

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

WRIT PETITION NO. 3033 OF 2016

Salim Haji Chohan	... Petitioner
V/s.	
Mumbai Housing and Area Development Board (MHADA Unit)	... Respondent

Mr. S. K. Dubey for the Petitioner.
Mr. V. M. Parashurami for the Respondent.

**CORAM : K. K. TATED, J.
DATED : 04/05/2017**

PC.:

. Heard learned Counsel for the parties.

2 By this petition under Article 226 of the Constitution of India the Petitioner challenges the order dated 21.02.2014 passed by the Deputy Chief Officer (Estate Management) Mumbai Board, canceling the allotment of flat in favour of the Petitioner.

3 The learned counsel for the Respondent MHADA submits that in view of Regulation 18 of Maharashtra Housing and Area Development (Estate Managements, Sale, Transfer and Exchange of Tenements) Regulations, 1981, the Appeal is provided to the Chief Executive Officer. The said Regulation 18, read thus:

“18. Power to withdraw allotment:

(1) Notwithstanding anything contained in Regulation 17 the Chief Officer may, before any tenements are handed over

and occupied by the applicants, review any decision regarding allotment and may by order withdraw the allotment duly made under clause (1) of Regulation 17 if he is satisfied that on the basis of any fresh evidence before him, the allotment of the tenement is required to be withdrawn.

(2) Every such order withdrawing an allotment shall be communicated in writing to the applicant, along with the grounds on which the allotment has been withdrawn.

(3) The Order of the Chief Officer withdrawing the allotment shall subject to an appeal to the Chief Executive Officer, be final and binding on the applicant.

(4) Any applicant, who is aggrieved by the decision of the Chief Officer may, within a period of fifteen days from the date of receipt of the order, file an appeal before the Chief Executive Officer stating in brief the grounds of appeal.

(5) Every appeal shall be decided by the Chief Executive Officer within a period of three weeks, from the date of filing of the appeal and every order rejecting the appeal shall briefly the grounds for such rejection.”

4 The learned Counsel for the Respondent submits that when the alternate efficacious remedy is available to the Petitioner, there is no question of entertaining the Writ Petition.

5 The learned counsel for the Petitioner submits that the Petitioner may be permitted to withdraw the petition with liberty to file the Appeal as per Regulation 18. He further submits that Petitioner is not pressing for the cost as awarded by this Court in favour of Petitioner by order dated 14.03.2017. To that effect, he has given in writing on Farad. Same farad is taken on record and marked “X” for its identification. Same is accepted.

6 Considering this fact, following order is passed:

a) Writ Petition stands disposed of as withdrawn.

b) Liberty granted to the Petitioner to file an appropriate Appeal as per Regulation 18 of Maharashtra Housing and Area Development (Estate Managements, Sale, Transfer and Exchange of Tenements) Regulations, 1981 within four weeks from today.

c) If Appeal is filed within stipulated time as stated hereinabove, the Authority is directed to decide the same on its own merits as early as possible.

d) No order as to costs.

(K.K.TATED, J.)