

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
WRIT PETITION NO. 2261 OF 2019**

Gopal Sehjpal & ors.	Versus	...Petitioners
State of Maharashtra & ors.		...Respondents

Mr. Kalpesh Joshi, a/w Nisha Shah, for the Petitioners.
Mr. Manish Upadhye, AGP for the State/Respondent nos.1, 2,
5 & 6.
Mr. Rahul Karnik, for Respondent no.3.

**CORAM: N. J. JAMADAR, J.
DATED : 9th JANUARY, 2020**

PC:-

1. The challenge in this petition is to an order passed by the Collector, Mumbai Sub-urban District, on 20th August, 2018, whereby the Collector ordered that there was breach of conditions of the land allotment order dated 25th July, 1978, especially, the Condition nos.2, 3, 5, 12, 14 and 17, and respondent no.3 - Society was directed to make amends within a period of six months thereof.
2. The petitioners are aggrieved by the impugned order in as much as the membership of the petitioners of respondent no.3 Society is being cancelled on the strength of the said order.

3. By an ad-interim order dated 16th October, 2018, this Court restrained the respondents from taking any coercive action against the petitioners on the strength of the impugned order.

4. The crucial question which warrants consideration and decision is; whether the petitioners were lawfully admitted as the members of respondent no.3 – Society, to which the land was allotted under the scheme PWR-219.

5. It is indisputable that the petitioners were not provided an opportunity of hearing by the Collector before the impugned order came to be passed. Having regard to the consequences, which the impugned order entails, it was necessary to provide an opportunity of hearing to the petitioners.

6. In this view of the matter, the proceedings before the Collector, Mumbai Sub-urban District, deserve to be restored with a direction to the Collector to pass an appropriate order after providing an effective opportunity of hearing to the petitioners.

7. Hence, the following order:

- (a) The impugned order passed by the Collector, Mumbai Sub-urban District, on 20th August, 2018, stands quashed and set aside.

- (b) The Collector, Mumbai Sub-urban District, shall hear and decide the proceedings before him, bearing No. 02/S.No.111D/3C/A-936, afresh after providing an effective opportunity of hearing to the petitioners.
- (c) The petitioners shall appear before the Collector, Mumbai Sub-urban District, alongwith copy of this order and the cause which they intend to show to the complainant which led to the above numbered proceedings, on 27th January, 2020.
- (d) In that event, it shall not be necessary to issue fresh notice to the petitioners.
- (e) It is needless to mention that the Collector shall also provide opportunity of hearing to respondent no.3 Society and the persons at whose instance the said proceedings bearing No.02/S.No.111D/3C/A-936, was commenced.
- (f) The Collector, Mumbai Sub-urban District, shall make an endeavour to decide the said proceedings as expeditiously as possible and preferably within two months from the date of appearance of the parties, i.e. 27th January, 2020.

8. It is hereby made clear that this Court has not considered the merits of the matter and all contentions of the parties are expressly kept open for consideration by the Collector, Mumbai Sub-urban District.

9. With the aforesaid directions, the petition stands disposed of.

[N. J. JAMADAR, J.]