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

WRIT PETITION (L.) NO.3349 OF 2015

Kantilal Mekar Gosrani

Petitioner

Vs.

M.C.G.M. And Ors.

Respondents

Mr. Gautam T. Kanchanpurkar for the Petitioner.

Mrs. Shobha Ajitkumar for the Respondent Nos.1 to 3 - BMC.

**CORAM : A.S. OKA &
G.S. PATEL, JJ.**

DATE : 14th DECEMBER, 2015

P.C.

1. Not on board. Taken on board.
2. Heard the learned counsel appearing for the Petitioner and the learned counsel appearing for the Respondents. Heard forthwith. In terms of the order dated 28th January, 2015 in Writ Petition (L.) No.173 of 2015, the Petitioner was permitted to submit the documents with the first Respondent Municipal Corporation to prove his case that his structure was in existence before 1st January, 1995. The Petitioner submitted the documents. The impugned communication dated 23rd November, 2015 issued by the Assistant Commissioner, 'S' Ward records that the Petitioner does not have any evidence to show that his structure was in existence prior to 1st January, 1995. However, the same

communication records that if the Petitioner has any grievance, he should apply to the same Officer within a period of 15 days for personal hearing. The issue of eligibility of the Petitioner has been decided without giving personal hearing to the Petitioner. Instead of issuing such a communication, the Assistant Commissioner ought to have given an opportunity to the Petitioner of being heard before recording any finding on the issue of eligibility.

3. Hence, we dispose of the Petition by passing the following order :-

ORDER

- (i) The impugned communication dated 23rd November, 2015 is hereby quashed and set aside. We direct the Petitioner to appear before the Assistant Commissioner, 'S' Ward on 23rd December, 2015 at 11.00 am;
- (ii) After giving an opportunity of being heard to the Petitioner, the Assistant Commissioner shall decide the issue of eligibility of the Petitioner as expeditiously as possible and preferably within a period of one month from 23rd December, 2015;
- (iii) The Petition is disposed of on above terms;
- (iv) All contentions on merits are kept open.

(G.S. PATEL, J)

(A.S. OKA, J)