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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3958 OF 2022**

Hukumraj Mohanlal Mehta Petitioner.
V/s
The State of Maharashtra & Ors. Respondents.

Mr. P. G. Karande a/w Ajit Hodage i/b Sudam Patil for the Petitioner.
Mr. Abhay Patki, Addl. Government Pleader for Respondent No.1.
Mr. Vishal Kanade i/b M.P. Jagani for Respondent No.2.
Mr. P.G. Lad a/w Shreyha Shah for Respondent No.3/MHADA.

CORAM: NITIN W. SAMBRE, J.

DATE: NOVEMBER 29, 2022

P.C.:-

1] Challenge in the Petition is to the order dated 11/7/2022 on two grounds viz (a) that the matter was heard by the State Government on 27/10/2021 and the order was delivered on 11/07/2022 which was received by the Petitioner in August, 2022.

2] As such, contentions are, since the impugned order is delivered after a period of more than three months, same amounts to violation of Article 14 i.e. denial of opportunity of hearing. Further contentions are, order impugned is passed by the same authority who has earlier

rejected the prayer which is allowed by the impugned order.

3] My attention is invited to the response submitted by Respondent No.3 on 27/2/2020 to the appeal decided by the State Government. It appears that the said response submitted by Respondent No.3 and the order impugned are of the same officer who was manning respective posts at different times. As such, it is claimed that there is conflict of interest.

4] Prayer is resisted by Counsel for Respondents on the ground that response submitted by Respondent No.3 is only for bringing to the notice of the appellate authority about policy of the State Government and factual matrix as is reflected from record of Respondent No.3. It is further claimed that even if order impugned is passed at belated stage i.e. after a period of 9 months from the date of hearing of the appeal, still based on observations made in the order impugned, the claim put-forth can be justified.

5] I have appreciated said submissions.

6] It is not in dispute that order impugned appears to have been delivered on 11/7/2022 after hearing of the appeal was concluded on 27/10/2021 by the State Government. The order impugned as such is delivered after a period of almost 9 months for which there is no explanation coming forth from the State Government. As such, contention raised by the Counsel for the Petitioner that the order passed is in violation of principles of natural justice is required to be accepted. On this ground alone, order impugned dated 11/7/2022 is hereby quashed and set aside. Appeal No.47 of 2017 stood restored to the file of the State Government.

7] Parties hereby agreed that they shall appear before the State Government on 12/12/2022 at 11.00 A.M. alongwith their respective notes of arguments. This Court requests the State Government to decide the Appeal within a period of four months from the date of appearance of parties before it.

8] Needless to clarify that present order may not be construed to

have decided locus of the Petitioner as the same issue is kept open to be canvassed by the respective parties before the State Government. Needless to clarify that till the State Government decides the Appeal, Petitioner shall not transfer the property or create any third party interest.

9] Petition is accordingly allowed in the aforesaid terms and disposed of.

(NITIN W. SAMBRE, J.)