

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

WRIT PETITION (ST.) NO.30882 OF 2019

Rajesh Ramesh Lilwani ... Petitioner
V/s.
Sub Divisional Officer,
Office of the Administrator,
Ulhasnagar and anr. ... Respondents

Ms.Minal J. Chandnani, Advocate for the Petitioner.
Mrs.V.S.Nimbalkar, AGP for the Respondents-State.

**CORAM : UJJAL BHUYAN, J.
DATE : JANUARY 13, 2020.**

P.C.:-

1. Heard Ms.Minal J. Chandnani Learned counsel for the petitioner; and Mrs.V.S.Nimbalkar, learned AGP for the respondents.
2. By filing this petition under Articles 226 / 227 of the Constitution of India, petitioner seeks quashing of order dated 6th December, 2019 passed by the Managing Officer- cum-Sub-Divisional Officer, Ulhasnagar rejecting the application of the petitioner for rehabilitation under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 on the ground that the application for

rehabilitation was filed on 29th November, 2019 after the aforesaid Act was repealed by the Displaced Persons Claims and Other Laws Repeal Act, 2005.

3. Learned counsel for the petitioner submits that before rejection of the application filed by the petitioner, no opportunity of hearing was given. That apart, she has placed reliance on a communication dated 22nd September, 2008 of the Ministry of Home Affairs, Government of India, clarifying that notwithstanding repeal of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 by the Displaced Persons Claims and Other Laws Repeal Act, 2005 with effect from 5th September, 2005, pending claims would have to be decided notwithstanding the repeal. Furthermore, in view of the provisions of the General Clauses Act, 1897 claim filed under the repealed act in which right had accrued and pending since 5th September, 2005 would also be required to be decided in accordance with law.
4. She submits that this aspects were not considered by the Managing Officer while rejecting the application of the petitioner.

5. Learned AGP however supports the order passed by the Managing Officer.

6. Submissions made have been considered.

7. After hearing learned counsel for the parties and on due consideration, court is of the view that to arrive at a proper decision it was necessary on the part of the Managing Officer-cum-Sub-Divisional Officer, Ulhasnagar to have afforded an opportunity of hearing to the petitioner before declining to consider the representation of the petitioner. Consequently, order dated 6th December, 2019 is hereby set aside. Matter is remanded back to the Sub-Divisional Officer, Ulhasnagar for a fresh decision in accordance with law. Such decision shall be taken within a period of six weeks from the date of receipt of an authenticated copy of this order.

8. Writ petition is disposed of.

(UJJAL BHUYAN, J.)

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