



## MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Maharaj Terminus, Mumbai - 400 001  
Tel : 22092857 Email:- court2-mshrc@mah.gov.in

SHRC/MAS/ /2023/

Date:

### MAS/Case No. - 308/13/23/2020

Name of the Complainant : Sunil Vitthal Veer  
Flat No.09, Manas Co-op Society,  
Paud Road, Kothrud,  
Pune

V/s.

Name of Respondent : Chief Executive Officer  
MHADA, Bandra,  
Mumbai

Principal Secretary  
Housing Department,  
Mantralaya, Mumbai

Order Date : 26<sup>th</sup> May, 2023

Coram : M. A. Sayeed, Member

## ORDER

The Universal Declaration of Human Rights in its Article 25 proclaims that everyone has a right to a standard of living adequate for health and well being of himself and his family including food, clothing, housing and medical care -----.

The same Declaration finds mention in Article 11 of the International Covenant on Economic, Social and Cultural Rights and then again in Article 14(2) of the Convention on the Elimination of all forms of Discrimination against Women -----.

2. The Constitution of India in Part III contains Articles on Fundamental Rights. Interestingly, it does not expressly guarantee

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"Right to Shelter to citizens or non citizens" but by virtue of the judicial pronouncements by Supreme Court of India, right to shelter is held to be a fundamental right by taking recourse to Article 19(1)(c), which guarantees fundamental right to reside and settle in any part of territory. Right to Shelter has been held to be necessary for enjoyment of "right to life" guaranteed under Article 21 of the Constitution. The most landmark decision is the case of re-Olga Tellis AIR 1986 SC 180, observing that right to shelter is inextricably connected to "rights to needs of livelihood - --". Later on same principle came to be reaffirmed by Supreme Court in the case of re-Chameli Singh (1996) 2 SCC 549.

3. Thus, with such unambiguous pronouncements of Supreme Court, highlighting on the significance and importance of human rights, honour, dignity, viz a viz right to livelihood, bringing within its umbrella right to shelter, let us dwell into merits of the present controversy with which the complainant Shri Veer has approach this Commission, accusing the respondent authorities of having divested him of his aforesaid right to shelter on arbitrary and fallacious ground. It would not be out of place to mention here that the origin of right and title is asserted by the complainant on the strength of judicial directions issued by High Court of Judicature at Bombay, Ordinary Original Civil Jurisdiction vide WP 2384/15 in which the Division Bench vide order 30.11.2016 was pleased to issue directions vide para 2 to 5 as under:

**"2. Learned Counsel appearing for MHADA submits that in the earlier rounds the MHADA authorities prepared a list of mill workers who participated in the lottery system. So far 10,000 persons were allotted tenements by conducting lottery. The second round of enrollment according to Counsel is very likely to start by April, 2017. At that stage, the petitioner could also participate in the enrollment programme. Learned Counsel for MHADA submits that around 2.5 lac workers must have been**

working with 58 mills at the relevant time. Many of them had migrated and are scattered all over the country. The authorities, therefore, would take necessary steps to get information about such persons by making wide publicity in the leading newspapers.

3. We direct the respondent authority to collect necessary information from the erstwhile mill management, the union offices, Bank, Provident fund office etc. and take necessary steps.

4. In the facts, we observe that petitioners may participate in the enrollment programme which should start in the month of April 2017. If found eligible, the petitioners' name would be enrolled accordingly.

5. We direct the Chief Executive Officer, MHADA to constitute a in-house committee to monitor this exercise. The Committee shall be headed by the Chief Executive Officer. The necessary record be maintained. Transparency shall also be maintained while enrolling the members and while conducting the lottery system."

4. It is complainant's grievance that for the reasons best known to the respondent authority, his representation for allotment of an accommodation, by virtue of being the son of a deceased mill worker has not been properly considered and attended by the respondent departments, constraining him to seek indulgence from this Commission. This very foundation of the complaint is sought to be displaced by the respondents, vide their reports and counter reports vide Ex. 'A' to Ex. 'H' that the complainant's claim was not considered as the same was not moved within stipulated period and secondly, the union of the mill workers in one of the meeting held with the stakeholder departments had prayed for fixing a benchmark as a cut out date for entertaining the representation for allotment of accommodations and therefore his claim was rejected being time barred. The claim is further sought to be thwarted that very recently committee headed by the Chief Secretary of the State, which also after considering the merits of the

complainant's claim rejected the same by arriving at unanimous conclusion of the claim being time barred.

5. From bare perusal of the directions passed by the High Court, supra above, it can be crystal clear no time limit was suggested or fixed by the High Court to consider the claims of the rightful claimants but, a general direction as regards the determination of the suitability of the mill workers was ordered / directed by the High Court.

6. It can be seen from perusal of the report Ex. 'H' submitted by the Administrative Officer of respondent – MHADA that a hyper technical approach came to be adopted while dealing with the complainant's representation for allotment of accommodation rather than a humane, pragmatic approach which infact was necessary in view of the mandate laid down by Universal Declaration of Human Rights and affirmed by Supreme Court in the decisions supra above. Therefore, with such legal background and considering the voluminous documents placed on record by the complainant, I am of the opinion that the Chief Officer, MHADA in co-ordination with the office of the Principal Secretary, Housing Department, Mantralaya, Mumbai, should reconsider the issue of allotment of accommodation to the complainant after a careful scrutiny of his representation and the documents annexed with it and particularly the judicial dictum laid down by Supreme Court in the decisions supra above and of course the mandate, formulated by Universal Declaration of Human Rights – Article 25, which came to be reiterated in subsequent conventions as mentioned supra above within two months from the date of receipt of this order.

7. Accordingly by invoking powers u/s. 18 of the Act of 1993 following recommendation is made:

- a) Respondents 1 & 2, i.e. Chief Executive Officer, MHADA, and Principal Secretary, Housing Department, Mantralaya, Mumbai to reconsider complainant's representation for allotment of accommodation, after due analysis of the pro and cons of his claim and by following the guidelines laid down by Supreme Court in the decision supra above within two months from the date of receipt of this order. While complying with the recommendation, the mandate provided under Sec. 18(e) of the Act r/w. Reg. 22 to 24 of Maharashtra State Human Rights Commission (Procedure) Regulations, 2011 to be borne in mind by the authorities.
- b) Office of the Secretary, attach with the Commission to take necessary steps for compliance and implementation of the recommendation which as per the dictum laid down by Allahabad High Court, Madras High Court, Chhattisgarh High Court are mandatory in nature and not directory.

With these recommendations the present complaints stands closed and disposed off.

M. A. Sayeed  
(M. A. Sayeed)  
Member 26.05.23