

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.832 OF 2021**

Nasir Sher Khan	]	Petitioner
Vs.		
Maharashtra Housing and Area	]	
Development Authority and others.	]	Respondents

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Ms. Seema Hunnurkar, for Petitioner.

Ms. Manisha Jagtap, for Respondents.

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**CORAM : K.K. TATED &
PRITHVIRAJ K. CHAVAN, JJ.
DATE : 20th AUGUST, 2021.**

P.C.

1. Challenge in this petition is to an order dated 10th December, 2019 passed by the respondents thereby cancelling the allotment of Flat No.1/111 in Doctor Compound situate at C.S. No.786, 1A/782, 2/783, 784, 785, 786 and 787 of Mazgaon Division, Dattaram Lad Marg, Chinchpokli (East), Mumbai – 400 012 to the petitioner on 26th November, 2019.

2. Heard learned Counsel for the petitioner and the respondents.

3. At the outset, the petitioner claims to be a senior citizen in the last phase of his life who had waited for a long time to get his own accommodation.

4. Briefly stated the facts germane for disposal of this petition can be summarized as follows.

5. The petitioner was a tenant in respect of Room No.14, First Floor, Building No.44-48, Kasamseth Chawl, Dankan Road, Mumbai – 400 008. He along with other occupants received a notice in the year 1971 for vacation of the said premises, for, the said building was in a dilapidated condition. The petitioner was allotted a temporary transit camp tenement. Despite waiting for several years and making several requests to the respondents to allot him a permanent alternate accommodation by including his name in the Master's List maintained by the respondents' office, it fell on deaf ears.

6. Subsequently, the petitioner moved an on-line application in the year 2019 with the respondents-Authorities for allotment of tenements through the Master List. He uploaded his application with all requisite documents to the Authority bearing No. MBBR/CESS/ALLOT/000061. Pursuant to the said application, the petitioner was called for a hearing for allotment of a tenement on 26th July, 2019 at 12.30 p.m. (noon) in its office at Bandra. The petitioner attended the said office in pursuance of the said communication.

7. After verifying the documents, the respondents issued an allotment letter for transit accommodation dated 26th July, 2019, thereby, allotting a room in the transit camp.

8. The Executive Engineer E-2 Ward Mumbai Building Repair and Reconstruction Board by his letter dated 9th August, 2019 to the Deputy Chief Officer of Mumbai Building Repair and Reconstruction Board informed about eligibility of the petitioner, *inter alia*, directing to verify the original documents. Subsequently, the petitioner was allotted a transit accommodation being Flat No.608, Shitladevi Sadan, Mazgaon, Mumbai – 400 010. After receiving possession of the transit accommodation, the petitioner contends that he had paid rent in respect of the said transit accommodation. Thereafter, the petitioner has been allotted a room bearing No.1/111 admeasuring about 271 square feet in Building No.1 in Doctor Compound situate at C.S. No.786, 1A/782, 2/783, 784, 785, 786 and 787 of Mazgaon Division, Dattaram Lad Marg, Chinchpokali (East), Mumbai – 400 012 which came to be cancelled in view of the impugned communication dated 10th December, 2019.

9. On the other hand, respondents No.1 to 4 in their affidavit in reply contended that the petition needs to be dismissed in *limine* as the petition has become infructuous pursuant to an order dated 17th March, 2021 on which date the petitioner had failed to submit relevant documents before MHADA. It is the contention of the respondents that the petitioner had failed to provide any documentation or proof in support of his eligibility for allotment of a tenement. It is also, *inter alia*, contended that if the petitioner is aggrieved by an order dated 17th March, 2021, he has an alternative efficacious remedy of preferring an appeal before the Chief Engineer-2/Authority.

10. On the aspect of cancellation of the allotment to the petitioner, it is the contention of the respondents that there were discrepancies in the allotment list and, therefore, the same was cancelled on 3rd March, 2021.

11. Having heard the learned Counsel for the parties for some time, we are of the opinion that the petition can be disposed of by issuing following directions to the respondents;

- (a) The impugned cancellation letter dated 10th December, 2019 is hereby quashed and set aside.
- (b) The petitioner shall move a fresh application before the respondents within two weeks by placing relevant documents in support of his application.
- (c) On receipt of such application, the respondents shall decide the same within 6 weeks thereafter in accordance with law on its own merits without getting influenced by the impugned cancellation of the allotment dated 10th December, 2019 and shall communicate the decision in writing immediately.

12. The petition stands disposed of in the aforesaid terms.

13. In the circumstances, there shall be no order as to costs.

[PRITHVIRAJ K. CHAVAN, J.]

[K. K. TATED, J.]