

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12349 OF 2022

Devibai Narayandas Chhabada
Rural Education Society, Raigaon
Tal.Jawali, Dist.Satara

.. Petitioner

Versus

The Chief Officer, Satara Municipal
Council, Satara & Ors.

.. Respondents

Mr.Yuvraj Narvankar, Advocate for the Petitioner.

Mr.Sarang Aradhye a/w Gauri Velankar, Shantanu Gurav, Saarth Chordia, Advocate for Respondent No.1.

Ms.S.D.Vyas, Addl. G.P. a/w S.H.Kankal, AGP for Respondent Nos.2 and 4/State.

Mr.Hanmant Nagnath Kolekar, Tahsildar, Jaoli (Medha), Satara present in Court.

CORAM: B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.
DATE : DECEMBER 18, 2024

P. C.

1. The Petitioner Devibai Narayandas Chhabada Rural Education Society, runs institutes for Medical Education and Hospitals.

2. The Petitioner contends that the Tahsildar vide Letter dated 29th April 2020 requisitioned the Petitioner's three buildings with effect

from 29th April 2020 for Covid Care and Quarantine Centre under the provisions of the Disaster Management Act, 2005 (“Act”).

3. The Petitioner addressed a representation dated 17th July 2020, and requested the Public Works Department for determination of rent and issuance of a Rent Certificate of the three buildings, with three different built-up areas.

4. The perusal of the Rent Certificates issued by the PWD, indicates that the rent of the building admeasuring 2371.48 square meters area was estimated as Rs.3,46,769/- per month; for the building admeasuring 2072.73 square meters area, it was estimated at Rs.3,04,217/-, and for the building admeasuring 278.16 square meters area, the same was estimated at Rs.41,181/-. The three certificates are annexed to the Petition.

5. The requisition during the first wave of Covid continued till 1st January 2021 and the three buildings were then restored to the Petitioner.

6. The authority again requisitioned the said structures from 9th April 2021 till 31st November 2021 (the second wave of Covid).

7. The Petitioner has annexed to the Petition, multiple requests it made for grant of compensation payable to the Petitioner under Section 66 of the Act, towards the requisition of the Petitioner's three structures, inclusive of electricity and incidental expenses.

8. The Petitioners are paid Rs.6,18,000/- as compensation towards requisition of the three structures from 9th April 2021 to 31st November 2021 for Covid Care Centre and Quarantine Centre. This payment is made towards the second round of requisition. The Petitioner contends that there is no compensation paid towards the first round of requisition. The Petitioner contends that in any event, the determination of compensation at the rate Rs.3000/- per day, is without any basis.

9. Respondent No.1 has filed an affidavit in reply and contended that the said Respondent is not a concerned Authority under the Act and is not a necessary party to the Petition.

10. Respondent Nos.2 and 3, authorities under the Act, have filed an affidavit in reply. Apart from impugning the maintainability of the Petition on the ground of an alternate remedy under Section 66(1) of the Act, which contemplates reference to the Arbitrator at the instance of the Central or State Government, it is contended that such a reference would be time-barred considering the stipulation of 30 days prescribed by the proviso to Section 66(1) of the Act. According to the Authority, the rent was determined at Rs.3000/- per day vide Order dated 9th April 2021 and this Order is not impugned in accordance with Section 66(1) of the Act and has attained finality. It is further contended that Rs.6,18,000/- has already been paid to the Petitioner in accordance with the said determination, and therefore, no interference is warranted in the facts of the present case.

11. We have heard the learned counsel for the Petitioner and learned AGP for Respondent Nos.2 to 4 and have perused the records.

12. It appears that there is no basis whatsoever for fixation of compensation of Rs.3000/- per day in the Order dated 9th April 2021. The Petitioner was neither heard before such determination nor any documents submitted were taken into consideration. It further appears

that the payment of Rs.6,18,000/- is only towards the second round of requisition during the second wave of Covid, and there is no payment made towards the requisition for the first wave.

13. Faced with these facts, we asked the learned AGP to take instructions. The learned AGP, on instructions, of the Tahsildar, who is present in Court, consents for setting aside and quashing of the Order dated 9th April 2021 and agrees for a fresh determination of the compensation payable to the Petitioner for both periods of requisition. The Petitioner shall be heard before such determination and shall be at liberty to adduce relevant documentary evidence in support of its claim for compensation. Let this exercise be carried out within a period of eight weeks from the date of production of an authenticated copy of this Order before the Authority. The amount of compensation so determined and payable shall be paid to the Petitioner for both the periods of requisition, within a period of eight weeks from the date of the determination. The amount of compensation already paid shall be set off from the amount payable. If the Petitioner is aggrieved by such determination, he shall be at liberty to adopt such measures as permissible in law. All the contentions of the parties are expressly kept

open, and the Authority shall determine the compensation, uninfluenced by the present Order and strictly in accordance with law.

14. The Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

15. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN,J.]

[B. P. COLABAWALLA, J.]