

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

WRIT PETITION NO. 18460 OF 2024

Musthafa P.A. Purayil

....*Petitioner*

: *Versus* :

The State of Maharashtra & Ors.

....*Respondents*

Mr. Pratik Sabrad, *for the Petitioner.*

Mr. P.G. Sawant, *AGP for Respondent Nos.1 and 3-State.*

Ms. Dhruti Kapadia, *for Respondent Nos.2 and 4-SRA/GRC.*

CORAM : SANDEEP V. MARNE, J.

Dated : 12 March 2025.

P.C. :

1) Rule. Rule made returnable forthwith. With the consent of the learned counsel appearing for the parties, petition is taken up for hearing and final disposal.

2) The petition challenges the order dated 26 June 2024 passed by the Grievance Redressal Committee, Mumbai Suburban (GRC) dismissing Appeal No.431/2021 preferred by the Petitioner. In his Appeal, the Petitioner had challenged the order dated 1 June 2021 passed by the Additional Collector (Encroachment/Removal) Eastern Suburbs by which the Appeal preferred by him under the provisions of Section 35 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (*Slum Act*) relating to his eligibility was rejected.

3) I have heard Mr. Sabrad, the learned counsel appearing for the Petitioner, Ms. Kapadia, the learned counsel appearing for Respondent Nos.2 and 4-GRC and Mr. Sawant, the learned AGP appearing for Respondent Nos.1 and 3-State.

4) Perusal of the order dated 1 June 2021 passed by the Additional Collector (Encroachment/Removal) would indicate that the Petitioner's Appeal was rejected on the solitary ground of delay. The Additional Collector held that Annexure-2 was issued on 31 October 2007, whereas the Petitioner preferred Appeal under the provisions of Section 35 on 10 August 2019.

5) However, when further Appeal was preferred by the Petitioner before the GRC, it appears that the GRC has ventured into the merits of the matter by not only criticising the Petitioner for filing Appeal before the Additional Collector after delay but has further held that the Petitioner did not produce even a single document to prove his eligibility qua the structure in question. Apart from the error committed by the GRC in entering into the merits of the case, in my view, the initial order passed by the Additional Collector did not consider the case put by the Petitioner that Annexure-2 was supplied to him for the first time on 23 July 2019. Petitioner relies on draft Annexure-2 prepared in terms of the G.R. dated 16 May 2015, copy whereof was supplied to him by the office of the Deputy Collector (Encroachment/Removal), Chembur on 23 July 2019. As per the said draft Annexure-II, Petitioner was shown as eligible in respect of his structure. However, in addition to the said draft Annexure-II prepared in pursuance of GR dated 16 May 2015, it appears that the relevant page of another Annexure-II was supplied to the Petitioner in which he was declared ineligible. It is Petitioner's case that the issue of finalisation of

Annexure-II had never acquired quietus as he was declared eligible in the draft Annexure-2 prepared in terms of the G.R. dated 16 May 2015.

6) Considering the above position, in my view, an opportunity deserves to be granted to the Petitioner to justify filing of Appeal in the year 2019. Therefore, proceedings deserve to be remanded to the Additional Collector for decision of Appeal afresh by leaving open the issue of limitation.

7) I accordingly proceed to pass the following order :

(i) The order dated 26 June 2024 passed by the GRC and order dated 1 June 2021 passed by the Additional Collector (Encroachment/Removal) are set aside.

(ii) Petitioner's Appeal No.97/2021 is restored on the file of Additional Collector (Encroachment/Removal), Eastern Suburbs for being decided afresh. The Additional Collector shall apply his mind afresh to the issue of delay in filing the Appeal. In the event of the Additional Collector arriving at the conclusion that there is no delay or that the delay deserves to be condoned, he shall proceed to consider the documents produced by the Petitioner for deciding the issue of his eligibility.

(iii) The Additional Collector shall decide the remanded proceedings in an expeditious manner, preferably before 31 May 2025.

8) With the above directions, the Writ Petition is **partly allowed**. Rule is made partly absolute. No costs.

Digitally
signed by
NEETA
SHAILESH
SAWANT
Date:
2025.03.17
17:33:06
+0530

[SANDEEP V. MARNE, J.]