

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2203 OF 2024

Sherbahadur Magruram Yadav ...Petitioner
Versus
The State of Maharashtra & Ors ...Respondents

Mr Pratik Sabrad, for the Petitioner.
Mr AC Bhadang, AGP, for the Respondent-State.
Mr Jagdish G Aradwad (Reddy), with Ashwini Jadhav, for
Respondent No 3.

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 21st February 2024

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1. **Rule.** Returnable forthwith.

2. The Petitioner says that he is entitled to the issuance of a Supplementary Annexure-II showing the Petitioner as eligible for slum rehabilitation pursuant to an order of 13th December 2023 passed by the Additional Collector (Encroachment and Removal) and the Appellate Authority of the Slum Rehabilitation Authority (“SRA”).

3. This is indeed a recurrent problem. It seems that the practice, whether based on a circular or otherwise, has recently been that even if the Appellate Authority finds that an Appellant is indeed eligible, the Appellate Authority cannot directly issue a Supplementary Annexure-II but it has to go back to the SRA for that purpose.

4. We have previously indicated that we are unable to understand why this should be so. To take a simple example, if a Court is hearing a regular first appeal from a decree in a civil action, the first appellate court will itself pass a decree one way or the other in the suit itself. No first appellate court ever sends the matter back to the trial court for passing a decree in terms of the appellate court findings. That is not contemplated by the law.

5. On a simple parallel, we do not see any reason why the functioning of this Appellate Authority should be any different or should follow a different path. The moment the Appellate Authority finds that a person is eligible, it is open to that Appellate Authority to itself issue a Supplementary Annexure-II or, at its option, to direct the SRA to do so. If the latter course is followed, there is no question of the SRA then refusing to comply with the directions of the Appellate Authority.

6. A copy of the Appellate Authority order of 13th December 2023 is at page 36 at Exhibit “G”. The operative portion is at page 39. The very first order says that the appeal is allowed. The resultant order reflects a consideration of the relevant material and says that

the Supplementary Annexure-II must be issued showing the Petitioner as a person eligible for rehabilitation in respect of a residential cum commercial structure.

7. Accordingly, there is no reason why relief should be denied. Rule is made absolute in terms of prayer clause (b) at page 16:

“(b). That by an appropriate writ, order or directions of this Hon’ble Court be pleased to direct the Respondent No. 3 to forthwith comply with order dated 13.12.2023 passed by the Respondent No. 2 whereby direction is issued to issue supplementary annexure-II showing Petitioners as eligible and submit the same in the office of the Slum Rehabilitation Authority;”

8. We expect compliance with this order and with the appellate order of 13th December 2023 no later than by 11th March 2024.

9. List the matter for reporting compliance on 13th March 2024.

(Kamal Khata, J)

(G. S. Patel, J)