIT S. SHAH, C.J. &
A. K. MENON, J.**

DATE : 6 AUGUST 2015.

PC.:

Learned counsel for MCZMA states that MCZMA is believed to have already granted CRZ clearance to the petitioner's hoardings which is the subject matter of the present writ petition. The learned counsel further states that a copy of the CRZ clearance in writing is awaited and will be furnished to the petitioner within one week from today.

2] Learned counsel for the petitioner states that on receiving such copy from MCZMA, the petitioner will submit the same to the Municipal Corporation for Greater Mumbai within one week from

today.

The learned counsel for the petitioner further states that non-production of the CRZ clearance from MCZMA was the only ground on which the petitioner's appeal was dismissed by the First Appellate Authority. Hence the order of revocation/cancellation of licence should be set aside.

3] The learned counsel for the Municipal Corporation submits that the petitioner has preferred a second appeal against the order of the First Appellate Authority rejecting the first appeal and confirming the order of cancellation of licences.

4] Having regard to the fact that the petitioner had applied for CRZ clearance to MCZMA as far back as on 2 April 2013 and the petitioner has not able to get CRZ clearance from MCZMA for the last more than two years and that the petitioner has been paying licence fees to the Municipal Corporation for the hoardings without having been permitted to display the advertisement on hoardings, we direct the Municipal Corporation to revoke cancellation of the licence for display of advertisement on the petitioner's hoardings within one week from the date of receipt of a copy of CRZ clearance issued by MCZMA.

5] We are also informed by Ms. Sharmila Deshmukh, learned counsel for MCZMA that at the meeting held on 13 July 2015, MCZMA has recommended to Ministry of Environment & Forests (MoEF) that CRZ clearances for advertisements on hoardings should be decided by the Planning Authority, subject to MOEF guidelines in that behalf so that the process can be expedited.

6] In view of the above, we permit the petitioner to add MOEF as a party - respondent. In view of the direction that we propose to give, it is not necessary to issue notice to MoEF in the present proceeding. We direct the MoEF to consider and take a decision on the aforesaid proposal of MCZMA with utmost expedition and in any case within two months from the date of receipt of this order.

7] A copy of this order shall be forwarded to Government of India through the Secretary to Ministry of Environment and Forests within one week from today.

8] The facts of this case also reveal that advertisers who have been granted licences for display of hoardings face genuine difficulties when their appeals against cancellation or revocation of licences take unduly long time to be decided by the Appellate Authorities of the Municipal Corporation of Greater Mumbai. In our order dated 30 July 2012, we had directed that the Appellate

Authority shall endeavour to hear and decide the appeals within four weeks. Mr. Reis, the learned Senior Counsel for the Municipal Corporation for Greater Mumbai submits that having regard to various administrative responsibilities, the Appellate Authority will decide such appeals within three months from the date of filing the appeal.

9] Having heard the learned counsel for the parties and having regard to the disability to which the appellant is subjected to viz. the appellant not being permitted to display the advertisements on the hoardings inspite of paying licence fees for the same during the period of pendency of the appeal, we are of the view that the interests of justice require that the Appellate Authority be directed to decide the appeal within two months from the date of filing of the appeals. It is directed accordingly.

10] We, however, clarify that the above direction shall not come in the way of the Appellate Authority granting some reasonable time to the appellant to remove defects, in which case, the time taken by the appellant for removing the defects shall be excluded while computing the period of two months for disposal of the appeal.

11] In case the Appellate Authority does not decide the appeal within a period of two months, the appellant shall be permitted to display the advertisement on the hoardings subject to

payment of licence fee. Alternatively, if the Municipal Corporation does not want the appellant to display the advertisement on the hoardings, the Municipal Corporation shall stop charging licence fees for the period during which the appellant is not permitted to display the advertisement on hoardings.

12] Having regard to the time limit stipulated by us, for hearing and deciding the appeal within a period of two months, the Appellate Authority will give the appellant reasonable notice intimating the date of hearing of the appeal, which shall be not less than three working days.

13] The writ petition is, accordingly, disposed of in terms of the above directions and observations.

CHIEF JUSTICE

(A. K. MENON, J.)

wadhwa