

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9145 OF 2013

Sujata Rahul Patil

... Petitioner

V/s.

Rotary Club of Ichalkaranji,
Through Principal & Ors.

... Respondents

Mr. Tejpal S. Ingale for petitioner.

Mr. Meelan Topkar a/w B. Patil, for respondent No.1.

Ms. Priyanka B. Chavan, AGP for State – respondent.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 11, 2025

P.C.:

1. The present petition challenges the impugned order dated 29 June 2012 passed by the Divisional Deputy Commissioner, Social Welfare Department, Pune Region, Pune in Appeal No.2177 of 2012.

2. Upon a thorough perusal of the impugned order, it is apparent that the Appellate Authority was constituted by an executive order. It is respectfully observed that the Supreme Court, in the case of *Secretary, A. P. D. Jain Pathshala & Ors. vs. Shivaji Bhagwat More & Ors.*, (2011) 13 SCC 99, unequivocally held that an executive order issued under Article 162 of the Constitution of India does not have the power to create an adjudicatory forum. In light of the Court's pronouncement, it is submitted that any forum

established solely by virtue of such an executive order lacks the necessary jurisdiction to adjudicate the rights and grievances of the petitioner. Consequently, any order passed by this authority is devoid of the required judicial sanctity and, therefore, cannot be subjected to a judicial challenge in the manner sought herein. This conclusion is further buttressed by the constitutional doctrine of separation of powers, which precludes the executive from conferring judicial functions upon bodies not established by statute or the Constitution.

3. Notwithstanding the foregoing observations, the petitioner is at liberty to avail him/herself of all appropriate remedies provided by law. In this context, it is submitted that the petitioner may initiate proceedings before any competent statutory or judicial forum, as provided under the applicable legal provisions, to seek redress for any alleged violations or injustices arising out of the impugned order.

4. It is hereby clarified that any time spent in pursuing the remedy created under the executive order, as well as the period during which the present petition was prosecuted, shall be excluded from the computation of the statutory limitation period applicable to the adoption of any subsequent statutory remedy.

5. In view of the foregoing, and having duly considered the relevant legal precedents and constitutional mandates, the present writ petition is hereby dismissed. The impugned order, having emanated from an authority not vested with proper adjudicatory jurisdiction, cannot sustain judicial scrutiny. No order as to costs is

made. The petitioner is free to pursue any alternative remedy as available under the law, without prejudice to any such subsequent action.

(AMIT BORKAR, J.)