

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6798 OF 2021

Dinesh Sajjan Kadam

.. Petitioner

Versus

State of Maharashtra and Ors.

.. Respondents

-
- Mr. Vishal Kanade a/w. Mr. Sagar Batavia, Mr. Lavkesh Tiwari i/by A.N. Giri, Advocates for the Petitioner.
 - Mr. C.D. Mali, AGP for Respondent – State.
-

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 05, 2022.

P.C.:

1. Heard Mr. Kanade, learned Advocate appearing for Petitioner and Mr. C.D. Mali, learned AGP appearing for the State.

2. Perused the order dated 08.03.2019 passed by Respondent No.4, impugned in the present Petition. By the said order, the Grievance Redressal Committee has held the Petitioner to be ineligible.

3. Petitioner has submitted that prior to the passing of the impugned order he had applied for photopass on 05.03.2019. That according to Petitioner his name was included in the voters list in the year 1995 at Sr. No.1128, Yadi Bhag No.228 and his residence was shown as hut No.238. However, Respondent No.4 has certified annexure 2 wherein the Petitioner has been held as ineligible.

4. Mr. Kanade submitted that there are three orders passed by the Respondents namely orders dated 19.01.2016, 07.08.2017 and 08.03.2019 wherein the Petitioner is held to be ineligible. That order dated 08.03.2019 is passed by the Grievance Redressal Committee in statutory Appeal No.675 of 2018 under Section 35(1A) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1791 and it is impugned in the present Petition. It is held in the said order that Petitioner has failed to establish his independent occupation since prior to 01.01.2000. That Petitioner has relied upon certain documentary evidence which can be used as supporting or corroborating documents but cannot be treated as conclusive proof for establishing the existence and/or occupation since prior to 01.01.2000 in the independent structure. That his voter identity card is at the address of the said hut No.B/7 and it is issued in the year 2015 and he has failed to produce any prior record of his occupation of the said hut.

5. Record indicates that the identity card received by Petitioner pursuant to his application made on 05.03.2019 is seen to be delivered on 18.03.2019 i.e. after passing the impugned order dated 08.03.2019 by the Grievance Redressal Committee. Petitioner did not have benefit of the said documentary evidence i.e. the photopass identity card for placing the same before the Grievance Redressal Committee in support

of his case.

6. Without expressing any opinion on the merits of the Petitioner's eligibility, the grievance of the Petitioner that the document at Exh. 'C' i.e. identity card issued by the Competent Authority needs to be considered by the Grievance Redressal Committee in accordance with law deserves to be accepted. I find merit in the Petitioner's submission since it was received after passing of the impugned order and he could not produce the same before the Grievance Redressal Committee.

7. In view of the above, I am inclined to set aside the order dated 08.03.2019 passed by Respondent No.2 and remand the Appeal proceedings to the Respondent No.4 for re-consideration afresh.

8. It is directed that Respondent No.4 i.e. the Deputy Collector (Enc./Rem) & Competent Authority, Malad-2 shall give a fresh hearing to the Petitioner of Appeal No.675 of 2018 and permit the Petitioner to place on record the document at Exh. 'C' in support of his case and contention and any other relevant material evidence in support of his case and after hearing the Petitioner decide his case/appeal strictly in accordance with law. In view of the additional evidence desired to be placed on record by the Petitioner, Respondent No.4 shall also consider the same and decide the validity and legality of the orders dated 19.01.2016 and 07.08.2017 after hearing the

Petitioner. The Appeal shall be disposed of by Respondent No.4 within a period of three months from the date of this order.

9. With the above directions, Writ Petition is disposed of.

[MILIND N. JADHAV, J.]

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