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

WRIT PETITION NO. 342 OF 2019

Maharashtra Rajya Nagar-Parishad
Abhiyanta Sangh, through President
Mr. Sanjay D. Kumbhar .. Petitioner

vs.

Principal Secretary, Ministry of Urban
Development and ors. .. Respondents

Mr. Ram Apte, Senior Advocate a/w Mr. Mandar Limaye for
petitioner.

Mr. B.V. Samant, AGP for respondent nos. 1 to 3-State.

**CORAM : DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE : JUNE 28, 2022.

P.C. :

1. An order dated December 1, 2018 passed by the Under Secretary, Urban Development Department, Government of Maharashtra, is under challenge in this writ petition. The English version of the impugned order, at page 106-A of the writ petition, reads as follows: -

“Considering the demands of the Maharashtra State Municipal Council of Engineers in the statement dated 19/11/2013 and dated 07/05/2014, considering the feedback received from the Municipal Council Administration Directorate regarding the letter dated 09/10/2018 in reference No. 2 and the opinion of Public Works Department in this regard. The proposal was submitted to the government for approval.

2. Considering this proposal, the demands in the statement of the organization dated 19/11/2013 and 07/05/2014 have been rejected as they are not acceptable.

3. The above decision is being communicated to you in accordance with your statements.”

2. The impugned order was passed by the Under Secretary in purported compliance with an earlier order dated September 25, 2018 of a coordinate Bench of this Court. While disposing of Writ Petition No. 10239 of 2016, an assurance was given on behalf of the State Government that the petitioner’s representations dated November 19, 2013 and May 7, 2014 would be considered and decided within six (6) weeks. Accepting such statement, the Court expressed that it is expected of the State Government to take an appropriate decision upon granting personal hearing to the petitioner.

3. Mr. Ram Apte, learned senior advocate takes exception to the impugned order by submitting that the same does not disclose any reason which might have weighed in the mind of the authorities culminating in rejection of the representations dated November 19, 2013 and May 7, 2014. According to him, the Government having assured the coordinate bench of proper consideration of such representations, the minimum that was required of the Government was to assign at least some reason in the impugned order. He has prayed that upon the impugned order being set aside, the Government be directed to

consider the representations afresh in the manner directed by the coordinate Bench.

4. Mr. B.V. Samant, learned AGP appearing for the State submits that reasons have been furnished in the reply-affidavit of the State Government for rejecting the representations dated November 19, 2013 and May 7, 2014. He also submits that the Court on perusal of such reasons may hold that the order under challenge does not warrant any interference.

5. Mr. Apte has rightly placed reliance on paragraph 8 of the decision of the Supreme Court reported in AIR 1978 SC 851 [**Mohinder Singh Gill and another vs. The Chief Election Commissioner, New Delhi and others**].

Paragraph 8 reads as follows: -

"8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. ***"

6. In view of the clear exposition of law in **Mohinder Singh Gill** (supra), we cannot permit the respondents to rely on the reasons furnished in the reply-affidavit.

7. In the result, the impugned order dated December 1, 2018 stands set aside with a direction upon the Government to pass a fresh order disposing of the

representations of the petitioner dated November 19, 2013 and May 7, 2014. If such representations are once again rejected, the order must have the support of appropriate reasons, which must appear from the order itself. Needless, to observe, the order of disposal must be preceded by an opportunity of personal hearing to the petitioner.

8. The writ petition is disposed of without expressing any opinion on the merits of the rival claims. No costs.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)