

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6210 OF 2022**

Bapoo Abaji Ambike @ Bapurao Abaji Ambike ...Petitioner

v/s

Maharashtra Housing and Area Development
and Ors. ...Respondents

Mr. Rajendra M. Narvankar for the Petitioner.
Mr. P.G. Lad a/w Sayali Apte, for the Respondent Nos.1 and 2.
Mr. P.P. Pujari, AGP for the Respondent No.5

CORAM: NITIN W. SAMBRE, J.

DATE: JUNE 20, 2022

P.C.:-

1] Pursuant to the Policy reflected in circular dated 3rd August 2012 Petitioner in a Lottery System was selected and was allotted tenement in Mhada Colony, Chunabhatti. Certain complaints were received against the Petitioner about drawing double benefits as he is already occupying tenement No.805 in Building No.1/E.

2] In inquiry, it was found that though Petitioner was having

possession of aforesaid tenement which is owned by the Swadeshi Mill owner, the allotment through lottery system in favour of the Petitioner came to be canceled. As such, this Petition.

3] Submissions are, as far as premises/tenement allotted by Mill owner is concerned, same is not utilized or enjoyed by the Petitioner as the Mill was closed down in 2000. According to Counsel for the Petitioner, Scheme in which Petitioner was selected through lottery system is floated for benefit of Mill workers. As such, Petitioner has rightly participated in the said process. It is claimed that order impugned as such is not sustainable and is liable to be quashed and set aside.

4] Mr. Lad, learned Counsel for Respondent Nos.1 and 2 would urge that precondition for participating in the process of lottery is absence of holding of any tenement by such Applicant like the Petitioner. He would urge that Petitioner though was holding tenement as referred above in the Mill area, by suppressing the same he has conducted himself contrary to the terms of the Circular dated

3rd August 2012 and made himself dis-entitled for the benefit out of lottery system. It is claimed that the issue is squarely covered by the order of this Court passed on 7th June 2022 in Writ Petition (L) No.3288 of 2021 in the matter of *Miss Sunanda Ramchandra Khetate vs. Mumbai Housing and Area Development Board (A MHADA UNIT) & Anr.*

5] Considered submissions.

6] Claim of the Petitioner that he was allotted tenement No.805 in Building No.1/E by Swadeshi Mill is not the fact in dispute. What is disputed by the Petitioner is, after the Mill was closed, said tenement was not in use or possession of the Petitioner. However, it is not the case of the Petitioner that he has abandoned his claim against the aforesaid tenement. In this backdrop, if we appreciate condition No.1(a) of the circular dated 3rd August 2012, it is quite apparent that Petitioner made himself dis-entitled for benefits of allotment of tenement as the same is meant for workers from Girni. Contention of Mr. Lad that as and when Mill owner will develop the Mill property, Petitioner will be accommodated appears be quite logical and

appelable. In the aforesaid backdrop and rightly so pointed out by Mr. Lad that the issue is covered by the order passed by the Division Bench of this Court in the matter of *Sundanda Ramchandra Khetale* cited supra. That being so, no case for interference is made out. Petition fails and same stands dismissed.

7] However, dismissal of the Petition will not preclude the Petitioner from claiming allotment of tenement from the Mill owner as is pointed out by Mr. Lad.

8] Needless to clarify, that in view of cancellation of the allotment in favour of the Petitioner, if the Petitioner comes out with the prayer for refund of the amount deposited by him, such prayer of the Petitioner be processed expeditiously and in accordance with law.

(NITIN W. SAMBRE, J.)