

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 1503 OF 2017

Mr. Krishna s/o Anjani Kumar Mishra .. Petitioner
V/s
The State of Maharashtra & Anr. .. Respondents

Mr. Sushil Upadhyay i/b Mr. A.M. Saraogi for the petitioner.
Mr. M.A. Sayed, AGP for the State.
Mr. P.G. Lad for MHADA.

**CORAM: DR. MANJULA CHELLUR, CJ. &
N.M. JAMDAR, J.**

DATE : 22nd JUNE 2017

P.C.:

The petitioner is before this Court seeking the following reliefs:

- “a. that this Hon'ble Court be pleased to pass appropriate writ order and direction directing the Respondents to forthwith allot necessary residential premises as per their letter dated 2nd September, 2016 to the Petitioner and be pleased to quash the alleged letter dated 19.12.2016 alleged to have been issued by the Respondent No.2 to the Petitioner and subject to the Petitioner complying with all the legal requirements as may be required for the said purpose on such terms as this Hon'ble Court may deem fit and proper.

- b. *that pending the hearing and final disposal of the present Petition, the Respondent No.2 be directed to preserve and protect one tenement in the vicinity known as Prateeksha Nagar, Sion and more particularly, Unit bearing No.H-16-6-601 and put the Petitioner in possession thereof on such terms as this Hon'ble Court may deem fit and proper."*

2. According to the petitioner, by very nature of his profession and since he does not hold any residential premises in the city of Mumbai, he is an eligible candidate for allotment of a residential flat. According to him, there is no justification in the rejection of his application and even otherwise the intimation sent to him rejecting the application is not in accordance with the procedure. However, having come to know that his application is rejected, he is before this Court seeking the above reliefs.

3. Learned counsel appearing for the respondent – MHADA brings to our notice Regulation 12(3) of the Maharashtra Housing and Area Development (Estate Management, Sale, Transfer and Exchange of Tenements) Regulations, 1981 (for short "Estate Management Regulations of 1981") to contend that under the procedure, a right is created to the applicant whose application is rejected in the detailed scrutiny to represent before the Chief Executive Officer or other authority within 15 days of the receipt of the rejection letter. It is also seen from this provision that the Chief Executive Officer is vested with the power of review. It further

indicates that the Chief Executive Officer can review the decision himself or delegate that power to any officer who is not below the rank of Deputy Chief Executive Officer or Deputy Collector.

4. In the light of the above procedure envisaged under the Estate Management Regulations of 1981, we are of the opinion that the proper course for the petitioner is to approach the concerned Authority by filing a representation. Since the petitioner contends that the intimation of rejection was not properly served on him, the time limit of 15 days within which he could challenge the decision of the scrutiny committee is lost. Since the representation will be considered strictly in accordance with the procedure and criterion fixed for allotment, we are of the opinion that the Chief Executive Officer on receipt of representation from the petitioner shall proceed to consider his representation without rejecting the representation on the ground of limitation. Once such representation is made to the officer concerned, the same shall be considered within 12 weeks from today provided the petitioner files the representation within 2 weeks from today.

5. With the above directions, the writ petition is disposed of.

(N.M. JAMDAR, J.)

CHIEF JUSTICE