



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Terminus (VT), Mumbai - 400 001
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SHRC/VGM/08/2010/ 2040

Date: 4 August 2010

Case No. – 342/2007-08

Name of the complainant

:1. Dr Limbaji Lalsingh Rathod
Laxmi Tekdi, Naik Nagar,
Sadar Bazaar, Nr Koyna Society
Satara – 412 001.

2. Murlidhar Kale
Ambedkar Nagar
Vile Parle (E), Mumbai

3. Raghunath Saiku Pawar
R/o. Kumbhari, Tal South Solapur
Dist Solapur

Vs.

The Deputy Collector (Encroachment)
Andheri Division, Griha Nirman Bhavan,
Bandra (E), Mumbai – 400 051.

Date : 30 July 2010

Coram : Justice V G Munshi, Member

ORDER

Read the averments made in the complaint and the report received from Respondents. Read the case papers. Heard the parties.



2. Present complaint is filed by Dr. Limbaji Lalsingh Rathod for and on behalf of residents of Shree Saibaba Nagar Zopadpatti Rahiwashi Sangh, Andheri (East), Mumbai. According to him there was violation of human rights of these residents.

3. The important facts of the case of the complainant may be briefly stated as under. The residents of Saibaba Nagar do labour work and are residing in the huts, small structures etc for last more than sixty years. These huts were situated in the ground (S.No. 87, 133, 167, 104) adjacent to Sahara Airport Mumbai. The Respondent No.1 Managing Director J V K Company Pvt. Limited and Respondent No.2 Airport Authority by their acts, harassment etc made the life of these residents miserable. It was alleged that with the help of Police these Respondents evicted them from these premises or threaten to evict them. Thus, they got apprehension of dispossession of their huts. In the last it was prayed that all these affected persons be first rehabilitated and then only they be evicted from their huts. Therefore, they moved the Commission for necessary action.

4. Respondent Mumbai Metropolitan Region Development Authority by filing their reply denied and disputed all the averments and allegations made in the complaint. It is their case that in all such cases they follow the rules and laws and the procedure laid down there under. All the cases are examined by the Authority. The persons found eligible are rehabilitated. The persons who are not found eligible, they are evicted with the help of Police and encroachment is thus removed. In the last it was submitted that, all these complainants / claimants in the present case, as they were not found eligible, they were not rehabilitated.

5. Respondent Deputy Collector, (Encroachment) competent Authority also by filing their reply denied and disputed the claim of the complainants. It was added that the land No.1405 situated at Marol, Tal. Andheri is of the ownership of Airport Authority. In the last according to this Respondent, action if any is to be taken by the Respondent Airport Authority and not by the Respondent.

6. The complainants have knocked the doors of the Commission with a case that they resided on the given address or on the described plot belonging to the Respondent Airport Authority for last so many years. They are poor



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persons and they were evicted or about to be evicted by the other side illegally, that too without following due procedure or without following principles of natural justice. They alleged that the Respondents by their high handed and arbitrary action made their life miserable and brought them on street. In the last it was contended that therefore, they are eligible for rehabilitation. Therefore, they knocked the doors of the Commission for necessary action.

7. The burden affirmatively lies upon the complainants to prove that they resided on the given plot for last so many years and therefore, they are eligible to rehabilitate. At the same time it is incumbent upon the Respondent MMRDA to follow proper procedure laid down under the Act. It is also incumbent upon the Authority to examine each and every case carefully and to decide whether the said person is eligible for rehabilitation. All these aspects are to be considered and decided by Respondent MMRDA and Deputy Collector (Encroachment) & competent Authority and not by the Commission. In other words it is beyond the scope of the powers of the Commission to go so deep into the merits of the case and to decide the eligibility of the person for rehabilitation. Therefore, it is necessary to view the present case on humanitarian ground and in the light of natural justice. The complainants are poor persons and are required to lead miserable life. They cannot be deprived of their own rights, unless due procedure is followed.

8. Therefore, the Commission is of the view that the cases of these complainants should be carefully judged on its own merits afresh, so that no injustice is caused to any claimant. In view of this situation, I think it just and proper to make following recommendations in this matter.

(A) Mumbai Metropolitan Region Development Authority and Deputy Collector (Encroachment & Demolition) and competent Authority, Andheri to review and re-investigate the cases of the complainants in the light of observations made above and after deciding their eligibility re-establish and re-habilitate them as early as possible.



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(B) The complainants, if they have not moved the Authority earlier, to move the Authority at early date, in order to enable the Authority to investigate their claims according to law.

(C) Copy of this order be sent to MMRDA and Dy Collector & competent Authority Andheri, Mumbai for their information and necessary action through Secretary – State Human Rights Commission, Mumbai.

With these recommendations and observations Case No. 342/2007-08 is disposed of accordingly.

The Secretary to communicate this order to the parties concerned.



sd/-
(Justice V G Munshi)
Member, SHRC