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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4321 OF 2018**

Shobana Tony Lazarus and Ors.	... Petitioners
Vs.	
The State of Maharashtra and Ors.	... Respondents

Mr. Devang Parmar i/by Mr. R.R. Nair for the Petitioners.

Mr. Manish M. Pabale, AGP for the Respondent No.1.

Mr. N.R. Bubna, for the Respondent Nos.2 to 4.

**CORAM : A.S. OKA &
RIYAZ I. CHAGLA, JJ.**

DATE : 2nd MAY, 2018

PC.

1 Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the second to fourth respondents. We have heard the learned AGP for the first respondent. The first four petitioners have tendered affidavits affirmed on 2nd May 2018 which are taken on record and marked 'X-1' to 'X-4' for identification. The learned counsel appearing for the petitioners pointed out the contents of the letters of offer issued to the said four petitioners on 9th April 2018. He pointed out that today the Municipal Corporation is offering residential accommodation on temporary basis to the petitioners. However, the

letters of offer state that permanent accommodation will be offered to the petitioners after tenements under B.S.U.P. are ready and after examining the eligibility of the petitioners. The submission of the learned counsel appearing for the petitioners as reflected from the affidavits tendered on record is that there is every possibility that in future the petitioners will be thrown away out of the temporary accommodation on the ground that they are ineligible for allotment of permanent accommodation.

2 The apprehension expressed by the petitioners can be taken care of by protecting the petitioners for a reasonable time in the event the Municipal Corporation holds them as ineligible for allotment of permanent accommodation. The limited protection can be granted so that in such contingency, the petitioners can always challenge the finding recorded by the Municipal Corporation on the issue of eligibility.

3 We, accordingly, dispose of the Petition by passing the following order :-

ORDER

- (i) It will be open for the first four petitioners to shift to temporary alternate accommodation already offered to them within a period of three weeks from the date on which this order is uploaded;

- (ii) The issue of eligibility of the said petitioners for grant of permanent residential accommodation shall be considered and decided by the second respondent – Municipal Corporation only after giving adequate opportunity to the petitioners to produce relevant documents;

- (iii) The order passed on the issue of eligibility of the petitioners for grant of permanent accommodation shall be served to the petitioners at the address of temporary accommodation offered to them. If the four petitioners or any of them are held eligible for permanent accommodation, the second respondent shall grant permanent accommodation to such petitioners. In the event, the first four petitioners or any of them are held ineligible, action of removing the said petitioners from the transit accommodation allotted to them shall not be taken for a period of four weeks from the date on which the orders are served upon the concerned petitioners to enable them to challenge the decision of the Thane Municipal Corporation;

- (iv) We make it clear that we have made no adjudication on the issue of eligibility of the first four petitioners for grant of alternate accommodation;
- (v) In the event of failure of the first four petitioners to shift to the temporary alternate accommodation/ transit accommodation offered to them within a period of three weeks from the date on which this order is uploaded, it will be open for the second respondent to dispossess the first four petitioners;
- (vi) As far as the fifth petitioner is concerned, the Petition stands disposed of as he has already shifted to the accommodation offered to him;
- (vii) Petition is disposed of on above terms.

(RIYAZ I. CHAGLA, J)

(A.S. OKA, J)