

# MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Terminus (VT), Mumbai - 400 001  
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MSHRC/MAS/12/20198279

Date: 7/12/19

## MAS/Case No.- 1750/2018 c/w. 165/13/16/2019

Name of the Complainant : Namdeo Guldagad  
YUVA, Unit No.9, Ground Floor  
Parmar Industrial Estate, Street No.10  
Bail Bazar, Kurla (W), Mumbai - 400 070

Nazamuddin Khan  
C/o. Jamal Khan, Janta Chicken Shop  
Tilak Nagar, Sonapur, Bhandup (W)  
Mumbai - 78

V/s.

Name of Respondent : The Municipal Commissioner  
MCGM, Mumbai

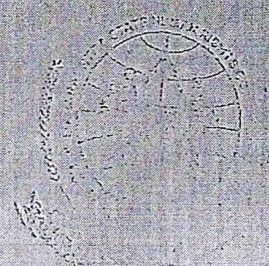
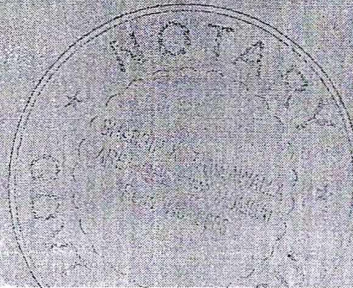
Date : 30<sup>th</sup> November 2019

Coram : M. A. Sayeed, Acting Chairperson / Member

### ORDER

The plight and the grievances of the residents of a slum area living in Indira Nagar Pipe Line, Bandra (East) is brought to the notice of the Commission by contending that the MCGM launched the demolishing process in a most arbitrary perverse manner by jumping over the Rules and Regulations virtually compelling the residents to seek temporary shelter either by the side of the road or under the flyovers and thus, violated their human rights.

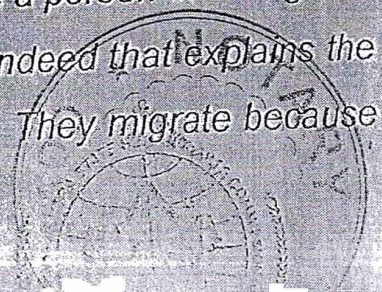
The response Ex A submitted on behalf of MCGM sought to do away with the complaint by asserting that the demolition in question as well as the steps for the rehabilitation came to be initiated pursuant to directions passed by the High Court in PIL No. 140/2006 way back in the year 2011. At the same time pursuant to the directions issued by this Commission additional report Ex C, came to be submitted contending interalia that out of total 436



number of structures, about 155 occupants have been found eligible for resettlement while claim of 281 has been rejected as they did not fulfill the requirement. A further candid statement is made about taking steps to provide necessary relief to remaining 281 occupants by directing them to submit online information, so as to provide alternate accommodation to them also. In my humble opinion, this process should not run into infinity, but a reasonable time limit has to be fixed by the Municipal Corporation so as to resolve the problem of the shelter to the needy persons.

Supreme Court way back in the year 1985 in its historic judgment – re: Olga Tellis (1985) 3 SCC 545, observed as under

*It was held that the sweep of the right to life conferred by Article 21 is wide and far-reaching. Life means more than animal existence. It does not mean merely that life cannot be extinguished or taken away, as for example, by the imposition and execution of the death sentence, except according to procedure established by law. That is but one aspect of the right to life. An equally important facet of that right is the right to livelihood because; no person can live without the means of living i.e., the means of livelihood. If the right to livelihood were not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content and meaningfulness but it would make life impossible to live. And yet, such deprivation would not have to be in accordance with the procedure established by law, if the right to livelihood is not regarded as a part of the right to life. That, which alone makes it possible to live, leave aside what makes life livable, must be deemed to be an integral component of the right to life. Deprive a person of his right to livelihood and you shall have deprived him of his life, Indeed that explains the massive migration of the rural population to big cities. They migrate because*



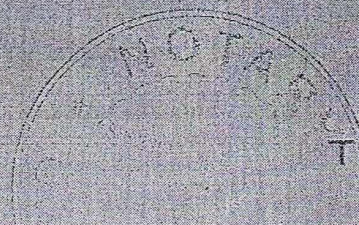
*they have no means of livelihood in the villages. The motive force, which propels their desertion of their hearths and homes in the villages, is the struggle for survival, that is, the struggle for life. So impeachable is the evidence of the nexus between life and means of livelihood.*

It can be safely concluded that the Supreme Court made it amply clear that Right to Life in Article 21 includes Right to Shelter. The same principle was reiterated in its subsequent judgment in re: N K Totame (1990) 1 SCC 520, re: Narsimha Murthy (1995) 5 SCC 524, re: Chameli Singh (1996) 2 SCC 549. The principles enunciated in all these decisions acknowledges a constitutional status to the Right to Shelter for virtue of being a fundamental right. It was emphasized that a permanent shelter assist a person to develop his physical, mental and spiritual excellence which infact is the obligation of a civilized society. Much elasticity to the scope and ambit of human rights came to be extended by this catena of decisions, by primarily focusing on the welfare and wellbeing of a person so as to assist him in developing his personality to the fullest extent.

With these principles in mind and applying it to the facts at hand, the office of Municipal Commissioner, MCGM is directed to complete the process of resettlement of the 281 slum dwellers within a period of three months from the date of receipt of the order.

The learned Addl Chief Secretary attached with this Commission is directed to forward the copy of the order to the concerned departments for due information and compliance, with direction to report compliance about filling up the vacancies within three months from the date of receipt of this order. Ordered accordingly.

M. A. Sayeed  
(M. A. Sayeed) 30/11  
Acting Chairperson / Member



TRUE COPY

ADVOCATE

