IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2451 OF 2015

Nilesh Sachhindanand Dandekar & Anr. .. Petitioners

v/s.

Municipal Corporation of Greater Mumbai & Anr. .. Respondents

Mr. Vishwajeet Kapse for the petitioner
Ms. Geeta Joglekar a/w Ms. Pooja Yadav for the respondent Corporation

CORAM : M.S. SANKLECHA &
S.C. GUPTE, J.J.

DATED : 30th MARCH, 2017.

P.C.

1. This petition under Article 226 of the Constitution of India challenges :-

(a) communication dated 12th February, 2014 issued by the Joint Tax Assessor & Director, D-Division of the respondent no.1 Corporation. By the impugned communication the petitioners' assessment for property taxes have been cancelled with retrospective effect from 1st July, 2010; and

(b) the order dated 8th May, 2014 passed by the Chief Inspector, Shop and Establishments of the respondent Corporation, cancelling the shop and establishment license granted to the petitioners. This is entirely as a consequence of cancellation of the assessment by communication dated 12th February, 2014.

2. The grievance of the petitioners is that the impugned communication dated 12th February, 2014 has been passed without grant of any personal hearing. All that the petitioner seeks is quashing the impugned order with a direction that that the respondent no.1 would pass an order in accordance with law. This would require considering the petitioners' representation in accordance with principles of natural justice i.e. to give the petitioners all evidence which it seeks to rely upon for cancellation of the assessment and a personal hearing before taking any view adverse to the petitioners. Mr. Kapse, further submits that as the communication dated 8th May, 2014 by the Chief Inspector, shop and establishment being consequential to the communication dated 12th February, 2014 also needs to be set aside.

3. Mrs. Joglekar, learned Counsel appearing for the respondent no.1 Corporation states that it is willing to pass a fresh order in accordance with law.

4. In the aforesaid circumstances, the communications dated 12th February, 2014 and 8th May, 2014 are set aside. The petitioners are

permitted to file a fresh representation within a period of 3 weeks from today. To enable the petitioners to file appropriate representation, the Corporation will make available to the petitioners all documents / evidences being relied upon by it for cancellation of petitioners' assessment as a commercial property.

5. We note that the impugned communication dated 12th February, 2014 seems to have been passed at the behest of some other person. The Authority is required to apply its mind independently to the facts of each case and decide the same on its own merit without being dictated by any other person.

6. Ms. Joglekar, learned Counsel for the Corporation informs us that the petitioner would make his representation, if any, before the Assistant Assessor and Director, D-ward. This as pointed out above has to be done within a period of 3 weeks from today.

7. The writ petition is disposed of the in the above terms. No order as to costs.

(S.C. GUPTE, J.) **(M.S. SANKLECHA, J.)**