

(2012) 10 BOM CK 0036

In the Bombay High Court

Case No : Letters Patent Appeal No. 333 of 2011 in Writ Petition No. 5993 of 2010

Rajendra

APPELLANT

Vs

The State of Maharashtra and Others

RESPONDENT

Date of Decision : 01-10-2012

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Essential Commodities Act, 1955 — Section 3
Maharashtra Municipal Councils Nagar Panchayats and Industrial Township Act, 1965 — Section 308

Citation : (2013) 2 ALLMR 331 : (2012) 6 BomCR 16

Hon'ble Judges : B.P. Dharmadhikari, J;A.P. Bhangale, J

Bench : Division Bench

Advocate : Firdos Mirza and Anand Deshpande, for the Appellant; Mujumdar, learned A.G.P. for Respondent nos. 1 to 4 Mr. Anand Parchure with Mr. Sharma, Advocate, for the Respondent

Final Decision : Allowed

Judgement

B.P. Dharmadhikari, J.—In this Letters Patent Appeal challenge is to order passed by the learned Single Judge on 30.07.2011 in Writ Petition No. 5993/2011, holding that the petitioner, who presented the petition under Articles 226 and 227 of the Constitution of India lacked locus to maintain it. In Writ Petition No. 5993/2010 the challenge before the learned Single Judge was to the order dated 15.09.2010 passed by the Hon"ble Minister (Food, Civil Supplies and Consumer Protection), reviewing his earlier order dated 05.09.1997 and thereby granting renewal of "Semi Wholesale Kerosene License" to respondent no. 5, after he paid the necessary amount and penalty. The petitioner in that petition, who is appellant before us is, admittedly carrying on the business as Semi Wholesale Kerosene Dealer in same area and according to him, this renewal granted to respondent no. 5 after several years adversely affects the quota of kerosene being made available to him and his business. The appellant, therefore, contends

that he is a person aggrieved.

2. It is not in dispute that earlier he had filed Writ Petition No. 184/2009 on 01.07.2009 and it was disposed of by recording a finding that he was not a person aggrieved. It was assailed in Letters Patent Appeal No. 337/2009 and during hearing of that appeal, the State Government made a statement that it would extend an opportunity of hearing after withdrawing the order dated 20.09.2008, which was assailed in Writ Petition No. 184/2009. Because of these developments, the Letters Patent Appeal was disposed of on 30.09.2009 by giving liberty to party aggrieved by fresh decision of the Hon''ble Minister/State to challenge it before appropriate forum. The Hon''ble Minister then heard the appellant - Rajendra and then declared that Rajendra did not possess necessary locus. This order passed on 15.09.2010 formed subject matter of Writ Petition No. 5993/2010.

3. Before the learned Single Judge, reliance was placed upon the assurance given in Letters Patent Appeal No. 337/2009 to hear the petitioner/appellant and upon judgment of Hon''ble Apex Court reported in Jasbhai Motibhai Desai Vs. Roshan Kumar, Haji Bashir Ahmed and Others, , to contend that the appellant could not have been viewed as a busybody.

4. Learned Single Judge however, relied upon very same judgment as also judgment of Hon''ble Apex Court reported at 2004 (1) Mh.L.J. 633 (Surya Dev Rai. vrs. Ramchander Rai and others), to note distinction between jurisdiction under Articles 226 and 227 of the Constitution of India. It is found that the jurisdiction under Article 226 is exercisable when a decision is invoked by a party aggrieved. Mere reduction in quota of kerosene is, found not sufficient to view petitioner/appellant as a person aggrieved. Finding reached is, said petitioner lacked locus and hence, petition has been dismissed without going into the merits of the controversy.

5. Letters Patent Appeal No. 227/2012 is also listed in group before us. It arises out of Writ Petition No. 3933/2011, and Petitioner - Mohan there had complained to authorities against the working of shop of respondent no. 2. Acting on this complaint, the District Supply Officer cancelled the kerosene dealer's licence of that respondent. The learned Single Judge has found that merely because the petitioner in petition was complainant before such authority, he could not be viewed as a person aggrieved, so as to enable him to maintain an appeal under Clause 15[1] of the Maharashtra Scheduled Commodities, Retail Dealers Licensing Order, 1979 (hereinafter referred to as "the 1979 Order" for short). Because of this finding, it is further held that as such complainant cannot be a person aggrieved under Clause 15[1], he also cannot be said to be a person aggrieved by a decision passed in that regard under Clause 16 of the 1979 Order. The controversy is found to be covered by judgment delivered by the learned Single Judge in Writ Petition No. 5646/2010 on 20.09.2011. We have issued notice for final disposal in the said Letters Patent Appeal No. 227/2012 on 12.09.2012.

6. The learned Counsel for the petitioner had invited attention of the learned Single Judge to judgment delivered in Writ Petition No. 3891/2009 on 09.11.2009. The learned Single Judge found that said decision pertains to cancellation of Fair Price Shop and an appeal under Clause 24 at the instance of the complainant, was maintainable. Thus, judgment delivered in Writ Petition No. 5649/2010 reported at 2010 (1) All MR 150 (M/s. Vishnu Horticultural Pvt. Ltd and another. vrs. M/s. Shampiyani Viniyard Ltd and others) has been followed and petition is dismissed for want of locus.

7. It needs to be noted here that against adjudication in Writ Petition No. 5646/2010, Letters Patent Appeal No. 434/2011 has been disposed of by this Court on 11.09.2012 by permitting the complainant therein to file revision before the Hon'ble Minister. In short contention that, such complainant who is not entitled to maintain appeal under Clause 15[1] of 1979 Order is also not competent to file revision or other proceedings before the State Government, has not been raised.

8. We have heard Shri Firdos Mirza, with Shri Deshpande, learned Counsel for the appellant - Rajendra, Shri Mujumdar, learned A.G.P. for respondent nos. 1 to 4 and Shri Anand Parchure with Shri Sharma, learned Counsel for respondent no. 5.

9. Shri Mirza, learned Counsel has contended that after respondent no. 2 - Revisional authority agreed to hear the appellant before this Court, and this Court noted it in its order dated 30.09.2009 while disposing of the Letters Patent Appeal No. 337/2009, it was not open to the said respondent to turn around and to contend that the present appellant lacked locus. Impugned order passed by the Hon'ble Minister in this background on 15.09.2010 is, therefore, stated to be unsustainable.

10. To substantiate his grievance, Shri Mirza, learned Counsel points out that initially the licence in favour of respondent no. 5 was cancelled on 17.05.1987. He challenged that cancellation and on 05.09.1997 revision filed by him was dismissed by the State Government. Thus, that decision of cancellation attained finality. Respondent no. 2 Hon'ble Minister then took cognizance of the order, and by order dated 20.09.2008 while exercising review jurisdiction, the order of cancellation of licence dated 17.05.1987 was recalled. The review jurisdiction was exhausted on 05.09.1997 and that order was reopened after 11 years. Our attention has been invited to Clause 15[1][b] of the 1979 Order to show that though there is power to take suo moto cognizance, there is time limit of two years prescribed. The Hon'ble Minister after exercise of revisional jurisdiction could not have and in any case in the year 2008, cannot assume jurisdiction and set aside its earlier order.

11. He has relied upon Division Bench judgment reported at Prashant Tayde Vs. The Hon'ble Minister for Cooperation and Textile, State of Maharashtra Mantralaya, Mumbai - 32, The Divisional Joint Registrar, Cooperative Societies,

Amravati Division, Sahkar Sankul, Kanta Nagar, Camp Amravati, Yavatmal District Central Cooperative Bank Limited and Narendra Bodkurwar, , to submit that the distinction between busybody or a meddlesome interloper and a person interested, is already noted therein, in the light of the various judgments delivered by the Hon''ble Supreme Court. Judgment of Hon''ble Supreme Court reported in case of Jasbhai Motibhai Desai. vrs. Roshan Kumar Haji Bashir Ahmed & others (supra), is pressed into service. The learned Counsel urged that there the Hon''ble Supreme Court has considered the business competition in normal trade or business activity like Cinema. Here the activity is controlled and kerosene is an essential commodity. A person willing to deal in said business has to fulfill various formalities and after getting licence, he is supposed to carry on the business strictly in terms thereof. Quota of kerosene received by him, price thereof, price at which it is to be sold, are all pre-determined and licence holder like the appellant does not have any say in the matter. The aspect of locus in such matter, therefore, cannot be viewed in the light of the judgment which deals with the nature/open business. He has also invited our attention to the judgment reported at M.S. Jayaraj Vs. Commissioner of Excise, Kerala and Others, , where the Hon''ble Supreme Court has considered its earlier judgment in case of Jasbhai Motibhai Desai.vrs. Roshan Kumar Haji Bashir Ahmed & others (supra). Shri Mirza, learned Counsel submits that the said judgment has been explained and applied in later judgment.

12. Appellant/petitioner was appointed as a Dealer in the year 1993 after following necessary procedure and he has jurisdiction over entire Murtizapur Tahsil in Akola District. Respondent no. 5 is being introduced in very same area, and hence quota of appellant is bound to be reduced. The respondents have not denied this impact of restoration of licence and hence, grievance of appellant/petitioner needs to be examined on merits. Reliance is also being placed upon the judgment reported at 2005 (2) Mh.L.J. 900 (Sai Chalchitra.vrs. Commissioner, Merut Mandal and others), for said purpose. Learned Counsel points out that in present facts, respondent no. 2 Minister revived the issue which was legally decided.

13. Shri Sharma, learned counsel for respondent no. 5 and learned A.G.P. for other respondents are opposing the arguments of Shri Mirza, learned Counsel. They state that present appellant entered into the picture for the first time before the learned Single Judge in Writ Petition No. 1824/2009. Till then he was not having any role. After dismissal of that writ petition on 01.07.2009 for want of locus, Letters Patent Appeal No. 337/2009 was disposed of because of failure to hear the appellant, in adherence to that assurance the Hon''ble Minister has extended opportunity of hearing and thereafter only finding that the appellant is not a person aggrieved has been reached. Finding is perfectly legal and valid.

14. It is contended that the appellant filed Writ Petition only because of apprehension that his quota would be reduced. His grievance cannot be looked into as it is not in public interest, and hence he has to satisfy the ingredients of

the concept of person aggrieved. Judgment of Hon''ble Apex Court reported in case of M.S. Jayarao.vrs. Commissioner of Excise, Kerala and others (supra), is delivered by the Hon''ble Two Judges and it in no way dilutes the concept of "person aggrieved", in Jasbhai Motibhai Desai.vrs. Roshan Kumar Haji Bashir Ahmed & others (supra). That concept therefore, has been rightly applied by the learned Single Judge. In M.S. Jayarao.vrs. Commissioner of Excise, Kerala and others (supra), the Hon''ble Apex Court has interfered only because it found that the order of the Authorities permitting opening of a shop in a particular area beyond the jurisdiction was null and void. They also rely upon the Division Bench judgment of this Court reported at 2003 (5) Mh.L.J. 484 (Mukesh Dattopant Mudgal and others.vrs. Collector, Nagpur and others) to substantiate their contentions. Judgment of Division Bench of this Court in case of Prashant Amrutrao Tayade.vrs. The Hon''ble Minister for Cooperation and others (supra), is urged to be in favour of respondents and against the petitioner.

15. While disposing of the Letters Patent Appeal No. 434/2011 on 11.09.2012, this Court has noted that there appeal was preferred by a third person and it was not maintainable under Clause 15 of the relevant Order. Here the relevant Order which is applicable is, Maharashtra Kerosene Dealers Licensing Order, 1966. In the order which was impugned before the learned Single Judge in Writ Petition, the revenue authority i.e. the Hon''ble Minister has mentioned that he was considering a review/revision under clause 15 of that Order. Clause 14 therein is a provision for appeal, and there person who is refused a licence or renewal thereof or whose licence is cancelled or suspended or then licensee whose security deposit is forfeited, can apply. It is obvious that, that view of the learned Single Judge was upheld by us in Letters Patent Appeal No. 434/2011, therefore covers this controversy also. It may be noted that similar view has been taken by one of us (B.P. Dharmadhikari, J) in 2009 (5) BCR 910 (Mohamad Aslam Abdul Razzak Suraiyya.vrs. Deputy Commissioner and others).

16. Here we are not concerned with any order passed in appeal under Clause 14 of 1966 Order, because that order has been passed several years back as against present respondent no. 5. It was maintained by the State Government in appeal on 05.09.1997. This order dated 05.09.1997 was sought to be reviewed in proceedings filed before the Hon''ble Minister. The Hon''ble Minister allowed that revision on 20.09.2008. Facts leading to filing of Letters Patent Appeal No. 337/2009 and assurance of Government to hear the present appellant recorded therein, are the events which we have noted above. Impugned order dated 15.09.2010 has been passed thereafter. This order is under Clause 15, which deals with review of revision. Clause 15[1] reads as under;

15 Review or revision.

(1) (a) Government may, on an application made or suo moto at any time before the expiry of two years from the date of any order passed by the licensing authority or any other competent authority under this Order, call for the records of the proceedings underlying such order for the purpose of satisfying itself as to

the legality or propriety of such order or as to the regularity of such proceedings and if it shall appear to the State Government that such order of proceedings should be modified, annulled or confirmed, it may pass such order as it deems it;

Provided that, no order shall be made under this clause unless the person who is likely to be aggrieved thereby has been given a reasonable opportunity of stating his case.

(b) Government may on application made or suo moto at any time before expiry of two years from the date of any order passed by it in revision under this clause may review such order if it is satisfied about the reason to do so on any of the following grounds, namely :-

(1) Discovery of new and important matter of evidence which after the exercise of due diligence, was not within the knowledge of the applicant or could not be produced by him at the time when the order was passed or order was made.

or.

(2) some mistake or error apparent on the face of the record.

Or

(3) for any other sufficient reason.

And upon such review if it shall appear to the State Government that such order should be modified, annulled or confirmed, it may pass such order it deem fit;

(c) Order passed in review shall on no account be re-reviewed.

Thus Clause 15[1] permits Government to exercise powers under it, either on an application made or suo moto. Person who is competent to make application either for review or revision and invoke jurisdiction thereunder, is not specified. Proviso to this clause is consequent. It prohibits the State Government from making an order under Clause 15 unless persons likely to be aggrieved by such order is given reasonable opportunity for stating his case. When this Clause 15 is read in contradistinction with Clause 14[1], it is apparent that such person who is likely to be aggrieved by exercise of jurisdiction under clause 15[1], is different. The concept of person likely to be aggrieved employed in Clause 15[1] is obviously wider than Clause 14[1]. Appeal under Clause 14[1] can be filed by a person holding licence or seeking licence. That is not the requirement under Clause 15.

18. 1966 Order mentioned supra is framed in exercise of powers conferred by Clauses (c), (d), (i) (ii) and (j) of sub-clause (2) of Section 3 of the Essential Commodities Act, 1955 and all other enabling powers of State Government. In exercise of same powers the State Government has also formulated the Maharashtra Scheduled Commodities, Retail Dealers License Order, 1979. In its Clause 2(1) it defines "Scheduled Commodities" to mean, any of the commodities specified in Schedule-II. Perusal of Schedule-II shows that it includes food grains

like Wheat, Rice, Sugar, Gur, Kerosene, Edible Oils and Pulses. The Hon'ble Supreme Court has in its Constitution Bench judgment reported at M/s. Shri Sitaram Sugar Co. Ltd. and another Vs. Union of India and others, , has recognized right of a citizen to obtain essential articles at fair price and duty of State Government to provide them. This judgment is under provisions of Schedule Commodities Act and deals with fixation of price of Sugar. But, then said concept can also be extended and needs to be followed in case of kerosene, as kerosene is also a scheduled commodity, which is subject to various restrictions in the interest of public at large. All above provisions have been made for securing its proper distribution to a common man at a fair price. In this situation, it is difficult to accept that a person for whose benefit provision like Essential Commodities Act, 1955 or then above mentioned Licensing Order or Regulation Order have been made, has got more to say when it comes to malpractice or defects in distribution of such commodities. As a citizen, he has every right to complain and the government authorities entrusted with obligation of overseeing the effective implementation of various welfare measures and duty bound to redress his grievance.

18. Appeal is a statutory remedy and therefore, needs to be construed in the light of the legal provisions. Rule 14 of the 1966 Order does not enable a citizen to file an appeal, however, that does not mean that such citizen has no right to err his grievance. He can complain to the authorities which issues license, releases quota and mandatory working of such dealers, retailers or fair price shop. If his grievance is not redressed, he can also approach the higher authorities. The power under Clause 15 of review or revision with government is very wide and the government can exercise that power suo-moto. Clause 15[1] deliberately does not prescribe a person who can make application to invoke that jurisdiction. Thus, anybody can invite attention of State Government to a malpractice in distribution of such essential commodity or scheduled commodity. Only limitation therein, is such application or suo moto cognizance can be taken within a period of two years from the date of any order passed by the Licensing Authority or any other competent Authority under 1966 Order. A person ventilating his grievance points out to the licensing authority the lapses or latches or defaults committed by the license holder and that authority or the authority receiving grievance is expected to enquire into it in accordance with law. If that authority is satisfied about the genuineness of the grievance made, the authority can in terms of the terms and conditions of license issued, pass necessary orders. If the orders are to the prejudice of the licence holder and fall in the category of orders envisaged under Clause 14[1], such licence holder can file an appeal. If the orders are of other nature and person making the grievance feels that his grievance is not fully redressed, he can challenge that order within time of two years by invoking the revisional powers.

19. In appropriate circumstances, he can seek review also. It is also possible that the licence holder who is aggrieved by the order of the Appellate Authority under Clause 14[1] may seek revision under Clause 15[1] or can also seek a review.

However, time limit mentioned therein needs to be adhered.

20. Thus, it is seen that the government has intentionally retained that duty and power to be exercised in public interest in appropriate circumstances. Proviso to Clause 15[1] does not refer licence holder alone, as person aggrieved. It forces that such order in review or revision may operate to the prejudice of some other person also. Such other person may be a complainant or a card holder, who has made the grievance, and whose grievance was redressed. We therefore, find that remedy of filing a review or revision before the State Government in accordance with Clause 15 of the 1966 Order is not confined to a licence holder or licence seeker, but is available to even a complainant or card holder or a person who can be aggrieved in the matter. Person aggrieved needs to be given a wider and liberal interpretation looking to the object with which 1966 Order has been framed.

21. In *Mukesh Dattopant Mudgal and others.vrs. Collector, Nagpur and others* (supra), the Division Bench of this Court has found that a rival in business has no locus standi to challenge grant of licence to another on the ground that it was granted illegally or it suffered from defect of jurisdiction. There the Municipal Council, Umred gave no objection certificate of setting up a Chilly Grinding machine and it was cancelled by the Municipal Council later on. The Collector, in exercise of powers u/s 308 of the Maharashtra Municipal Council, Nagar Panchayats and Industrial Township Act, 1965 suspended that resolution. The Regional Director (Higher Authority) held that no objection certificate was granted without considering the report of the Committee constituted for said purpose. The Municipal Council thereafter passed another resolution to issue NOC. Petitioners approached this court and this Court noted that the petitioners were thus running the chilly grinding machine in same area. Petitioner no. 1 was Vice President of the Municipal Council, who had not objected to other 25 chilly grinding machine in same town, and had objected to NOC issued only in one matter. Petitioner no. 6 was also running same business in same area and petitioner no. 1 had not raised any objection against petitioner no. 6. In this background, the above observations have been made.

22. Judgment of Hon''ble Supreme Court in case of *Jasbhai Motibhai Desai.vrs. Roshan Kumar Haji Bashir Ahmed & others* (supra), considers grant of no objection certificate issued in violation of Rules to location of Cinema Theater and its quashing under Article 226 by the High Court by issuing writ of certiorari. It has been held that a rival in trade has no jurisdiction to invoke certiorari jurisdiction. This judgment is delivered by Hon''ble 4 Judges of Hon''ble Supreme Court. In later judgment, in case of *Sai Chalchitra.vrs. Commissioner, Merut Mandal and others* (supra), the Hon''ble 2 Judges have considered the similar issue, where a rival Video Parlour owner sought cancellation of license on account of violation of statutory rules. Though the Hon''ble Two Judges have not referred to above mentioned earlier judgment of Hon''ble Supreme Court, they have noted that High Court dismissed the writ petition because of absence of locus in

petitioner, as a rival in trade. The Hon''ble Judges have opined that the High Court erred in dismissing writ petition on said ground. Though the appellant before it and respondent no. 3 were in same business, the appellant had a right to seek cancellation of license granted to respondent no. 3, being in violation of U.P. Regulation of Cinema Act, 1955 and Rules framed thereunder.

In *M.S. Jayarao.vrs. Commissioner of Excise, Kerala and others* (supra), the Hon''ble 2 Judges have noted these earlier judgments delivered by the Hon''ble Supreme Court and found that the concept of locus standi has been expanded and High Court had recorded a finding that order of Excise Commissioner was in violation of Law. In paragraph no. 13 of this judgment the Hon''ble Supreme Court therefore, did not find it proper to nip the motion out solely on the ground of locus standi.

23. Shri Sharma, learned Counsel for respondent no. 5 has urged that view taken by the Hon''ble Supreme Court in *Jasbhai Motibhai Desai.vrs. Roshan Kumar Haji Bashir Ahmed & others* (supra), has not been diluted by later two judgments. We find that the later two judgments take note of violation of legal provisions and mean to do substantial justice.

24. Division Bench of this court in *Prashant Amrutrao Tayade.vrs. The Hon''ble Minister for Cooperation and others* (supra), had occasion to consider similar challenge vis-?-vis provisions of the Maharashtra Cooperative Societies Act. One of us (B.P. Dharmadhikari, J) is party to that judgment. In that judgment, the above mentioned Larger Bench Judgment of Hon''ble Supreme Court along with some other judgments of Hon''ble Supreme Court have been considered and judgment of learned Single Judge dismissing the Writ Petitions on the ground of absence of locus is found unsustainable. Judgment in *M.S. Jayarao.vrs. Commissioner of Excise, Kerala and others* (supra), is also looked into in said judgment. It has been found that the appellant before this Court in that matter could not have been treated as mere busybody. In view of this judgment and view taken, we do not find it necessary to refer to all these judgments at length again in the present matter.

25. In *Sanjay Surwase Vs. The State of Maharashtra and Others*, , the Division Bench of this Court has considered the provisions of 1966 Order only and noted that kerosene quota of objector was reduced. In view of this, said Division Bench concluded that said objector had locus and their rights were affected by the impugned order by which applications for renewal of license made by the applicants were allowed. In addition, it has noted that those objectors were added as respondent in review application itself and they were heard by the Minister. It has been concluded that therefore, they had locus to file petitions challenging the orders passed by the Minister in revision applications.

Another Division Bench in judgment reported at 2010 (4) Mh.L.J. 82 (*Ramprasad Ramchandra Chavan.vrs. State of Maharashtra and others*), while considering the provisions of Maharashtra Scheduled Commodities (Regulation of Distribution)

Order, 1975 clause 24 have found that a complainant before the District Supply Officer and intervenor before commissioner possess necessary locus and objection to his locus standi deserved no cognizance. In view of the discussions already undertaken above, which necessitates liberal interpretation of the words "person who is likely to be aggrieved thereby" in Clause 15[1] of 1966 Order, it is apparent that the present appellant who is having a license to operate in very same area and apprehends reduction in his quota because of introduction of another licence holder in it, definitely possess locus to approach the State Government under Clause 15[1]. It was obligatory for the State Government to hear him as order passed/being passed in review sought by the respondent no. 5 is likely to affect him. Even if arguments of Shri Sharma, learned counsel that this condition of quota being adversely affected is only an apprehension, which is misconceived. Whether such an apprehension has got any substances or not, is the question which cannot be decided without hearing the appellant. Appellant, therefore, needed to be heard on merits by the learned Single Judge to find out whether his apprehension had any basis in law or not ?

26. Shri Mirza, learned counsel has attempted to show to this court that the business as a Semi Wholesaler being controlled one, always a specified quantity of kerosene is released as quota and it is required to be sold at pre-determined rate. The business, therefore, cannot be viewed as a open business which has been looked into by the Division Bench in judgment in case of Mukesh Dattopant Mudgal and others.vrs. Collector, Nagpur and others (supra) or then by the larger Bench of the Hon"ble Supreme Court in case of Jasbhai Motibhai Desai.vrs. Roshan Kumar Haji Bashir Ahmed & others (supra). He contends that inherent restrictions in such controller business of an essential or scheduled commodity are sufficient to cloth the appellant with necessary locus to point out that there was vacuum after following prescribed procedure, he has been selected as a Dealer for Murtizapur. Exercise of review jurisdiction almost after 11 years by the State Minister behind his back is, therefore, unsustainable. As learned Single Judge has not considered all these aspects, we find ourselves not in a position to record any finding on it.

27. In this view of the matter, we find that the petitioner/present appellant needed to be heard on merits of his challenge by the learned Single Judge in Writ Petition No. 5993/2010. The finding that said petition is not a aggrieved person is, unsustainable. Same is accordingly quashed and set aside.

28. In view of this, the order dated 13.07.2012 in Writ Petition No. 5993/2010 is quashed and set aside. Writ Petition is restored back to the file of the learned Single Judge for taking fresh decision on merits of the controversy involved therein. Interim orders granted in Writ Petition to continue. Letters Patent Appeal is thus allowed in the aforesaid terms. However, in the facts and circumstances of the case, there shall be no order as to costs.