

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

WRIT PETITION (ST.) NO.13665 OF 2019

Shri Santosh Bobby Dalvi and ors. ... Petitioners

V/s.

The State of Maharashtra and ors. ... Respondents

Mr.Angad Giri with Mr.Sagar Batavia, Advocate for the
Petitioners.

Mr.N.C.Walimbe, AGP for Respondent Nos.1,2 and 3.

Mr.P.G.Lad with Ms.Priyanka Naik, Advocate for
Respondent No.4.

CORAM : UJJAL BHUYAN, J.

DATE : DECEMBER 11, 2019.

P.C.:-

1. Heard Mr.Angad Giri, learned counsel for the
petitioners; and Mr.N.C.Walimbe, learned AGP for
respondent Nos.1, 2 and 3. Learned counsel Mr.P.G.Lad
appears for respondent No.4.

2. By filing this petition under Articles 226 and 227 of
the Constitution of India, petitioners have assailed
legality and correctness of order dated 18th February,

2019 passed by respondent No.2 and 29th January, 2019 passed by respondent No.3

3. Fifteen petitioners have joined together and have instituted the present common proceedings.

4. Petitioners are slum dwellers of a plot of land bearing CTS No.160A/1 of village Majas, Taluka Andheri, Mumbai Suburban District. It is stated that in accordance with the provisions contained under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, the slum dwellers have formed Indiranagar Co-operative Housing Society whereafter a developer has been appointed to carry out redevelopment. It is further stated that the development plan has been sanctioned by the Slum Areas Authority.

5. Following the same, the list of eligible slum dwellers entitled to rehabilitation was prepared as per certified annexure-II dated 26th December, 2005. Petitioners claim that their names were included in the said Annexure-II list thereby making them eligible to rehabilitation.

6. According to the petitioners, respondent No.4 passed an order dated 8th March, 2018 cancelling the eligibility of the petitioners and thereby removing them from the said Annexure-II. It is contended that without serving any notice upon the petitioners and without affording personal hearing to the petitioners, the said order was passed. At this stage, learned counsel for respondent No.4 submits that notice was duly served upon the petitioners which was duly verified.

7. Be that as it may, aggrieved by order dated 8th March, 2018, petitioners preferred appeal before respondent No.3 on 16th March, 2018 alongwith a stay application. Appeal has been registered as Appeal No. 615 of 2018. By order dated 29th January, 2019, respondent No.3 declined to grant stay and rejected the stay application.

8. Against the aforesaid rejection order dated 29th January, 2019, petitioners preferred appeal before respondent No.2 i.e. Grievance Redressal Committee, Mumbai Suburban, being Appeal No.108 of 2019.

9. By order dated 18th February, 2019, respondent No. 2 declined to grant stay.

10. Aggrieved, present writ petition has been filed.

11. After hearing learned counsel for the parties and on due consideration, court is of the view that it would be just and appropriate if the appeal filed by the petitioners against their exclusion from annexure-II list vide order dated 8th March, 2018 is heard and decided expeditiously. At the same time, court is conscious of the fact that petitioners were found to be eligible in the annexure-II list dated 26th December, 2005, which position remained for more than 12 years till 8th March, 2018, when petitioners were found to be ineligible. It is not necessary at this stage to enter into the controversy whether petitioners were served notice or not before passing the order dated 8th March, 2018.

12. In the light of the above, respondent No.3 is directed to take on board the Appeal No.615 of 2018 filed by the petitioners and decide the same in accordance with law within a period of three months from the date of furnishing an authenticated copy of

this order. Till disposal of Appeal No.615 of 2018, order dated 8th March, 2018 *qua* the petitioners shall remain stayed.

13. Writ petition is accordingly disposed of.

(UJJAL BHUYAN, J.)

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