

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

WRIT PETITION NO.12063 OF 2019

Prakash Kukreja ... Petitioner
V/s.
State of Maharashtra and anr. ... Respondents

Ms.Minal J. Chandnani, Advocate for the Petitioner.
Mr.A.B.Kadam, AGP for Respondent No.1-State.

**CORAM : UJJAL BHUYAN, J.
DATE : DECEMBER 11, 2019.**

P.C.:-

1. Heard Ms.Minal J. Chandnani, learned counsel for the petitioner; and Mr.A.B.Kadam, learned AGP for respondent No.1.
2. By filing this petition under Articles 226 and 227 of the Constitution of India, petitioner seeks quashing of order dated 18th December, 2017 passed by respondent No.2.
3. By order dated 18th December, 2017, application of the petitioner dated 3rd June, 2017 for rehabilitation as a displaced person was rejected on the ground that the Displaced Persons (Compensation and Rehabilitation)

Act, 1954 was repealed by the Displaced Persons Claims and other Laws Repeal Act, 2005. Since the application was filed after repealment, therefore, the same was rejected by taking the view that only those cases upto the date when the Act was repealed can be taken into consideration.

4. Learned counsel for the petitioner submits that in identical matters this court had set aside such order while remanding the matter back for reconsideration on the ground that rejection of the application for rehabilitation was without hearing the applicant and thereby in violation of the principles of natural justice. In this connection, learned counsel has placed before the court a copy of order dated 16th October, 2019 passed by this court in Writ Petition No.8381 of 2019, **Ekta Bhagwan Rajai Vs. Managing-cum-Sub-Divisional Officer, Ulhasnagar Sub-Division.**

5. On a query by the court she submits that petitioner has been making such claim to rehabilitation since long back, much prior to the date of repeal and the

application dated 3rd June, 2017 was only the last of the applications.

6. Mr.N.C.Walimbe, learned AGP submits that whether petitioner had submitted applications prior to the repealed date would have to be gone into by the authority.

7. Submissions made have been considered.

8. This court in **Ekta Bhagwan Rajai (supra)** took note of the grievance of the said batch of petitioners while allowing the writ petitions in the following terms:-

“4. By the said applications, petitioners had sought for their rehabilitation under the Compensation and Rehabilitation Act, 1954. On the ground that the said Act was repealed by the Displaced Persons and other Laws Repeal Act, 2005, the said applications were rejected. In the rejection orders reference was made to a letter dated 17th September, 2014 of the Government of India in the Revenue and Forest Departments, wherein it was clarified that Section 6 of the General Clauses Act, 1897 would be applicable to the Displaced Persons and other Laws Repeal Act, 2005.

5. Learned counsel for the petitioners submits that had the petitioners been given an opportunity, petitioners would have satisfied the authority that they had been persistently pursuing the matter since a long time. Applications dated 11th January, 2019 were only the last of the applications, which were in continuation of the earlier applications. He, therefore, submits that

impugned order dated 11th January, 2019 is in violation of the principles of natural justice and therefore, should be set aside by directing the Managing Officer to reconsider the matter after hearing the petitioners. In this connection, learned counsel for the petitioners has placed reliance on a Division Bench decision of this Court dated 21st August, 2019 passed in **Writ Petition No.2203 of 2019 (Jaiprakash Hiranand Kalyani and ors. Vs. State of Maharashtra and anr.)** and submits that in that case also matter was remanded to the Managing Officer for reconsideration after hearing the petitioners.

6. Considering the above, impugned order dated 11th January, 2019 is hereby set aside. Respondent No. 1 i.e. Managing Officer-cum-Sub-divisional Officer, Ulhasnagar is directed to re-consider the prayer of the petitioners after giving them an opportunity of hearing and thereafter, to take a decision one way or the other within a period of eight weeks from the date of receipt of an authenticated copy of this order."

9. In the light of the above, impugned order dated 18th December, 2017 is set aside, Managing Officer cum Sub-Divisional Officer, Ulhasnagar is directed to reconsider the prayer of the petitioner after giving him an opportunity of hearing and thereafter, to take a decision one way or the other in accordance with law within a period of eight weeks from the date of receipt of an authenticated copy of this order.

10. Writ petition is disposed of.

(UJJAL BHUYAN, J.)

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