

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

WRIT PETITION NO. 1598 OF 2024

Mukesh Sukhdeo Bhalerao

... Petitioner

V/s.

The State of Maharashtra through to be
served through Govt. Pleader (O.S.) & Ors.

... Respondents

Mr. Vaibhav V. Ugale, with Mr. Prashant Mahajan & Mr. Aditya Shinde, for the
Petitioner.

Mr. Prashant Kamble, AGP, for the Respondent nos. 1, 5 & 6-State.

Ms. Aparna D. Vhatkar, for the Respondent nos. 2 & 7-SRA

Mr. Pramod N. Patil, with Mr. Ajit Hon, i/b PNP Associates for Respondent
no. 4.

CORAM : FARHAN P. DUBASH, J.

DATE : 12th MARCH 2026

ORDER.:

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1. The present Writ Petition challenges an order dated 27th June 2022 passed by the Grievance Redressal Committee (GRC) - Respondent no. 6 herein and an earlier order dated 23rd March 2022 (**collectively, the impugned orders**) passed by the Additional Collector-cum-Appellate Authority, Mumbai City - Respondent no. 5 herein.

2. By the impugned orders, the Petitioner's structure was held to be ineligible and accordingly, his name, that was included in the Supplementary Annexure-II published by the Competent Authority – Respondent no. 2 herein on 2nd June 2021, was directed to be removed from the Supplementary Annexure-II.

3. Mr. Vaibhav Ugle, learned Counsel who appears on behalf of the Petitioner, is at pains to point out that he had produced several documents before the Respondent no. 2, who, after considering all such documents, which are also listed/set out in the Supplementary Annexure-II, entered his clients' name at serial no. 1 in the Supplementary Annexure-II. Pursuant thereto, it appears that the Developer – Respondent no. 4 herein, filed an Appeal before Respondent no. 5, challenging the validity of the said Supplementary Annexure-II and in particular, the inclusion of the name of the Petitioner at serial number 1 therein. After hearing the parties, Respondent no. 5 passed the order dated 23rd March 2022 (part of the impugned orders).

4. A perusal of this order reveals that Respondent no. 5 appears to have heavily relied on the original Annexure-II and recorded a finding that the hutment of the Petitioner was not in existence and therefore, his name was not included in the Annexure-II. Respondent no. 5 appears to have based this finding on the premise that since the predecessor of the Petitioner, one Mr. Baban Laxman Bhujbal (**the said Baban**) was residing in a hutment together with his brother one Mr. Bhikaji Laxman Bhujbal (**the said Bhikaji**), in a hutment and as therefore, only the name of the said Bhikaji was reflected in the original Annexure-II and not the name of the said Baban. In fact, it is appears that the said Bhikaji has since, also been accommodated by Respondent no. 4 on account of his said eligibility and inclusion in the

Annexure-II.

5. In the appeal filed by the Petitioner, Respondent no. 6 has confirmed the earlier order dated 23rd March 2022 by *inter alia* accepting the findings of Respondent no. 5 recorded therein. In the order dated 27th June 2022 passed by Respondent no. 6 (part of the impugned orders), it has noted that the names of both the said brothers viz. the said Baban and the said Bhikaji appeared in respect of the same hutment no. T-96 in the voters list of 1995 and accordingly, both the said brothers were not entitled to two separate tenements in lieu of the single hutment that was occupied by them both. Thus, Respondent no. 6, after taking note of the fact that the said Bhikaji had already been provided with an alternate tenement by Respondent no. 4, came to the conclusion that since there was no separate and/or independent hutment of the said Baban, the predecessor-in-title of the present Petitioner and from whom, he is stated to have purchased the hutment, rejected the appeal filed by the said Baban. In the process, Respondent no. 6 is stated to have perused the documents produced by the Petitioner, including *inter alia* the voters list before recording a finding that no independent documents were produced by the Petitioner to confirm his eligibility and/or entitlement.

6. Mr. Ugle, learned Counsel who appears on behalf of the Petitioner, invites my attention to the various documents that, according to him, were submitted before Respondent nos. 5 and 6 and from which he

submits that it could clearly be seen that the structure of the said Baban is a separate, independent and distinct structure from that of his brother, the said Bhikaji. He however, submits that none of these documents have been considered in the impugned orders passed by Respondent nos. 5 and 6. These documents include: **(i)** A letter dated 19th September 2006 from the Deputy Collector (Encroachment/Removal) and Competent Authority to the Additional Collector, **(ii)** Copy of electricity receipt dated 8th July 1981, **(iii)** Ration card dated 5th August 1993, **(iv)** Driving licence dated 30th May 1984, **(v)** An Affidavit dated 24th June 2004, **(vi)** NOC dated 1st June 2021, **(vii)** Receipt dated 2nd June 2021. He therefore submits that the impugned orders are bad in law inasmuch as, they fail to consider all these documents, which bear out and prove the eligibility of his client and which ought to have been considered. He therefore submits that the impugned orders are required to be quashed and set aside.

7. *Per contra*, Mr. Pramod Patil, learned Counsel who appears on behalf of the Developer - Respondent no. 4 herein, submits that his client has complied with all the requirements of law and has also rehabilitated all the people whose names were set out in the original Annexure-II. He states that the project is almost complete and therefore, if at this stage, his client is told to rehouse or rehabilitate the Petitioner in the said project, it would not be possible because there is no available tenement in which he can be rehoused. He supports the impugned orders and states that they correctly consider the

voters list, which shows that both the said brothers viz. the said Baban and the said Bhikaji were staying in the same hutment and therefore, are ineligible for two separate premises considering that the name of the said Bhikaji has already been included in the original Annexure-II and has since also been provided with an alternate premises by his client in lieu thereof. He therefore submits that there is no merit in the present Writ Petition and the same is required to be dismissed.

8. Ms. Aparna D Vhatkar, learned Counsel who appears on behalf of the Slum Rehabilitation Authority (**SRA**) - Respondent nos. 2 and 7 herein, fairly submits that her clients have already perused and considered all the documents that were submitted by the Petitioner and thereafter, and giving due regard to the original Annexure-II, issued the Supplementary Annexure-II and included the name of the Petitioner at serial number 1 therein, since he was held to be eligible. She therefore submits that she would not be in a position to make any oral arguments at this stage which would contradict this finding and the contents of the Supplementary Annexure-II that has been issued by the SRA. Accordingly, she submits to the orders of this Court.

9. Having heard the parties, the short point for consideration in the present Writ Petition before this Court is whether the eligibility of the Petitioner has been properly decided by the concerned authorities viz. Respondent nos. 5 and 6 herein. Admittedly, the Petitioner appears to have placed various documents before Respondent no. 5. The very same

documents were also submitted by him to the SRA and basis which, his name came to be included in the Supplemental Annexure-II. However, on perusal of the impugned order passed by Respondent no. 5, it is revealed that Respondent no. 5 only appears to have focused its attention on the voters identity / voters list premises no. T-96 and passed the order relying thereupon. In the impugned order passed by Respondent no. 5, there is no mention and/or reference to the other documents that were submitted by the Petitioner and therefore it appears that the said documents were not considered by Respondent no. 5. Even if the submission of Mr. Patil is to be accepted and the other documents submitted by the Petitioner do not prove and/or establish his entitlement, there ought to have been at least a reference to this position in the said order passed by Respondent no. 5 who could have then discarded the said documents. However, this has admittedly not been done.

10. Similarly, Respondent no. 6 also does not appear to have considered all these documents whilst passing the order dated 27th June 2022 and has instead, upheld the earlier order dated 23rd March 2022 passed by Respondent no. 5 on the basis of the voters list referred to therein.

11. This Court also notes that in the Affidavit-in-Reply filed by the SRA - Respondent nos. 2 and 7 herein, they have taken a categorical stand that if the Petitioner is held to be eligible, he is bound to get permanent alternate accommodation (**PAA**) from the SRA and if tenements are not available in

the project of Respondent no. 4 herein, then, the Petitioner would be entitled to such tenement, as a Project Affected Person (**PAP**) in any other project by SRA.

12. Considering the above, in the interest of justice, this Court is of the view that both, Respondent nos. 5 and 6 ought to have considered all the documents submitted by the Petitioner at the time of passing the impugned orders. This has not been done since there is no discussion and/or comment on why the other documents are not adequate and/or sufficient to establish the entitlement of the Petitioner. Accordingly, the present Writ Petition is disposed of in terms of the following order:-

:: ORDER ::

(i) The impugned orders dated 27th June 2022 and 23rd March 2022 are hereby quashed and set aside.

(ii) The matter is remanded back to Respondent no. 2. - SRA, the Competent Authority, who shall consider the eligibility of the Petitioner herein and pass an order to that effect.

(iii) The Petitioner shall file the necessary Application together with all documents that he seeks to rely upon before the Competent Authority on or before 1st April

2026.

(iv) The Competent Authority shall give a hearing to the Petitioner and pass an order thereon, on or before 30th April 2026.

13. The Writ Petition is disposed of in terms of the above order with no order as to costs. Needless to state that, all contentions of parties are kept open.

(FARHAN P. DUBASH, J.)

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