

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
 WRIT PETITION (L) NO.2868 OF 2014

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The Bharatiya Adhyatmik Society	...Petitioner
v/s.	
State of Maharashtra & ors.	...Respondents

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Mr.V.K.Rambhadran, Sr.Counsel i/b Ms.Subra Karmakar for the Petitioner.
 Mr.K.V.Tembe for Respondent No.6.
 Mr.G.W.Mattos, AGP for Respondents Nos.1 to 4.

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CORAM : A.A. SAYED, J.
DATED : 25 FEBRUARY 2015

P.C.

What is challenged in this Petition under Article 226 of the Constitution is an order dated 10 August 2014 passed by the Respondent No.2-Minister (Revenue), Government of Maharashtra. That order was passed by the Respondent No.2-Minister pursuant to an order of this Court dated 9 January 2013 in Writ Petition No.1921 of 2012, wherein this Court has set aside the earlier order dated 4 June 2012 of the Minister and remanded the matter to consider the issue afresh. After remand, a fresh order dated 10 August 2014 was passed by the Minister. The operative part whereof reads as follows:-

- “1) The present application is being disallowed.
- 2) The order of this Court in Case No.Land-2611/114/MM/Prakra 170/J-3 is upheld.
- 3) This decision may be conveyed to all the concerned.”

2. From the aforesaid, it would be evident that the Minister (Revenue) has confirmed the order dated 4 June 2012, though the same was specifically set aside by this Court by order dated 9 January 2013. In these circumstances, the impugned order dated 10 August 2014 cannot be sustained and will have to be set aside and is accordingly set aside. The matter will have to be decided afresh.

3. Learned Counsel for the Petitioner, however, has pointed out that after the change in the State Government the present Minister (Revenue) is the same person who as the Leader of the Opposition in the previous Government, had recommended the allotment of land in question to Respondent No.6.

4. In these circumstances, in my view, it would be appropriate that the matter be now decided by some other person/Authority instead of the Minister (Revenue). In my view, interest of justice would be served if the matter is now decided by the Chief Secretary, Government of Maharashtra to which learned Counsel for the Petitioner and learned Counsel for Respondent No.6 have no objection. The Chief Secretary shall take a decision expeditiously and in any event within a period of five months from today.

5. Learned Counsel for the Petitioner has pointed out that during pendency of the Petition, the District Collector, Mumbai Suburban District has addressed a letter dated 18 December 2014 to the Addl.Chief Secretary (Revenue), which pertains to the subject matter of the Petition. In my view as the matter was pending before this Court, the District Collector, Mumbai Suburban District ought not have addressed this letter at all. Be that it may, it is directed that in deciding the matter the Chief Secretary shall ignore the said letter dated 18 December 2014 and the decision of the Chief Secretary would be taken uninfluenced by this letter dated 18 December 2014.

7. The Petition is disposed of in the aforesaid terms.
All concerned to act on a copy of this order duly authenticated by the Registry.

(A.A. SAYED, J.)

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