

petitioner is wholly unsustainable. It is submitted that both the respondents proceeded on the basis that since the brother of the petitioner was held eligible for rehabilitated tenement at Sr. No. 297 in Annexure II, the petitioner being a family member was rendered ineligible. It is submitted that sufficient documents were produced by the petitioner in respect of his claim with regard to the structure at Sr. No. 296 of Annexure II, to demonstrate that he was occupying his distinct and separate structure, for which he was entitled to rehabilitation under the scheme. It was submitted that the said respondents did not verify the claim of the petitioner on the basis of documents available with him and thereupon, illegally held against the petitioner. It is further submitted that the respondent No.3-Appellate Authority in the impugned order itself had specifically held that respondent No.6 i.e. nephew of the petitioner was also ineligible. The said order was never challenged and yet, after the respondent No.2-GRC held against the petitioner, surprisingly, the competent authority proceeded to hold in favour of the very same person i.e. respondent No.6 in respect of structure at Sr. No. 296 of Annexure II. Since the said allotment was consequential to the illegal impugned orders passed by respondent No.3 and 2, it was submitted that this Court may direct the competent authority to consider the documents of the petitioner and decide upon his claim.

4. On the other hand, the learned counsel appearing for respondent No.6 submitted that the documents placed on record

by the petitioner itself would show that the claim of the said respondent was accepted after proper verification of all the documents produced in respect of the structure at Sr. No. 296 of Annexure II. The order passed by the competent authority in October 2022, took into consideration the said documents and allotted the tenement to the petitioner in the rehabilitation scheme. It is brought to the notice of this Court that, as on today, the respondent No.6 has already occupied the said tenement and therefore, this Court may not entertain the present writ petition.

5. The learned counsel appearing for respondent No.4 submitted that the impugned orders are well reasoned and since the claim of the petitioner has been heard upon giving him ample opportunity, this Court may not entertain the present writ petition.

6. Having heard the learned counsel for the parties and after perusal of the documents on record, it is found that the specific case of the petitioner all through has been that although earlier he was residing with his brother i.e. father of respondent No.6 and this was so recorded in the voters list pertaining to the year 1990, subsequently, in that very year, the petitioner had purchased a distinct and separate hutment bearing No. 50. Documents in that regard being available with the petitioner, he was always ready and willing to produce the same before the competent authority to stake his claim with regard to the said distinct and separate structure. It was also the specific case of the petitioner before the

respondent No.3-Appellate Authority that when survey was conducted and the petitioner was not available, his brother had given an impression to the concerned authority that respondent No.6 i.e. nephew of the petitioner was concerned with the said structure to which the petitioner was laying claim and that is how the name of respondent No.6 came to be recorded at Sr. No. 296 of Annexure II, while that of the brother of the petitioner was recorded at Sr. No. 297. It was submitted that the documents on record show that at Annexure II pertaining to Sr. No. 296 bearing the name of respondent No.6, it was specifically recorded that the said person had failed to produce any supporting documents.

7. The impugned order dated 13th September 2019 passed by respondent No.3-Appellate Authority, records the aforesaid facts and specifically holds that respondent No.6 was also found to be ineligible. This is significant for the present case. But, the said order holds against the petitioner only on the ground that since his brother had been already held eligible, two persons from the same family could not be granted relief. The aforesaid approach of respondent No.3-Appellate Authority shows that the facts as claimed by the petitioner were never appreciated in the proper perspective. His claim in respect of the separate and distinct hutment, was not even examined and his documents were not verified by the competent authority. This aspect was completely ignored by the respondent No.3-Appellate Authority, while passing the impugned order.

8. The respondent No.2-GRC also fell in error in dismissing the appeal of the petitioner, also on the very same ground that since his brother has been already held eligible, the claim of the petitioner could not be considered.

9. This Court finds that the respondent No.3-Appellate Authority as well as respondent No.2-GRC, both missed out on the specific claim made by the petitioner in respect of the distinct and separate structure covered under Sr. No. 296 of Annexure II and the said respondents failed to give an opportunity to the petitioner to support his case with relevant documents. In other words, neither the competent authority i.e. respondent No.5 nor the respondent Nos. 2 and 3 appreciated the case of the petitioner in the correct perspective, as a consequence of which his claim on merits was not considered and he was not granted an opportunity to produce documents to support his claim.

10. The respondent No.6 already having been found ineligible in the impugned order dated 13th September 2019 passed by the respondent No.3-Appellate Authority, was surprisingly found eligible subsequently in October 2022. The respondents-authorities have failed to explain the said turn of events. In any case, if this Court is with the petitioner in respect of the impugned orders passed by respondent Nos.3 and 2, any allotment made in favour of respondent No.6 with regard to the very same structure, can only be said to be consequential.

11. Hence, this Court is inclined to set aside both the impugned orders and in fact, also to set aside the consequential action of the competent authority in holding in favour of respondent No.6, despite the fact that respondent No.3-Appellate Authority had categorically held respondent No.6 to be ineligible in the aforesaid impugned order dated 13th September 2019. It would be appropriate that the claim of the petitioner in respect of the aforesaid hutment, to which he lays claim, is examined and verified by the competent authority. The respondent No.6 will also have to be given an opportunity to support his claim with regard to the said structure, so that the competent authority can decide the competing claims of the petitioner and respondent No.6, in accordance with law and upon giving proper opportunity to both the parties.

12. In view of the above, the impugned order dated 13th September 2019 passed by the respondent No.3-Appellate Authority as well as the impugned order dated 10th May 2022 passed by the respondent No.2-GRC, are quashed and set aside. As a consequence, the allotment made in favour of respondent No.6 in October 2022 is also held to be bad and is set aside.

13. The petitioner as well as respondent No.6 are directed to appear before the competent authority-respondent No.5 on 15th October 2025 at 11:00 a.m. No separate notice need be issued by respondent No.5 to the petitioner and respondent No.6.

14. The petitioner and respondent No.6 shall produce relevant documents in support of their respective claims. The respondent No.5 shall give ample opportunity to both the petitioner as well as respondent No.6 to justify their respective claims in respect of the said tenement.

15. The respondent No.5 shall pass final order within six weeks from 15th October 2025.

16. Needless to say, since the respondent No.6 is already put in possession of the permanent alternate accommodation, such possession shall stand protected till the respondent No.5-Competent Authority passes final order. It is further directed that, in the event, the order is adverse to respondent No.6, the possession of the said respondent shall stand protected for a further period of two weeks from the date of the final order.

17. The aforesaid direction regarding protection of possession of respondent No.6 is subject to the respondent No.6 demonstrating before respondent No.5-Competent Authority that possession was indeed handed over to the said respondent.

18. The writ petition is disposed of in above terms. Pending applications, if any, also stand disposed of.

MANISH PITALE, J.