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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1353 OF 2015**

Smt. Indira Nitin Worlikar & Ors.

... Petitioners

Versus

M.C.G.M. & Ors.

... Respondents

Mr. Yashwadeep Deshmukh, with Ms. Shobhana Waghmare, Mr. Abhishek Sawant, i/b Mulani & Co. for the Petitioners.
Mrs. Uma Kshirsagar Wagle, for Respondent No.4.
Ms. Sheetal Mane, for M.C.G.M.

**CORAM: SMT. VASANTI A NAIK AND
MR. RIYAZ I. CHAGLA, JJ.
DATED: 22ND NOVEMBER 2017**

PC:-

By this writ petition, the petitioners seek a declaration that they are eligible for grant of fish vendors license in Gawde Municipal Market at Worli and the impugned order dated 19th June 2013, holding that the petitioners are ineligible is bad in law.

According to the petitioners, though the petitioners were working as fish mongers in Gawde market at Worli before 2001 – 2002, their names were wrongly not included in the list prepared by the corporation for the year 2001-2002. It is stated that some of the petitioners had made complaints in 2003 – 2004 in respect of the list prepared in the years 2001-2002 but the complaints were not decided. It is stated that in the year 2006 another list was prepared and the names of the two petitioners were included in the said list. It is stated that though the names of some fish mongers were not included in the either the list of the year 2001-2002 and the list of the year 2006, the corporation has granted the

fish vendors licence to them in the said market. It is further stated that it would not be necessary that the name of fish vendors should be included in both the lists viz. the list of the year 2001 – 2002 and the list of the year 2006 for grant of fish vendors licence.

On the other hand, it is submitted on behalf of the corporation that as per the policy of the corporation on the basis of which fish vendors licenses are granted, it would be necessary that the name of the fish vendors should be included in the list prepared by the corporation in the year 2001 – 2002 and also in the list prepared in the year 2006. It is stated that the fish vendors are required to possess the relevant receipts for showing that they were involved in the occupation of fish vending. It is stated that as per the fourth condition, more than one person from a family would not be entitled to seek fish vending licence.

In the instant case, as admittedly, the names of none of the petitioners are included in the list prepared by the corporation in the year 2001 – 2002 and the names of only two petitioners are said to have been included in the list of the year 2006, none of the petitioners would be entitled to claim a fish vendors licence in Gawde Municipal market. On a reading of the relevant policy of the corporation, it appears that four conditions are required to be satisfied for granting the fish vendors license, the first condition being that the name of the fish vendor should be included in the list prepared by the corporation in the year 2001 – 2002, the second condition being that the name of the fish vendor should be included in the list prepared by the corporation in the year 2006, the third condition being that the fish vendor should possess the relevant receipts to show that she is involved in the occupation of

fish vending and the fourth condition being that no other person from the family of the said claimant / fish vendor should possess a fish vendors license. Since according to the policy of the corporation, it would be necessary that the name of the claimant should be included in the list prepared by the corporation in the year 2001-2002 and also in the list prepared in the year 2006 and since the names of none of the petitioners are included in both the lists prepared by the corporation, the petitioners cannot effectively seek a direction against the corporation to issue a fish vendors licence in favour of the petitioners to operate in a Gawde Municipal Market at Worli. If some of the petitioners had made representations against the non- inclusion of their names in the list of 2001 – 2002 and if the representation was not decided by the corporation within a reasonable time it was necessary for the said petitioners to have approached the appropriate court or forum to seek a direction against the corporation to decide the said representations. In a writ petition filed in the year 2015, it would not be proper to direct the corporation to first consider whether some of the petitioners had indeed made representations more than 13 – 14 years earlier and if they had made, to decide the same and consider whether the said petitioners were actually involved in fish vending in the said market at the relevant time in the year 2001 – 2002.

Since, the relief sought by the petitioner cannot be granted in the circumstances of the case, the writ petition is dismissed with no order as to costs.

(RIYAZ I. CHAGLA J.)

(SMT. VASANTI A. NAIK, J.)