

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1387 OF 2013

Maharashtra Chamber of Housing Industry ... Petitioners
v/s
Union of India and others ... Respondents

Dr Milind Sathe, Sr. Counsel with Mr D.V. Deokar i/b M/s Parimal K. Shroff and Co. for Petitioners.
Mr Parag Vyas with Mr A.M. Sethna and Mr D.P. Singh for Union of India.
Mr J.S. Saluja, AGP for Respondent - State.

**CORAM: V.M. KANADE &
B.P. COLABAWALLA JJ.**

DATE : 23RD JULY 2015

P.C. :-

1. The Petitioners have filed this Petition under Article 226 of the Constitution of India. The Petitioners have prayed as under :-

“(a) that this Hon'ble Court be pleased to declare that Para Clause 8V(iii)(b)2 of CRZ Notification issued by the Ministry of Environment and Forest (Department of Environment Forest Wild Life on 6th January 2011) (Exhibit 'B') is ultra vires and unconstitutional and violative of articles 14, 265 and 300A of the Constitution of India;

(b) that this Hon'ble Court be pleased to declare that the Corrigendum Notification dated 29th March 2011 Exhibit 'C' purporting to amend paragraph 8(V)(b) and paragraph 8(V)(c) of CRZ Notification dated 6th January 2011 is ultra vires and unconstitutional;

(c) that this Hon'ble Court be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction in the nature of Mandamus under Article 226 of the Constitution of India

(i) directing the Respondents to forthwith withdraw / amend and or not enforce Para 8(V)(iii)(b)2 of the CRZ Notification annexed as Exhibit 'B' hereto;

(ii) directing the Respondents to allow development of Slum Rehabilitation Schemes in the City of Mumbai without taking into consideration Para 8V(iii)(b)2 of the CRZ Notification dated 06.01.2011.”

(d) that this Hon'ble Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India calling for the records and proceedings pertaining to the Corrigendum Notification dated 29th March, 2011 (Exhibit 'C') which purports to amend paragraph 8(V)(b) and paragraph 8(V)(c) of CRZ Notification dated 6th January 2011, and after examining the validity, legality and propriety thereof, the same be quashed and set aside;”

2. So far as prayer clause (a) is concerned, we have the learned AGP on behalf of the State Government to take instructions. It is submitted that three to four weeks will be required to take a decision

one way or the other.

3. So far as prayer clause (b) is concerned, it is covered by our judgment and order passed in Writ Petition No.2035 of 2014 dated 17th February 2015. For the same reasons mentioned in the said judgment and order, prayer clause (b) is made absolute giving liberty to the Central Government to modify the Notification dated 6th January 2011 by following procedure laid down under Rule 3(a) of the said Rules.

4. So far as prayer clause (c) is concerned, it is connected with prayer clause (a) and therefore will have to be decided after decision is taken by the Government.

5. Stand over to 4th September 2015.

(B.P. COLABAWALLA, J.)

(V.M. KANADE J.)