

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

WRIT PETITION NO. 1071 OF 2016

Mr. Jalandhar Rakhmaji Kambale. **..Petitioner.**

Vs.

The Dy. Chief Officer (Marketing) & ors. ..Respondents

Mr. S.M. Katkar a/w. Ms. Manisha Devkar, for the Petitioner.

Mr. Amit Shastri, AGP, for the Respondent No. 4-State.

Mr. Kamlesh Ghumre, for the Respondent Nos. 1 to 3.

**CORAM : R. M. SAVANT, J &
SMT.SADHANA S. JADHAV,J**

DATE : 20th JUNE, 2017

P.C.

1 The grievance of the Petitioner in the above Petition is as regards the cancellation of the allotment made to him of tenements No. 304, Building No. 3B, Sahakar Nagar, Chembur, Mumbai admeasuring 437 Sq. ft. and the consequential rejection of the Appeal filed by the Petitioner. The cancellation of the allotment is on the ground that the Petitioner does not belong to the reserved category i.e. the Scheduled Caste and is also done by taking into consideration the letter dated 19/9/2013 allegedly addressed by the Petitioner to the Chief Vigilance Officer, MHADA, by which letter the Petitioner informed the Chief Vigilance Officer that he is surrendering the

tenement allotted to him and is also giving up his claim in Priority No. 3 i.e. reserved category.

2 It seems that against the order of cancellation of the allotment, the Petitioner had filed an Appeal under Section 18 of the **MHADA (Estate Management, Sale, transfer and exchange of tenements)** Regulations 1981 and **(Disposal of Land)** Rules 1981. The said Appeal has been rejected on 3/10/2015, which fact has been communicated by letter dated 19/10/2015 addressed by the Deputy Chief Officer(Marketing), MHADA to the Petitioner. It appears that the Appellate Authority has not passed a speaking order, which fact has been confirmed by Shri Ghumare, learned Counsel for Respondent MHADA on instructions of Mr. Matkar, Deputy Chief Officer (Marketing). Having regard to the fact that the Appeal is a remedy which is provided to a person whose allotment has been cancelled by MHADA. The least that was required on the part of the Authorities was to pass a speaking order containing the grounds on which the appeal has been rejected. Since the Appeal has been rejected without assigning any reason, it would be just and proper to set aside the Order dated 3/10/2015 and direct the Appellate Authority to de novo consider the Appeal filed by the Petitioner. The Petitioner to appear before the Appellate Authority on 4/7/2017 at 3 p.m..

The Appellate Authority to hear and decide the Appeal within four weeks thereafter. The Appellate Authority would be well advised to pass a speaking order whilst disposing of the Appeal. Till the Appeal is decided, the ad-interim order by way of status quo in respect of the tenement in question would continue to operate.

3 With the aforesaid directions, the Writ Petition is disposed of.

[SMT.SADHANA S. JADHAV,J]

[R.M.SAVANT, J]