

pmw

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.3385 OF 2017**

Anita Sureshsing Chauhan

... Petitioner

Vs.

Assistant Engineer,
Assistant Municipal Commissioners Office & Ors.

... Respondents

Ms. Ronita Bhattacharya i/by Kranti L.C. for the Petitioner.
Mr. Sukanta Karmarkar, AGP for the Respondent – State.
Mr. A.P. Kulkarni for Respondent No.5.
Ms. Sheetal Mone for Respondent – MCGM.

**CORAM : A.S. OKA &
P.N. DESHMUKH, JJ.**

DATE : 25th JANUARY, 2018

PC.

1 Rule. The learned counsel appearing for the first to third respondents waive service. The learned counsel appearing for the fifth respondent waives service. The learned AGP waives service for the fourth and sixth respondents. There is no dispute between the parties that this Petition will be governed by the Judgment and Order passed in Writ Petition (L) No.3300 of 2017. Hence, for the reasons recorded therein, we dispose of the Petition by passing the following order :-

ORDER

- (i) We accept the statement made by the learned counsel appearing for the petitioner that the petitioner has preferred an Appeal in prescribed format to the third respondent – Municipal Corporation on the issue of eligibility;
- (ii) We direct the appropriate authority of the third respondent- Municipal Corporation to dispose of the said Appeal as expeditiously as possible and in any event within a period of three months from the date on which this order is uploaded;
- (iii) The decision taken on the Appeal shall be communicated to the petitioner. Till the date of communication of the order passed in Appeal, the action of demolition of structure of the petitioner should not be taken. If the petitioner is held to be eligible for rehabilitation, along with the decision of the appellate authority, the Municipal Corporation shall communicate the petitioner about the manner in which they propose to rehabilitate the petitioner. In such event, action of demolition shall not be taken in respect of the subject structure of the petitioner for a period of three

weeks from the date of service of communication as aforesaid;

- (iv) If the Appeal is dismissed, action of demolition of the subject structure of the petitioner shall not be taken for a period of three weeks from the date on which the order of the appellate authority is communicated to the petitioner;
- (v) We make it clear that if the petitioner is aggrieved by the manner in he is sought to be rehabilitated or if the petitioner is aggrieved by adverse order in Appeal, he will be free to file appropriate proceedings in accordance with law;
- (vi) Rule is made partly absolute on above terms.

(PN. DESHMUKH, J)

(A.S. OKA, J)