

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

WRIT PETITION NO.2358 OF 2017

Akbarali Khudabaksh Ansari

...Petitioner

vs.

Mumbai Housing and Area Development Board

(MHADA Unit)

...Respondent

Mr. S. K. Dubey for the Petitioner.

Ms. Arushi Agrawal i/b Ms. Neha Bhide for the Respondent.

**CORAM : B. P. DHARMADHIKARI &
SMT ANUJA PRABHUDESSAI, JJ.**

DATE : 13/02/2019.

P.C.:

. It appears that the present writ petition was considered on 16/1/2019 and speaking order was passed.

2. Learned counsel for the petitioner today states that cancellation of allotment to petitioner vide order dated 23/12/2012 was for not removing lacunae and the same have been rectified thereafter. According to him in this situation, person removing lacunae is put in waiting list and is allotted tenement which remained available for such persons.

3. Learned counsel appearing for respondent does not dispute that the petitioner is placed in waiting list. However she is seeking time to find out whether any such rooms are available or not.

4. We find that allotment was cancelled some time in December

2012 and thereafter present petition came to be filed on 14/9/2015. This Court has on 16/1/2019 gave petitioner liberty to bring on record necessary facts. Accordingly, affidavit has been filed on 5/2/2019 pointing out that the petitioner visited flat on 21/1/2019 and found that somebody was occupying it. The affidavit also mentions that the present petition was filed in 2017 for tenement at Malwani Malad, District Mumbai being Gala No.1003 Building No.26560B allotted to the petitioner pursuant to the letter dated 16/6/2011.

5. The allotment of said tenement was cancelled on 23/12/2012.

6. In this situation, we direct respondents to extend opportunity to the petitioner and find out whether compliance would have been allowed after 23/12/2012 and infact lacunae have been removed as alleged, whether such removal results in placing of petitioner in waiting list and whether petitioner therefore becomes entitled for allotment of another tenement.

7. As policy of keeping persons on waiting list does not appear to be in dispute, we direct the respondents to consider the grievance of the petitioner in accordance with law. With this direction, we dispose of the petition.

(SMT ANUJA PRABHUDESSAI, J.)

(B. P. DHARMADHIKARI, J.)