

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

WRIT PETITION NO.2722 OF 2016

Ratanben Manubhai Parmar

...

....Petitioner

V/S

Konkan Housing and Area Development Board
(MHADA UNIT) & Ors.

....Respondents

...

Mr. Nikhil Mishra a/w Mr. Kishore Chavan for the Petitioner.

Mr. Kamlesh Ghumre for Respondents Nos.1 to 3.

Mr.Himanshu Takke, AGP for the Respondent No.4-State.

Mr.Sanjay G.Suryawanshi, Estate Manager-I, Konkan Mandal/MHADA is
present in Court.

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CORAM : A.A. SAYED &**A.K.MENON, JJ.****DATED : 12 DECEMBER 2018****P.C.:**

The Petitioner is essentially challenging the order dated 26-03-2018 of the Appeal Officer and Executive Engineer, Konkan Board rejecting the Appeal of the Petitioner. The Appeal was filed challenging the order dated 19-11-2014 declaring the Petitioner to be non-eligible pursuant to her Application for allotment of tenement by Respondent No.1-Board.

2. Applications were called by advertisement in local newspapers for allotment of lower income group tenements for reserved category under Code No.118-A at Mira Road, Thane, by Respondent No.1-Board, a Regional Unit of MHADA. Pursuant to the Application made by the

Petitioner, she was issued allotment letter in respect of Room No.802, Building No.E-6, Mira Road, Thane, subject to her being held eligible and submission of required documents. By order dated 19-11-2014, the Petitioner was, however, held not eligible, which order was challenged in Appeal. By impugned order dated 26-03-2018, while rejecting the Appeal, the Appellate Authority has observed as follows:

“The application No.”69223” Smt.Ratanben Manubhai Parmar priority No.14 in the lottery of code No.117-B in subject scheme has been successful and for the following reasons Estate Manager-1/K.B. vide his letter bearing No.9380 dated 19-11-2014 applicant has been informed that application has been declared non-eligible.

1. Monthly income less than income limit.
2. The certificate of competent authority showing falling in Scheduled Caste category not enclosed.

In the letter of E.M.-2/K.B. it is formed to applicant for filing appeal against the decision of non eligibility within 15 days from the date of receipt of letter. In view of the same with regard to appeal filed by the applicant, appellant was contacted on telephone/mobile no. and informed for remaining present for hearing on 13.01.2015. Appellant has not submitted following documents/proof during hearing.

1. Bank Statement.
2. Certificate of competent authority showing falling in Scheduled Caste.

As per the format "D" affidavit submitted by applicant earlier their annual income is Rs.1,07,082/-. He has submitted bank statement showing he is receiving pension. But bank certificate is not submitted. But it is noticed that his annual income is less stipulated limit.

Therefore following order is passed:

ORDER

Appeal is rejected and applicant is declared "non eligible".

Sd/-

Shri Bharat Jankoli
Appeal officer and Executive Engineer
Konkan Board

3. It is not in dispute that only two documents were required to be submitted by the Petitioner viz. (i) The Bank Certificate and (ii) Caste Validity Certificate as belonging to Scheduled Caste.

4. So far as the Bank Certificate is concerned, we permit the Petitioner to submit the Bank Certificate to the Respondent No.1-Board within four weeks from today.

5. So far as the Caste Validity Certificate is concerned, we are informed that the Petitioner has already applied before the Respondent No.4-Caste Scrutiny Committee for validation of her Caste Certificate on 3 December 2018.

6. Learned AGP appearing for the Respondent No.4 states on instructions that the Application of the Petitioner for Caste Validity Certificate shall be decided by the Respondent No.4-Caste Scrutiny Committee by 28 February 2019.

7. In the circumstances, in the interest of justice, we dispose of the Petition by passing the following order:

ORDER

(i) The impugned order dated 26-03-2018 is set aside and the matter is remitted back to the Respondent No.3-Appellate Authority to take a decision afresh in the Appeal upon submission of the Bank Certificate and Caste Validity Certificate by the Petitioner.

(ii) We accept the statement of the learned AGP that the Respondent No.4-Caste Scrutiny Committee shall decide the Application of the Petitioner for issuance of Caste Validity

Certificate by 28 February 2019. The Petitioner shall appear before the Respondent No.4-Caste Scrutiny Committee on 14 January 2018 with a copy of this order, when appropriate directions shall be issued by the Respondent No.4-Caste Scrutiny Committee.

- (iii) We record the statement of the learned Counsel for the Respondent Nos.1 to 3 that Room No.802 has not been allotted so far to any 3rd party and shall not be allotted to any 3rd party till the decision of the Respondent No.4-Caste Scrutiny Committee.
- (iv) We make it clear that in the event the Application for issuance of Caste Validity Certificate is rejected by the Respondent No.4- Caste Scrutiny Committee, the said Room No.802 shall be free for allotment to be made by Respondent No.1-Board.

(A.K.MENON,J.)

(A.A.SAYED, J.)