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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10931 OF 2015**

M/s. Sai Kirti Mahila Audyogik Utpadak Sahakari Sanstha Ltd.	... Petitioner
Vs.	
State of Maharashtra and Ors.	... Respondents

Mr. Anand Pai a/w Mr. Vighnesh Kamat i/by Mr. Ashok Kumar Upadhyay for the Petitioner.

Mr. Manish M. Pabale, AGP for the Respondent No.1.

**CORAM : A.S. OKA &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 3rd AUGUST, 2017

PC.

1 Heard the learned counsel appearing for the petitioner. The petitioner is a Co-operative Society registered under the Maharashtra Co-operative Societies Act, 1960. The Petitioner is relying upon an agreement of 7th June, 1996 executed by and between the State Government and the petitioner by which a license was granted to the petitioner to use a plot admeasuring 200 square feet for construction of Zunka Bhakar Kendra on the terms and conditions set out therein. The period of license was to end on 28th February, 1999. According to the case of the petitioner, the Zunka Bhakar Centre was erected by the

petitioner after obtaining no objection of the Chief Officer of the erstwhile Mira Bhayander Municipal Council.

2 According to the case made out by the petitioner, on 1st September, 2009 the stall was demolished by the National Highway Authorities. The petitioner thereafter made a representation to the third respondent – National Highway Authority of India for grant of alternate site. The petitioner made a similar application to the Commissioner of the Mira Bhayander Municipal Corporation. The petitioner is relying upon a letter dated 2nd January, 2013 addressed by the National Highways Authority of India to the Executive Engineer of the said Municipal Corporation by which the proposal submitted by the petitioner for allotment of alternate accommodation was forwarded to the Municipal Corporation.

3 An application was made by the petitioner on 16th September, 2013 to the National Highways Authority of India. In response to the said application, the Mira Bhayander Municipal Corporation issued a communication on 23rd October, 2013 rejecting the application made by the petitioner. On 26th November, 2013, it appears that another application was made by the petitioner for allotment of alternate site to the Town Planning Department of the said Corporation.

By the first impugned order/ communication dated 9th January, 2015, the said prayer was rejected by observing that the scheme of running Zunka Bhakar Kendra was already abandoned and therefore, the request cannot be acceded. By the second impugned communication dated 30th January, 2015 by referring to the first impugned communication dated 9th January, 2015, the request again made by the petitioner was rejected.

4 The learned counsel appearing for the petitioner submitted that in fact the demolition of the stall was by the National Highway Authority of India for widening of the National Highway. Earlier, the Municipal Corporation never took a stand that the petitioner is disentitled to alternate plot on the ground that the scheme was closed. He submitted that the stand taken in the impugned communication is an afterthought. He submitted that the petitioner was possessing all the licenses and therefore, the petitioner ought to have been accommodated by the Municipal Corporation. He relied upon certain observations made in the decision of the Division Bench of this Court in the case of *Jhunka-Bhakar Kendrachalak Sanghatna and Ors. Vs. State of Maharashtra and Ors.*¹. He submitted that in any case, the demolition was without following due process of law. Therefore, the petitioner was entitled to compensation.

1. 2002(1) Mh.L.J. 89

5 We have carefully considered the submissions. Demolition has taken place on 1st September, 2009. The present Petition has been filed on 21st August, 2015. The petition has been filed nearly 7 months after receiving last impugned communication.

6 According to us, the petitioner had no right in respect of the site on which a stall which was allowed to be erected by the petitioner for running a Zunka Bhakar Kendra. The license granted to the petitioner was in any case only till 28th February, 1999. Moreover, the petitioner is not disputing that Zunka Bhakar Kendra Scheme has come to an end long back. In fact, in the decision on which the learned counsel appearing for the petitioner has relied upon, the Division Bench of this Court rejected the argument of the Zunka Bhakar stall holders that implementation of Zunka Bhakar Kendra has given a rise to a legitimate expectation to continue as licensee for all times to come. Even argument based on violation of Article 19(1)(g) was rejected. This decision will not help the petitioner in any manner. Therefore, we see no error when the Municipal Corporation declined to allot a plot to the petitioner to set up a Zunka Bhakar Centre as the petitioner had no right to secure such allotment.

7 Therefore, both the prayers (a) and (b) cannot be entertained at all. Prayer clause (a) seeks to challenge the impugned communication and the prayer clause (b) seeks a writ of mandamus against the Municipal Corporation to provide the alternate accommodation to the petitioner for running a Zunka Bhakar Kendra.

8 As far as prayer clause (c) regarding compensation is concerned, the petitioner has not given any particulars of the amount claimed by way of compensation. Moreover, there are no pleadings that certain monetary loss was caused to the petitioner by virtue of demolition of the Zunka Bhakar Centre. Therefore, it is for the petitioner to adopt appropriate remedy in that behalf provided the remedy is not barred by limitation. Subject to what is observed above, no case for interference is made out. The Petition is rejected.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)