

(2025) 09 BOM CK 0344

In the Bombay High Court

Case No : Writ Petition No.6532 Of 2024

Bhanudas Sitaram Khunte

APPELLANT

Vs

Grievance Redressal Committee and Ors

RESPONDENT

Date of Decision : 10-09-2025

Acts Referred:

Citation : (2025) 09 BOM CK 0344

Hon'ble Judges : Milind N. Jadhav, J

Bench : Single Bench

Advocate : Prosper D'souza, Tanaya Goswami, D.S. Deshmukh

Final Decision : Allowed

Judgement

Milind N. Jadhav, J

1. By consent of parties Petition is taken up for final hearing. Petition challenges twin concurrent orders, dated 06.12.2017 passed by the First Appellate Authority – Respondent No.2 and dated 28.03.2019 passed by Second Appellate Authority – Respondent No.1 upholding determination of Petitioner as ineligible for grant of alternate accommodation in Annexure-2 document prepared by the Competent Authority on 30.05.20217. In short, Petitioner is declared as ineligible in Annexure-2 which he has challenged.

2. Mr. D'souza, learned Advocate on behalf of Petitioner would submit that Petitioner purchased Hut No.97 by Agreement dated 04.04.2000 from Narayan Dinkar More. He would submit that pursuant thereto Petitioner was issued Survey receipt No.1777345 dated 22.07.2000 appended at page No.34 Exhibit 'D' to the Petition and photo-pass of even date appended at page No.41 Exhibit 'E' collectively certifying that Petitioner was in occupation of the subject structure namely old Hut No.97 and new Hut No.248. He would submit that apart from above Petitioner submitted details of the electricity connection of the said hut which originally stood in the name of Sunita More from the year 1999 to 2005 and thereafter pursuant to transfer of electricity connection onto the name of

Petitioner until today.

2.1. He would submit that verification report by Reliance Energy Limited dated 08.05.2006 clarified that electricity connection was given to the said hut in 1999. He would thus submit that benefit of Government Resolution dated 16.05.2015 appended at page No.54 Exhibit 'J' ought to have been given to Petitioner which has been denied. He would submit that the said Government Resolution talks about proof of occupation of structure / hutment on or before 01.01.2000 which Petitioner has provided but it has not found favour with the Competent Authority and the Appellate Authorities. He would submit that prior to preparation of Annexure-2 document on 20.05.2017, Petitioner deposited transfer fee of Rs. 40,000/- towards transfer of electricity connection in his name on the specific order passed by the Additional Collector.

2.2. He would submit that Petitioner has also relied upon Voters list of 2002 wherein Petitioner name appears at serial No. 1199 which shows the address of the subject structure / hutment and the same has been continued thereafter till today. That apart Petitioner has been issued Ration Card prior to 2000 which has also been produced in evidence. He would submit that despite the aforesaid documentary evidence the Competent Authority declared Petitioner as ineligible on the sole ground that electricity connection of the subject hutment was transferred from the name of the original incumbent Sunita More to Petitioner's name only in the year 2005 and therefore case of Petitioner cannot be considered as eligible since there is no proof of his occupation of the subject hutment prior to 2000.

3. Ms. Goswami, learned Advocate appears for Respondent Nos.1 and 3 i.e. the Competent Authority and Second Appellate Authority and Ms. Deshmukh, learned AGP appears for Respondent No.2 i.e. First Appellate Authority. Their arguments in support of the impugned orders are recorded in common. They would submit that Appeal of Petitioner before Appellate Authority was considered and ground of rejection namely transfer of the electricity meter having taken place in October 2005 is upheld for declaring Petitioner as ineligible. They both would submit that Government Resolution dated 16.05.2015 cannot come to the aid of Petitioner since he is a Transferee of the subject structure after 01.01.2000 and the benefit of transfer policy cannot be given to him since he failed to establish his occupation of the structure as also existence of the structure prior to 01.01.2000.

3.1. They both would submit that Petitioner would have to prove continuous actual occupation of the structure by the Transferor either prior to 01.01.2000 or its existence to claim eligibility. They both would submit that on the basis of material placed on record, benefit of transfer policy envisaged under the Government Resolution dated 16.05.2015 cannot be extended to the Petitioner. Therefore they would urge that the present Petition be dismissed and the impugned orders be upheld.

4. I have heard Mr. D'souza, learned Advocate for Petitioner and Ms. Goswami, learned Advocate for Respondent Nos.1 and 3 and Ms. Deshmukh, learned AGP for Respondent No.2 and with their able assistance perused the record of the case. Submissions made by Advocates at the bar have received due consideration of the Court.

5. From the record of the case it is seen that Petitioner executed Agreement for Sale dated 06.04.2000 with Mr. Narayan Dinkar More and was put in possession of the subject structure on that date. Copy of the said Agreement is placed on record. It refers to availability of electricity provided to the said structure. Further existence of the subject structure prior to 01.01.2000 being occupied by the Transferor and his family is evident from voters list of 1995 and the said structure being nomenclatured as Hut No.248 therein. This certificate is issued by the Assistant Election Registration Officer dated 22.02.2016 which is placed on record. That apart Survey receipt No.1777345 dated 22.07.2000 alongwith photo-pass of the same date issued in favour of Petitioner and his family members clearly justify existence of structure prior to the year 2000. Names of Petitioner and his family members are thereafter shown in the Voters list prepared by the Election Commission. Petitioner has relied upon the Voters list of 1995 to show existence of the structure in the name of his Transferor and voters list dated 2000 onwards until 2017 to show his presence in the subject structure.

6. Petitioner has also relied upon Verification Report dated 08.05.2006 prepared by Reliance Energy Limited wherein it is certified that the electricity connection was given to the subject structure in the year 1999. This prima facie proves case of existence of the structure prior to 01.01.2000. This certificate given by Reliance Energy Limited dated 08.05.2006 is appended at page No.45 of the Petition.

7. What has transpired thereafter is most crucial. By order dated 20.05.2017 provisions of Government Resolution dated 16.05.2015 have been applied and extended to the Petitioner and 15 other similarly placed persons by the Additional Collector (encroachment and Removal) and Competent Authority by directing them to pay Occupancy Transfer Charges at the rate of Rs.40,000/- for residential premises. This order is appended at Exhibit 'I' page No.52 of the Petition. Name of the Petitioner appears at serial No.6 in the list of these 16 occupants of similarly placed structures. It is seen that

Petitioner has deposited the Occupancy Transfer Charges (?????? ????????? ?????) as directed by the Competent Authority in respect of transfer of the subject hutment / structure in accordance with Government Resolution dated 16.05.2015.

8. The said challan of deposit of amount of Occupancy Transfer Charges is appended at page No.53 of the Petition. The aforesaid documentary evidence alluded to hereinabove is required to be considered by the Competent Authority while preparing Annexure- 2 in accordance with Government Resolution dated 16.05.2015 and accordingly verification has to be done. Reference to Occupancy

Transfer Charges for declaring eligibility for protection is one of the conditions of verification as stated in the Government Resolution dated 16.05.2015 which stands satisfied in the present case.

9. From the material placed on record Petitioner has prima facie satisfied the existence of structure prior to 01.01.2000 on the basis of the certificate issued by Electricity Service Provider namely Reliance Energy Limited that the subject structure was provided with electricity from 29.06.1999 which is prior to 01.01.2000. Thus satisfying the proof regarding existence of the hutment prior to 01.01.2000.

10. The condition stated in Government Resolution dated 16.05.2015 namely condition Nos.3, 4 and 5 having been satisfied on the basis of the material discussed hereinabove cannot deny the legitimate claim of the Petitioner. The order passed by the Second Appellate Authority as also by the First Appellate Authority fail to consider the above material in accordance with the conditions stipulated in Government Resolution dated 16.05.2015. The case of Petitioner is rejected for eligibility solely on the ground of the electricity connection having been transferred to his name in the year 2005 from the name of the Transferor. That apart there is no other reason given.

11. The Competent Authority and the Appellate Authorities are required to consider the case of Petitioner in the light of the aforesaid material and more specifically order passed by the Additional Collector dated 20.05.2017 calling upon Petitioner alongwith 15 other similarly placed hutment dwellers to deposit Occupancy Transfer Charges for considering their eligibility. This not having been done the twin impugned orders dated 06.12.2017 and 28.03.2019 are unsustainable and deserve to be interfered with and are therefore quashed and set aside.

12. Resultantly, Annexure-2 document dated 30.05.2017 in so far as it declares the Petitioner as ineligible as prepared by Respondent No.3 is therefore quashed and set aside and Petitioner is directed declared as eligible in the said Annexure-2 document in respect of the subject hutment at serial No.97 therein.

13. Petition stands allowed in terms of prayer clauses 'c' and 'd'. Annexure - 2 document dated 30.05.2017 qua the Petitioner being declared as ineligible is quashed and set aside and the Petitioner is declared as eligible in the Annexure - 2 document. In view of the above observations and findings, Petitioner shall be entitled to all consequential benefits on the basis of his eligibility.

14. All parties to act on a server copy of this order.

15. Writ Petition is allowed and disposed.