



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

WRIT PETITION (L) NO.4146 OF 2024

Smt. Vaijyanti Thorwat]
w/o. Late Anandrao Thorwat]
Age: 68 years, Occu:- Housewife,]
Address:- 5/264, Pawan CHSL, MHB Colony,]
G.D. Ambekar Marg, Near Kalachowki Police]
Station, Kalachowki Tank Road, Abhyudaya]
Nagar, Mumbai 400 033.].. Petitioner.

v/s.

1. The State of Maharashtra]
(Summons to be served upon Ld.]
Government Pleader, Original Side,]
High Court, Bombay)]
2. Maharashtra Housing and Area]
Development Authority, (MHADA)]
Griha Nirman Bhavan, Kalanagar,]
Bandra (East), Mumbai 400 051.]
3. The Appellate Authority of]
Asst. Commissioner-Labour & Deputy]
Chief Officer (E), Mumbai Mandal -]
MHADA, Griha Nirman Bhavan,]
Kalanagar, Bandra (East), Mumbai 400051]
4. The Appellate Officer-Deputy Chief]
Officer-East-Mumbai Mandal- MHADA,]
Gruhnirman Bhavan, Bandra (E),]
Mumbai 400 051.]
5. Deputy Chief Officer-Mill,]
Dharavi Rehabilitation Project, Mumbai]
Mandal, MHADA, Gruhnirman Bhavan]
Bandra (E), Mumbai 400 051.]
6. The Estate Manager-Dharavi,]
Mumbai Housing and Area Development]
Board, Gruhnirman Bhavan,]
Bandra (E), Mumbai 400 051.].. Respondents.

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Adv. Shivraj Kunchge, for the Petitioner.
Adv. Gauri Sawant, AGP for Respondent No.1.
Adv. Satyajeet P. Dighe (through V. C.), for Respondent Nos. 2 to 6.

CORAM: FIRDOSH P POONIWALLA,J.
RESERVED ON : 11th DECEMBER, 2025.
PRONOUNCED ON: 13th JANUARY, 2026.

ORAL JUDGEMENT:-

1 **RULE.** Rule made returnable forthwith and heard finally by consent of the parties.

2 This Writ Petition challenges Orders dated 11th February, 2022 and 8th June, 2022 passed by the Respondents, disqualifying Petitioner's husband from being entitled to a flat in the MHADA Lottery Housing Scheme under the Mill Worker's Criteria.

3 Before considering the impugned orders and the arguments of the parties, it would be appropriate to set out the facts in the matter.

4 The Petitioner's husband applied for a residential flat in MHADA's Housing Scheme by making Application No. 79484. The Petitioner's husband won the lottery and the Lottery Results for the said ML16 – Mill Worker Lottery showed that the Petitioner had been allotted Flat No. 2,D, 19, 1908 (hereinafter referred to as "the said flat").

5 After the declaration of the lottery results by MHADA,

Respondent No.4 issued the First Intimation Letter dated 25th July, 2016 requesting Petitioner's husband to submit the prescribed documents. The said letter categorically stated that a mill worker who had been employed as a mill worker on 1st January, 1982 or thereafter in Century Mills and who had been permanently employed in the said mill, or had worked continuously for 240 days in that mill, would be eligible for the said flat. The said letter also contains other terms and conditions.

6 Thereafter, Respondent No.4 issued a Provisional Offer Letter dated 29th September, 2018 to the Petitioner's husband whereby he was, *inter alia*, intimated to pay costs of the said flat of Rs.9,50,000/- by Demand Draft.

7 Respondent No.4 issued another letter dated 1st October, 2018 to the Petitioner's husband directing him to deposit the cost of the said flat in Kotak Mahindra Bank within the specified time period, failing which, the Provisional Offer Letter would be cancelled.

8 On 2nd November, 2018, the Petitioner's husband made a total payment of Rs.9,50,000/- in respect of the costs of the said flat.

9 After paying the costs of the said flat, Respondent No.4 issued an allotment letter dated 3rd June, 2019 and a Possession Letter-cum-Possession Receipt dated 3rd July, 2019 in the name of the Petitioner's husband.

10 Further, MHADA issued a Possession Receipt dated 9th July, 2019 to the Petitioner's husband.

11 By a letter dated 30th December, 2021 addressed to the Petitioner's husband, Respondent No.4 informed him that a complaint had been received regarding the Service Certificate submitted by him as a worker in the said Century Mills and that a request for re-examination of his documents had been received by Respondent No.4. Accordingly, the Petitioner was informed that he should be present with all original documents and identity cards regarding his employment with Century Mills at a hearing to be held in Room No. 226, 1st Floor, Housing House, Kalanagar, Bandra, Mumbai 400 051 on 7th January, 2022 at 1.00 p.m. The said letter stated that, if the Petitioner was not present in the said hearing, a final decision would be taken on the basis of the documents available in Nasti and after that none of the Petitioner's husband's statements would be taken into consideration.

12 Thereafter, Respondent Nos. 3 and 4 issued impugned Order dated 11th February, 2022. The said Order stated that the letter issued to the Petitioner's husband had been sent back by the Post Office, marked "*unclaimed*". The said letter also stated that the Petitioner's husband did not appear to be working as a mill worker on 1st January, 1982 and, therefore, he was disqualified from the Housing Scheme.

13 Thereafter, a letter dated 16th February, 2022 was issued by Respondent No.4 to Respondent No.5, stating that the Petitioner's husband was disqualified from the Housing Scheme.

14 By a letter dated 1st April, 2022 addressed to the Petitioner's husband, Respondent No.4 informed him that he was being given one

more chance to be present with all original documents and identity cards regarding his employment with Century Mills. By the said letter, the Petitioner's husband was requested to attend a hearing at Room No. 226, 1st Floor, Housing House, Kalanagar, Bandra, Mumbai 400 051 on 8th April, 2022 at 12.30 p.m.

15 By a letter dated 12th April, 2022 addressed to the Petitioner's husband, he was informed that he was being given another chance for producing all original documents and identity cards regarding his employment with Century Mills and was called upon to attend the hearing on 27th April, 2022 at 12.30 p.m.

16 A hearing was held on 27th April, 2022, but in the said hearing, the Petitioner's husband was absent.

17 By a letter dated 11th May, 2022 addressed to the Petitioner's husband by Respondent No.4, it was stated that, although by various letters, Petitioner's husband was repeatedly informed to attend the hearing, he had not attended the hearing. In these circumstances, the Petitioner's husband was informed that he was being given one last chance to remain present for a hearing with all original documents and identity cards regarding his employment with Century Mills on 27th May, 2022 at 12.00 p.m.

18 By the impugned Order dated 8th June, 2022, it was recorded that the hearing on 27th May, 2022 was attended by the son of the Petitioner's husband, namely – Vinayak A. Thorwat, on behalf of the

Petitioner's husband. The said Order further records that Vinayak A. Thorwat informed that the Petitioner's husband could not come to the hearing due to his ill health and had given a Power of Attorney to him to attend the hearing. Further, it was recorded that, at the hearing, Vinayak A. Thorwat submitted Provident Fund Receipt of Century Mills for the year 1979 – 1980 and other documents. It is further recorded that, from the original documents submitted, it was clear that the Petitioner's husband was not working with Century Mills on 1st January, 1982. Accordingly, the decision of his disqualification from the Housing Scheme was upheld.

19 A Notice dated 5th August, 2022 was issued to the Petitioner's husband by Respondent No.5. By the said Notice, the Petitioner's husband was informed that he had been disqualified in respect of the said flat. It is also recorded that the Petitioner's husband was working as a Welfare Officer – Grade I in Mumbai Port Trust and was not working as a mill worker on 1st January, 1982. The said letter informs the Petitioner's husband that he had been disqualified, and that as per the instructions issued by Respondent No.1 from time-to-time, the said flat would be allotted to another mill worker in the waiting list.

20 Respondent No.6 then addressed a Notice dated 18th October, 2022 to the Petitioner's husband informing him that he had not yet handed over possession of the said flat.

21 On 27th February, 2023, Respondent No.6 addressed a letter to the Deputy Commissioner of Police (Mission Branch), Greater Bombay

Police Commissioner Office, and requested him to provide police protection to take forceful possession of the said flat from the Petitioner's husband.

22 On 14th March, 2023, Respondent No.6 took forceful possession of the said flat from the Petitioner and sealed the said flat.

23 Since, the Petitioner's husband had expired on 26th October, 2022, the Petitioner filed this present Petition impugning the said Orders dated 11th February, 2022 and 8th June, 2022.

24 The learned Counsel appearing on behalf of the Petitioner first submitted that the Orders dated 11th February, 2022 and 8th June, 2022 were in violation of the principles of natural justice as an appropriate opportunity had not been given to the Petitioner's husband to present his case. He submitted that, on this ground alone, this Petition ought to be dismissed.

25 The learned Counsel appearing on behalf of the Petitioner also referred to a Government Circular dated 3rd August, 2012 and submitted that a person who had worked in Century Mills for a continuous period of 240 days was entitled to the said flat. The learned Counsel for the Petitioner further submitted that the Petitioner's husband had worked in Century Mills from April, 1973 to March, 1981, and, therefore, he had worked for a period much more than 240 days and was qualified to get the said flat.

26 The learned Counsel for the Petitioner further submitted that, after allotting the said flat to the Petitioner's husband, the Respondents could not have taken back the said flat from the Petitioner's husband/ Petitioner. Although, there is no averment to that effect in the Writ Petition, the learned Counsel for the Petitioner submitted that, on the basis of obtaining the said flat, the Petitioner's husband had sold his house in the village. The learned Counsel for the Petitioner submitted that, for this reason also, the Respondents were not entitled to take back the said flat from the Petitioner.

27 In conclusion, the learned Counsel for the Petitioner submitted that, for all the aforesaid reasons, the impugned Orders dated 11th February, 2022 and 8th June, 2022 ought to be quashed and set aside.

28 On the other hand, the learned Counsel appearing on behalf of Respondent Nos. 2 to 6 vehemently opposed the granting of any reliefs in the present Petition. He made various submissions by relying on the Affidavit in Reply of Respondent Nos. 2 to 6 dated 12th September, 2024 and Affidavit in Reply of Respondent No.1 dated 9th October, 2024.

29 The learned Counsel appearing for Respondent Nos. 2 to 6 submitted that the State of Maharashtra had declared the allotment of the said flat/ house by a way of a Lottery System. The State Government set the eligibility criteria as a cut off date of 1st January, 1982, according to which a mill worker who was employed on or after 1st January, 1982 was eligible for allotment by way of a lottery system. He further pointed out that a letter dated 15th June, 2012, was issued by the State of Maharashtra

to the Vice President and Chief Executive Officer of MHADA thereby clarifying the eligibility criteria, with a cut-off date of 1st January, 1982, for allotment of house to mill workers i.e. the mill worker should be employed with the Century Mills on 1st January, 1982 or thereafter.

30 The learned Counsel appearing for Respondent Nos. 2 to 6 submitted that, in view of these directions, an advertisement was published on 9th May, 2026 regarding the allotment of houses to workers of six mills, including Century Mills. The Petitioner's husband submitted his application along with necessary Affidavit and Indemnity Bonds. Subsequently, the said flat was allotted to the Petitioner's husband. He submitted that actual and physical possession of the said flat was handed over to the Petitioner's husband on 7th July, 2019. The learned Counsel for Respondent Nos. 2 to 6 further submitted that MHADA Office had received a letter from the Chief Vigilance and Security Officer of MHADA wherein it was mentioned that a complaint was received against the Petitioner's husband. The complaint alleged that he was an employee of the Mumbai Port Trust as on 1981, and, therefore, as of the cut-off date of 1st January, 1982, he was not an employee of Century Mills and, therefore, was not eligible/ entitled to the allotment of the said flat by the MHADA.

31 The learned Counsel for Respondent Nos. 2 to 6 stated that, on the basis of the aforesaid letter, an internal enquiry was conducted by MHADA and accordingly a Report was prepared. It was revealed from the enquiry Report dated 11th February, 2022 that the Petitioner's husband was ineligible for allotment of the said flat.

32 The learned Counsel for Respondent Nos. 2 to 6 thereafter submitted that various opportunities were given to the Petitioner's husband to appear for a hearing and submit necessary documents to show that he was employed with Century Mills as on 1st January, 1982. He submitted that, after several opportunities were given to the Petitioner's husband to attend the hearing, at the hearing held on 27th May, 2022, Vinayak A. Thorwat, the son of the Petitioner's husband remained present for the hearing. On perusal of the documents submitted by him on behalf of the Petitioner's husband, it was revealed that the Petitioner's husband was not an employee of Century Mills on or after the cut-off date of 1st January, 1982. As a result, Order dated 11th February, 2022 was upheld on 8th June, 2022.

33 The learned Counsel for Respondent Nos. 2 to 6 further submitted that, pursuant to the disqualification Order, the amount received from the Petitioner's husband was returned to him vide a Cheque which was sent through Professional Courier by the Accounts Department of MHADA. He further submitted that the eviction proceeding was carried out on 14th March, 2023 and possession of the flat was taken back by MHADA.

34 The learned Counsel for Respondent Nos. 2 to 6 also relied on Minutes of Meetings held on 4th August, 2011 and 4th October, 2011 wherein it was clearly recorded that the cut-off date should be 1st January, 1982. These meetings were attended by various Ministers and Secretaries of the State Government. The meeting of 4th October, 2011 was also attended by representatives of various Mill Workers' Unions.

35 Further, the learned Counsel for Respondent Nos. 2 to 6 submitted that, for all the aforesaid reasons, the Petition should be dismissed. However, he stated that Respondent Nos. 2 to 6 were ready to return the sum of Rs.9,50,000/- paid by the Petitioner's husband to the Petitioner.

ANALYSIS AND FINDINGS:-

36 The first submission of the learned Counsel for the Petitioner is that the Orders dated 11th February, 2022 and 8th June, 2022 have been passed without giving a proper hearing to the Petitioner's husband and, therefore, are in violation of the principles of natural justice. I am unable to accept the said submission. Although, it is true that the Order dated 11th February, 2022 disqualifying the Petitioner's husband was passed without giving any hearing to the Petitioner's husband, thereafter, subsequently, various opportunities were given by the Respondents to the Petitioner's husband to present his case and demonstrate that he was qualified for the Housing Scheme by being a Mill Worker employed by Century Mills as on 1st January, 1982 or thereafter. After remaining absent for certain hearings, the Petitioner's husband's son Vinayak A. Thorwat finally remained present at the hearing held on 27th May, 2022 and submitted documents, including the Provident Fund Receipt of Century Mills for the year 1979-1980. However, the documents produced on behalf of the Petitioner's husband by the Petitioner's son clearly showed that the Petitioner's husband was not an employee with Century Mills as on 1st January, 1982 and, therefore, he was liable to be disqualified in respect of the said flat. These facts show that the Petitioner's husband had

been given ample opportunity to present his case and, only thereafter, the Order dated 8th June, 2022 was passed. Thereafter, various letters were issued to the Petitioner's husband to vacate the said flat, and finally Respondent Nos. 2 to 6 had to take forceful possession of the said flat from the Petitioner's husband. In my view, therefore, in the aforesaid circumstances, there is no violation of the principles of natural justice on behalf of Respondent Nos. 2 to 6.

37 The next submission of the learned Counsel for the Petitioner is that the Government Circular dated 3rd August, 2012 prescribes a qualification of only 240 days of continuous employment in Century Mills for being eligible for a house in the Housing Scheme and that the Petitioner's husband met with the said qualification as he was employed in Century Mills from April, 1973 to March, 1981. It is the submission of the learned Counsel for the Petitioner that, in light of the same, the Petitioner's husband could not have been evicted from the said flat.

38 I am unable to accept this submission of the learned Counsel for the Petitioner. The Minutes of Meeting held on 4th August, 2011, where Ministers, Party Group Leaders of the Legislative Assembly and Legislative Council and Secretaries were present, show that a decision was taken that the cut-off date for the Housing Scheme should be 1st January, 1982. At the meeting held on 4th October, 2011 where Ministers, Secretaries and representatives of Mill Workers' Unions were present, the decision regarding the cut-off date being 1st January, 1982 was again confirmed. This clearly shows that one of the qualifications for being eligible for the Housing Scheme was that the mill worker should be employed with

Century Mills on 1st January, 1982 or thereafter.

39 Further, by a letter dated 1st June, 2012, MHADA had once again stated that the cut-off date shall be 1st January, 1982. The same was reiterated in the letter dated 15th June, 2012 issued by MHADA.

40 Further, it is very important to note that the First Intimation Letter dated 25th July, 2016, which was issued to the Petitioner's husband, clearly stated that the eligibility criteria was that the Mill Workers should have been employed as a mill worker on 1st January, 1982 in Century Mills and that he should be permanently employed. The said letter further states that if he is working continuously for 240 days, he would be deemed to have been permanently employed. The said First Intimation Letter, which was accepted by the Petitioner's husband, therefore, also clearly lays down the cut-off date as 1st January, 1982. For all these reasons, the submission of the learned Counsel for the Petitioner, that the eligibility criteria was only of being employed continuously for 240 days, cannot be accepted.

41 The submission of the learned Counsel for the Petitioner that after allotting the said flat to the Petitioner's husband, the Respondents could not have taken it away, also cannot be accepted. The Petitioner's husband was aware that the cut-off date was 1st January, 1982 as the same has been clearly mentioned in the First Intimation Letter dated 25th July, 2016, which has been received by the Petitioner's husband, and which has been produced by the Petitioner in the present proceedings.

42 Despite being made aware of the said eligibility criteria of cut off date of 1st January, 1982, the Petitioner's husband took possession of the said flat and paid Rs.9,50,000/-. For these reasons, there cannot be any equity in favour of the Petitioner's husband, and the Petitioner's husband is correctly disqualified and evicted from the said flat.

43 As far as the submission of the learned Counsel for the Petitioner that, on the basis of obtaining this flat, the Petitioner's husband sold the house in the village, is concerned, the same is not even mentioned in the Petition.

44 Be that as it may, even in the Petition, the Petitioner has not produced any proof to show that any house in the village had been sold by the Petitioner's husband after getting the said flat in the Housing Lottery. Therefore, the said contention of the Petitioner cannot be accepted.

45 In my view, in the light of the aforesaid, the present Writ Petition is liable to be dismissed.

46 Further, as far as the sum of Rs.9,50,000/- paid by the Petitioner's husband is concerned, the Respondents have offered to return the same to the Petitioner. Even otherwise, since the Petitioner's husband has been held to be ineligible for getting the said flat, Respondent No.2 is required to return the said sum of Rs.9,50,000/- to the Petitioner with simple interest, at the rate of 12% p.a., from 14th March, 2023 (the date when possession of the said flat was taken back from the Petitioner) till the date of payment/ realization.

47 For all the aforesaid reasons, I pass the following order:-

- (i) The Writ Petition is dismissed. Rule is discharged;
- (ii) Respondent No.2 to return to the Petitioner a sum of Rs.9,50,000/- (Rupees Nine lakhs fifty thousand only) with simple interest, at the rate of 12% p.a., from 14th March, 2023 (the date of eviction) till the payment/ realization, within a period of four weeks from the date of uploading of this order;
- (iii) In the facts and circumstances of this case, there will be no order as to costs.

(FIRDOSH P. POONIWALLA,J.)