



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9965 OF 2025**

Bhalchandra Madhav Kulkarni (deceased
through his legal heir Neelam Dattatray
Apahale ... Petitioner
versus
Grievance Redressal Committee and Ors. ... Respondents

Mr. Kanhaiya S. Yadav, for Petitioners.
Mr. Vishwanath Patil with Mr. Kedar Nhavkar, for Respondent No.3.
Mr. Akshay Kolse-Patil with Mr. Prabhakar Jadhav, Mr. Sudhanshu Bade, for
Respondent No.5.
Mr. P.G.Sawant, AGP for State.

CORAM: N.J.JAMADAR, J.

DATE : 3 DECEMBER 2025

JUDGMENT :

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.
2. By this Petition under Article 227 of the Constitution of India, the Petitioner takes exception to a judgment and order dated 1 February 2024 passed by the Grievance Redressal Committee in Appeal No.153 of 2021, whereby the appeal preferred by the Petitioner against an order dated 7 February 2020 passed by the Appellate Authority under Section 35 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, thereby dismissing the appeal against an order of determination of eligibility passed by the Deputy Collector (E/R) and Competent Authority on

12 June 2018 declaring the Petitioner as ineligible, came to be dismissed. The Petitioner also assails the order dated 22 November 2021 passed by the Competent Authority directing the eviction of the Petitioner from Flat No.701, Triveni Sangam Co-op. Hsg. Soc. Ltd., consequent to the declaration of the Petitioner as ineligible.

3. Late Bhalchandra Kulkarni was the original occupier of a hut. In the Slum Rehabilitation Scheme, the name of late Bhalchandra Kulkarni was included in Annexure II at Sr. No.173 as eligible. Respondent No.5 was declared ineligible at Sr. No.175. After the demolition of the hut and upon completion of the rehab building, Flat No.701, Triveni Sangam Co-op. Hsg. Soc. Ltd., was allotted to late Bhalchandra Kulkarni, on 3 May 2015.

4. The Petitioner is a sister of late Bhalchandra Kulkarni. Upon the demise of Bhalchandra Kulkarni, the share certificate came to be transferred in the name of the Petitioner in the year 2017. Since then, the Petitioner has been in the occupation of Flat No.701.

5. Respondent No.5 preferred an appeal against the determination of her eligibility before the Deputy Collector (E/R) and Competent Authority. By an order dated 12 June 2018, the Deputy Collector allowed the appeal and declared Respondent No.5 as eligible in the original Annexure II. Conversely, late Balkrishna Kulkarni was declared ineligible.

6. Being aggrieved, the Petitioner preferred an appeal before the

Appellate Authority. By a judgment and order dated 7 February 2020, the Appellate Authority dismissed the appeal, affirming the order passed by the Competent Authority.

7. In the meanwhile, by an order dated 2 November 2021, the Petitioner was declared eligible by the Competent Authority – SRA (R3). Yet, a notice for eviction was issued under Section 3E of the Act, 1971 by the Competent Authority. Writ Petition (L) No.27927 of 2021 was preferred by the Petitioner. By an order dated 12 October 2021, the said Writ Petition came to be dismissed noting that, the Petitioner had already preferred an appeal before the Grievance Redressal Committee.

8. By the impugned order dated 1 February 2024, Grievance Redressal Committee dismissed the appeal.

9. Being aggrieved, the Petitioner has again invoked the writ jurisdiction.

10. An affidavit in reply is filed on behalf of Respondent No.5.

11. Mr. Yadav, learned Counsel for the Petitioner, submitted that the Petitioner is not aggrieved by the declaration of eligibility of Respondent No.5. On the basis of said determination, Respondent No.5 may be entitled to a tenement as permissible in law. However, there is no justification for passing an order of eviction under Section 3E of the Act, 1971, when the eligibility of late Bhalchandra Kulkarni was already decided and, pursuant thereto, late Bhalchandra Kulkarni was allotted permanent alternate accommodation i.e.

Flat No.701, Triveni Sangam CHS.

12. Mr. Yadav forcefully submitted that, as the eligibility of the Petitioner came to be subsequently decided by Respondent No.3 by an order dated 22 November 2021, the earlier orders passed by the Deputy Collector (E/R) and the Appellate Authority declaring late Bhalchandra Kulkarni ineligible loose significance. Once the Petitioner is held eligible, no order of eviction could have been passed against the Petitioner.

13. In opposition to this, Mr. Patil, learned Counsel for SRA - Respondent No.3 submitted that the Petitioner is trying to get undue advantage by mixing the issue of eligibility under two different regimes. Late Bhalchandra Kulkarni was declared ineligible, as he was not entitled to the protection and rehabilitation on the ground of being in occupation of the hut prior to the datum line i.e. 1 January 2000. Attention of the Court was invited to the affidavit filed on behalf of Respondent No.3 in WP(L) No.27927 of 2021, wherein Respondent No.3 had explained the circumstances in which the Petitioner came to be declared eligible under the G.R.dated 16 May 2018, upon payment of rehabilitation costs.

14. Mr. Kolse-Patil, learned Counsel for Respondent No.5, supplemented the submissions of Mr Patil. Mr. Kolse-Patil laid emphasis on the fact that the father of the Petitioner had sold the structure at Sr. No.175 of Annexure II. Thus, the Competent Authority had declared late Bhalchandra Kulkarni

ineligible. The determination of eligibility of the Petitioner for rehabilitation, upon payment of rehabilitation costs, does not enure for the benefit of the Petitioner as the two regimes are completely different. It was submitted that the Petitioner was conflating issues by equating the eligibility of the Respondent No.5, under G.R. dated 16 May 2015, and the Petitioner's eligibility, under G.R.No.16 May 2018.

15. Upon careful perusal of the material on record, I find substance in the submissions on behalf of Respondent Nos.3 and 5. A bare perusal of the order dated 2 November 2021 indicates that the determination of eligibility of the Petitioner was in reference to G.R.dated 16 May 2018. The Petitioner was declared eligible upon payment of rehabilitation costs.

16. The endeavour of the Petitioner to draw mileage from the said determination of eligibility for rehabilitation, upon payment of rehabilitation costs, cannot be countenanced. It is imperative to note that consequent to the determination of the eligibility under order dated 2 November 2021, which is the linchpin of the submission on behalf of the Petitioner, the order dated 22 November 2021 was passed by the Competent Authority directing the eviction of the Petitioner expressly referring to the fact that the Petitioner was declared eligible for rehabilitation upon payment of rehabilitation costs in pursuance of the G.R. 16 May 2018.

17. The policy of rehabilitation of the slum dwellers in the occupation of the

huts as of 1 January 2000 and the policy of rehabilitation of the slum dwellers, who were in occupation of the huts as of 1 January 2011 or prior thereto, *but who were not declared to be eligible for protection as per G.R. dated 16 May 2015*, stand on a completely different footing and address altogether different contingencies. The Petitioner cannot be permitted to take advantage of the declaration of the eligibility for rehabilitation, upon payment of rehabilitation costs, under G.R. dated 16 May 2018, so as to supersede the declaration of her ineligibility under G.R. dated 16 May 2015. Such an interpretation would defeat the very purpose of the policy enshrined under the G.R. dated 16 May 2018 and obliterate the distinction between two sets of slum dwellers. Such an interpretation would be legally impermissible.

18. For the foregoing reasons, this Court is not inclined to accede to the submissions of Mr. Yadav. Undoubtedly, the Petitioner would be entitled to have the benefit of the declaration of eligibility upon payment of rehabilitation costs. However, the Petitioner cannot hold on to flat No.701, Triveni Sangam CHS, on the ground that she is entitled to rehabilitation under G.R. dated 16 May 2018.

19. Resultantly, the Writ Petition deserves to be dismissed.

20. Hence, the following order :

ORDER

The Writ Petition stands dismissed.

Rule discharged.

No costs

(N.J.JAMADAR, J.)