

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO. 7752 OF 2019
WITH CA/10383/2019**

Aasiya Begum D/o Md. Khaja

.. Petitioner

Versus

The State of Maharashtra and Another

.. Respondents

Mr. H. I. Pathan, Advocate for Petitioner.

Mr. J. M. Murkute, Advocate for Applicant in Civil Application.

Mr. P. S. Patil, Addl. G. P. for Respondents-State.

**CORAM : S. V. GANGAPURWALA &
 ANIL S. KILOR, JJ.**

DATED : 18th SEPTEMBER, 2019.

PER COURT:-

1. The petitioner is issued with the validity certificate. The complainant raised an objection before the committee. An objection of the intervenor / complainant is allowed. Aggrieved thereby, the present petitioner approached this Court and filed Writ Petition No. 8626 of 2018. This Court under order dated 25.01.2019 set aside the order of the committee and remitted the matter to the committee.

2. Paragraph No. 8 of the order dated 25.01.2019 reads thus :

“8. Considering the above, we quash and set aside the impugned order. The matter is remitted to the committee. The Committee shall decide the objection of the petitioner and first decide whether the provisions of Section 7 of the Act, 2000 are satisfied so as to enable it to re-open the proceeding. After passing such order, the committee

may proceed further in tune with the order passed on the preliminary objection of the petitioner and after arriving at the conclusion as narrated above. The parties shall appear before the committee on 12.02.2019.”

3. It appears that, thereafter the petitioner and the intervenor appeared before the committee. The committee eventually decided to re-open the proceeding by allowing the objection of the respondent. The said order is assailed in the present Writ Petition.

4. Mr. Pathan, learned Counsel submits that the order has been passed by the committee without affording reasonable opportunity to the petitioner. The petitioner had filed say to the objection of the intervenor / complainant and sought time. The Chairman of the committee was also on leave on the said date, however, two members of the committee closed the matter for orders. The petitioner be given opportunity.

5. Mr. Murkute, learned Counsel for the intervenor and Mr. Patil, learned Addl. G. P. for respondent/State submits that five times the matter was adjourned at the behest of the petitioner. The petitioner was only prolonging the matter. Eventually, the committee reserved the matter for decision on the objection raised by the intervenor / complainant and came to the conclusion that the proceeding required to be re-opened.

6. Perusal of the impugned order, it transpires that, five times opportunity was given to the petitioner to put forth his stand and it was the petitioner who was adjourning the matter and on 29.05.2019 petitioner had

filed his say and did not give any clarification.

7. In normal course, we would certainly not entertain the petition as the petitioner is responsible for the delay. However, considering fact that the matter involves social status of the petitioner, we are inclined to grant one more opportunity to the petitioner. The petitioner also deserves to be mulct with costs. In the result, we pass the following order :

O R D E R

I. The impugned order is set aside.

II. The petitioner and the intervenor are relegated before the committee. The petitioner and the intervenor shall appear before the committee on 01.10.2019. On or before 01.10.2019 the petitioner shall deposit cost of Rs.20,000/- (Rupees Twenty Thousand only) in this Court. The deposit of cost is condition precedent. In case, the petitioner deposited the cost of Rs.20,000/- (Rupees Twenty Thousand only) in this Court on or before 01.10.2019, then the committee shall hear the petitioner and the intervenor and decide about the objection of the intervenor in the light of paragraph no. 8 of the order delivered by this Court in Writ Petition No. 8626 of 2018 dated 25.01.2019. The petitioner will not be entitled to

seek any further adjournment. In case, the petitioner fails to deposit cost as directed by this Court, then the present petition shall stand dismissed.

8. In view of the above, Writ Petition is disposed of.
9. In view of disposal of Writ Petition, Civil Application also stands disposed of.
10. Authenticated copy be given.

(ANIL S. KILOR)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

RS.B.