

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4914 OF 2022

Ravindra Digambar Dhavale.

...Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. Rahul S. Kadam for the Petitioner.

Ms. R. M. Shinde, AGP for the Respondent-State.

CORAM : PRASANNA B. VARALE &
KISHORE C. SANT, JJ.

Date : **August 2, 2022.**

P. C. :

1. With the consent of learned counsel appearing for the Petitioner and learned AGP appearing on behalf of the Respondent – State, the petition is taken up for hearing disposal at the admission stage itself.

2. The order under challenge in this petition is dated 24th January 2022 passed by the Regional Deputy Commissioner, Social Welfare, Pune Division, Pune–Respondent no.3 herein. The following facts emerge from the perusal of material placed on record.

. The Department of Social Welfare, Government of Maharashtra with the concurrence of Collector, Pune allotted certain land for the housing purposes and one Satyawadi Co-operative Housing Society Limited was beneficiary of the allotment of land. By complying with the necessary formalities, the society was formed; the flats were allotted to its

members. One of the members was Vishwanath Kashinath Dhavale. After the demise of said Vishwanath Kashinath Dhavale, an application was submitted through the widow of Kashinath, namely, Kashibai on an affidavit stating therein that due to old age and having constraints, her grand-son Ravindra Dhavale (the Petitioner herein) was taking care of all the issues including the finance aspects in respect of the society and assured Kashibai that he is ready to take all the responsibilities. Accordingly, Kashibai submitted to the authority to allot membership to Ravindra Dhavale – her grand-son, as a legal heir of deceased Vishwanath Kashinath Dhavale.

. The office of Deputy Director, Social Welfare Department informed the Divisional Social Welfare Officer, Pune by communication dated 18th February 1992 that on the application submitted by Kashibai, membership is granted to Ravindra Digambar Dhavale as a legal heir of Vishwanath Kashinath Dhavale. Copy of the said communication is placed on record at Exhibit-A (page No.26) to the petition. Then there are certain other communications placed on record. It may not be necessary for us to refer to those communications.

. One of the authorities undertook the exercise of scrutiny of record. By communication dated 4th November 2015, the Assistant Commissioner, Social Welfare, Pune informed the District Collector, Pune that exercise of scrutiny of documents is going on and till this exercise is completed, the earlier communications forwarded to the office of Collector be treated as cancelled. It seems that an objection was also raised by Smt. Malati Madhukar Dhavale and other against treating Ravindra Digambar Dhavale as legal heir of Vishwanath Kashinath Dhavale. Then, there was

again exchange of various communications. The Petitioner also forwarded communication to the Assistant Commissioner, Social Welfare, Pune in November 2020 in response to the objections raised against him. Copy of the communication is placed on record at Exhibit-O (page no.52) to the petition.

. Respondent no.3 then by making reference to various communications exchanged between the authorities and an application submitted on behalf of Dattatray Doifode, passed order dated 24th January 2022. He arrived at a conclusion that earlier orders passed by the authorities treating Ravindra Digambar Dhavale as legal heir of Vishwanath Kashinath Dhavale and treating him as member of the society as legal heir of Vishwanath Kashinath Dhavale is without conducting a proper enquiry and as the orders are passed without conducting proper enquiry, Respondent No.3 by this order dated 24th January 2022 cancelled the order granting membership to Ravindra Digambar Dhavale.

3. We have heard learned counsel appearing on behalf of the Petitioner as well as learned AGP appearing on behalf of the Respondent – State.

4. Counsel for the Petitioner vehemently submitted that by this order, the Petitioner is subjected to a serious prejudice; a membership granted to the Petitioner on an application of his grand-mother is cancelled.

5. The record indicates that the Petitioner has submitted a communication to the authority in response to the objections and was ready to produce all the necessary material before the authority. However, the

authority without giving an opportunity of hearing to the Petitioner and thus by committing the breach of principles of natural justice passed the order dated 24th January 2022. Though the counsel for petitioner raised other grounds on merits, considering the first ground, i.e., failure by the authority in following the principles of natural justice, we are of the opinion that the case is made out by the learned counsel for petitioner to entertain the petition and dispose it of. Accordingly, the following order is passed

∴ ORDER ∴

The petition is allowed. The order dated 24th January 2022 passed by Respondent No.3 is quashed and set aside. Respondent no.3 is directed to hear the Petitioner. As the Petitioner is being represented by an advocate before this Court, the requirement of issuing notice to the Petitioner is dispensed with. The Petitioner may submit an application before the authority, if he so desires, of being represented through an advocate. Respondent No.3 on receipt of such application, may consider the same and if there is no impediment, may permit the Petitioner to be represented through an advocate. If Respondent no.3 deems it appropriate to hear the objectors also, he may also consider granting an opportunity of hearing to them. The authority may grant all hearing by fixing date of hearing. Needless to state that date of hearing be intimated to the parties well in advance. By giving such an opportunity of

hearing, Respondent No.3 shall pass order afresh and as expeditiously as possible and not later than twelve weeks from the date of receipt of a copy of this order.

[Kishore C. Sant, J.]

[Prasanna B. Varale, J.]