

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.729 OF 2018

Sadashiv Bandu Nalavde and Anr. ... Petitioner

V/s.

The State of Maharashtra and Ors. ... Respondents

Mr.Anand S. Patil for the petitioner

Mrs.PN.Diwan, A.G.P. for the respondent nos.1 to 4

**CORAM: K.K. TATED &
B. P. COLABAWALLA, JJ.**

DATED : MARCH 26, 2018

PC. :

1 Heard the learned counsel for the parties.

2 By this petition under Article 226 of the Constitution of India, the Petitioner challenges the letter cum order dated 7.10.2017 passed by Respondent no.3 rejecting their Application for certificate of earthquake affected persons.

3 The learned counsel for the Petitioner submit that by mistake in their Application it is remained on their part to give all the particulars as per Government Resolution dated 9.8.1995.

4 The learned counsel for the petitioner submits that Petitioner may be permitted to withdraw the Writ Petition with liberty to file afresh application before the concerned authority by giving all particulars and Authority be directed to decide that Application on its own merits.

5 The learned counsel for the petitioner submits that he has given in writing that he received instructions from his client to withdraw the Writ Petition. Same is taken on record and marked "X" for its identification. Same is accepted.

6 It is to be noted that this court (Coram: A.S.Oka and A.S.Gadkari, JJ.) by its order dated 11.2.2015 in Public Interest Litigation No.35 of 2014 explained the definition of family. Paragraph 3 of the said judgment reads thus:

"3 The GR dated 9th August 1995 also defines "family" of earthquake affected persons. It provides that as per clause(c) of section 6 of the Maharashtra Rehabilitation of Project Affected Persons Act,1986, the family will include husband, wife, son and unmarried daughter as well as brother, sister, grandson, daughter-in-law residing with the family and who are dependent upon the head of the family."

7 Considering the submissions made by the learned counsel for the Petitioner, Affidavit-in-Reply filed by the State Government and the order passed in Public Interest Litigation No.35 of 2014, we are satisfied that Petitioner may be permitted to withdraw the present Writ Petition with permission to file afresh Application before the concerned authority for earthquake affected persons certificate. If such

Application is filed, that may be decided on its own merits without influencing the order passed by this court and or the earlier orders of authority. Hence, following order is passed:

- a) Writ Petition stands disposed of as withdrawn with liberty as prayed.
- b) Liberty granted to the Petitioner to file afresh Application before the concerned authority for earthquake affected persons certificate within 3 weeks from today.
- c) If such Application is filed within stipulated time as stated hereinabove, authority is directed to decide the same on its own merits without influencing the order passed by this court and or earlier orders passed by the authority rejecting their Application.
- d) No order as to costs.

(B. P. COLABAWALLA, J.)

(K.K. TATED, J.)