

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3190 OF 2024

Maria Artemia Gomes

.Petitioner

Versus

The Grievance Redressal Committee, Mumbai & ors.

.Respondents

Mr. Umesh Shetty, Senior Advocate a/w. Sharila D'Souza,
Mr. Gopalkrishna Nayak & Ms. Gauri Deshpande i/b. Flavia Legal,
Advocates, for the Petitioner

Ms. Jaymala Ostwal, AGP, for Respondent No. 2 – State

Mr. Abhijit Patil i/b. Mr. J. G. Aradwad (Reddy), Advocate, for
Respondent No. 3

CORAM : MADHAV J. JAMDAR, J.

DATE : 14.08.2024

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1. By the present Writ Petition preferred under Article 226 of the Constitution of India, the Petitioner is challenging the legality and validity of the revised Annexure No. II which is annexed to the letter/communication dated 01.01.2019 of Respondent No. 3 – the Deputy Collector (Enc/Rem) *alias* Competent Authority. In the said revised Annexure No. II, the name of the Petitioner appears at Sr. No. 56 and she has been held to be ineligible on the ground that the Petitioner had failed to provide the documents showing the user of the concerned slum structure for residential purpose prior to 01.01.2000. The said revised Annexure No. II is challenged by the Petitioner by

filing an Appeal under Section 35 of the *Maharashtra Slum Areas (Improvement, Clearance And Redevelopment) Act, 1971* (the “**Slum Act**”) and the said Appeal No. 812 of 2019 was dismissed by Order dated 10.02.2021 passed by the Respondent No. 2 - Appellate Authority i.e. the Additional Collector (Encroachment/Eviction) Western Suburbs, Mumbai in Appeal No. 812 of 2019. Both these Orders were challenged by the Petitioner before the Respondent No. 1 - Grievance Redressal Committee, Mumbai Suburban, Mumbai (the “**GRC**”) and by Order dated 28.08.2023, the Appeal No. 323 of 2021 filed by the Petitioner before the GRC was dismissed. The Petitioner is challenging legality and validity of all these Orders in the Writ Petition.

2. It is the submission of Mr. Shetty, learned Senior Counsel for the Petitioner that the Petitioner has already been held eligible in the original Annexure No. II issued on 07.06.2007. He states that in fact, on the basis of the same, rehab premises had been allotted to the Petitioner and accordingly, possession had been given to the Petitioner pursuant to the allotment letter dated 05.08.2013 (Page No. 181). He states that thereafter, one Sayyad Haider Hussain who is Respondent No. 6 has filed a complaint on 17.02.2014 and on the basis of his complaint, the revised Annexure No. II has been issued, wherein the Petitioner has been declared as ineligible. He submitted that the said

Respondent No. 6 has no locus to file the complaint. In any case, he submitted that there are several documents which the Petitioner is having to establish her eligibility including that the Petitioner's name is appearing in the voters' list from the year 1993 onwards. He submitted that the Petitioner's name is included in the voters' list of the year 1993 and her maiden name is mentioned in the voters' list of the year 1993 i.e. Rodrigues Maria John (Page No. 102). He states that her name is also included in the voters' list of the year 1995 (Page No. 110). He pointed out the Government Resolution dated 16.05.2015 (Page Nos. 322 to 335) and more particularly, list of documents produced for deciding eligibility which is on Page No. 327 which includes certified abstract of the final electoral roll published in the year 2000 or for earlier year by the office of the District Collector. He pointed out the School Leaving Certificate of the Petitioner (Page No. 341) where the Petitioner's name is mentioned as "**Rodrigues Maria Artemia Sabina**". He also pointed out the Marriage Certificate dated 24th February 2018 (Page No. 128) certifying that the date of marriage of the Petitioner is 24.04.1982, name of the bride is mentioned as "Maria Artemia Sabina" and bride's surname is "**Rodrigues**". He submitted that the Petitioner's name is changed after marriage from "Rodrigues Maria Artemia Sabina" to "Maria Artemia Gomes". He also pointed out a copy of the passport of the Petitioner and submitted that the name reflected on the

passport (Page No. 125) clearly shows that the Petitioner's name is "Maria Artemia Sabina" and her surname is "Gomes". He, therefore, submitted that the reasoning recorded by the Authorities that there is difference in the name of the Petitioner and names reflected in the documents is recorded without considering that there is change in the name of the Petitioner after her marriage and without considering the above aspects.

3. On the other hand, Ms. Ostwal, learned AGP, for Respondent No. 2 – State submitted that there is a discrepancy in the documents submitted by the Petitioner and therefore, the impugned Orders passed by the GRC should not be interfered. She pointed out the reasoning given by the Assistant District Collector *alias* Appellate Authority in the Order dated 10.02.2021 and submitted that the Writ Petition be rejected, as there is discrepancy in her name.

4. Perusal of the record shows that the name of the Petitioner before marriage was Rodrigues Maria Artemia Sabina and after marriage, her name was changed to Maria Artemia Gomes. The School Leaving Certificate, Marriage Certificate as well as the Passport clearly show the aforesaid aspect. The factual position on record clearly shows that the Petitioner is eligible, as her name is found in the voters' list of the years 1993 and 1995. Apart from that, the Developer has entered into a registered development agreement with the Petitioner on

01.03.2007 (Page Nos. 129 to 179) wherein the Developer has agreed to provide one rehab premises to the Petitioner. The aforesaid agreement is registered. All the authorities have completely ignored the above documents.

5. It is also required to be noted that although the impugned Orders are passed on the basis of the complaint/Appeal filed by one Sayyad Haider Hussain – Respondent No. 6, said Respondent No. 6 has remained absent inspite of service. There is substance in the contention raised by the learned Senior Counsel appearing for the Petitioner that said Respondent No. 6 has no locus and Complaint Application on his behalf should not have been entertained. Thus, it is clear that the Petitioner is eligible.

6. Accordingly, the impugned Orders dated 01.01.2019, 10.02.2021 and 28.08.2023 passed by Respondent Nos. 3, 2 & 1 respectively are quashed and set aside.

7. The Writ Petition is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]

**Note: This order is corrected as per Speaking to the Minutes order dated 20th August 2024.
The corrections are shown in paragraph No.2 in bold.**