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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6521 OF 2021

Vastudeep Co-operative Housing Society Ltd. ...Petitioner
Versus
State of Maharashtra and Others ...Respondents

Mr Abhinav Chandrachud, *Anand Pai, i/b Manan Sharma, for the*
Petitioner.

Mr K S Thorat, *AGP, for the Respondent-State.*

Dr Birendra Saraf, *Senior Advocate, with Mr Rohan Sawant, Mr*
Mehul Rathod, Mr Laxminarayan Shukla, Mr Deepak Pathak i/
b Legal Vision for Respondent Nos 4 to 6.

CORAM G.S. Patel &
Madhav J. Jamdar, JJ.
DATED: 7th December 2021

PC:-

1. Rule. Respondents waive service. By consent, Rule is made returnable forthwith and the matter is taken up for hearing and final disposal.

2. This Petition under Article 226 of the Constitution of India challenges an order dated 21st January 2021 passed by the Hon'ble Minister for Co-operation, Marketing and Textile. By the impugned order, the Hon'ble Minister exercised his revisional jurisdiction at

the instance of Respondents 4, 5 and 6 (“**the Developers**”). He directed a de-registration of the Petitioner society.

3. Dr Chandrachud for the Petitioner society submits that the impugned order is procedurally unsustainable because it violates fundamental principles of natural justice. The Petitioners were given no hearing at all. In fact, he says that the Petitioners were not even given notice of these hearings. The order purports to record that the Petitioners were absent on at least five occasions when hearings were held. This, Dr Chandrachud states, is inconceivable, especially when the matter relates to the very existence of the Petitioner society.

4. On 25th October 2021, this Court directed the production of the original records of the Revision Application.

5. There is no Affidavit in Reply by the State Authority and the file is not available today in Court for our inspection or perusal.

6. Even if we assume that the Petitioners were given notice, but which straightaway seems to us to be extremely unlikely, it appears to us both prudent and necessary that the Revisional Authority should afford the Petitioners a complete hearing. Now that the Petitioners are before the Court through Counsel, there is no possible prejudice that is caused to any person if the impugned order is set aside and the Revision by Respondent Nos 4 to 6 is required to be heard afresh with all sides being given an opportunity of being heard personally. This approach is not opposed by Respondent Nos

4 to 6 either, represented in Court by Dr Saraf. A representative of Respondent Nos 4 to 6 is present in Court to instruct him.

7. We note that Dr Chandrachud has other grounds to assail the impugned order i.e., on merits and apart from the question of violation of principles of natural justice. The Petitioner society is undoubtedly entitled to canvass those grounds before the Hon'ble Minister.

8. Accordingly, the impugned order is quashed and set aside. The Revision Application that culminated in the impugned order is restored to the file of the Hon'ble Minister. He is requested to hear the Revision Application afresh. All contentions are kept open. We request the Hon'ble Minister to do so without being influenced by the impugned order, or by this order. The Hon'ble Minister should give both the Petitioners as also the Developers an opportunity of being fully heard.

9. The Petitioners will be entitled to file an Affidavit in Reply to the Revision Application.

10. Both sides will be entitled to file concise written submissions in advance of the hearings. Written submissions after the hearing are not permitted unless the Hon'ble Minister calls for them or allows them on the application of either or both sides.

11. We request the Hon'ble Minister to dispose of the Revision Application at his earliest convenience, and, if possible, by 15th

March 2022. Until then, and for a period of two weeks thereafter, , the previous orders dated 25th October 2021 and 22nd November 2021 will continue.

12. Rule is made absolute in these terms. There will not be no orders as to costs.

13. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)