

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 3970 OF 2022

Anand V. Dhokey	]	
of Mumbai Indian Inhabitant,	]	
Residing At T - 02,	]	
Sundarban Co-operative Housing Society,	]	...Petitioner
Plot No. 15, Rama Gosavi Marg,	]	
Sector - 7, Airoli,	]	
Navi Mumbai - 400 708.	]	

Versus

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|--|---|----------------|
| 1. The Council Of Architecture |] | |
| Having its office at India Habitat |] | |
| Centre, |] | |
| 6A, 1 st Floor, Lodhi Road, |] | |
| New Delhi - 110 003. |] | |
| 2. The Disciplinary Committee of the |] | |
| Council of Architecture having its |] | |
| office at India Habitat Centre, |] | ...Respondents |
| 6A, 1 st Floor, Lodhi Road, |] | |
| New Delhi - 440 003. |] | |
| 3. Prasanna Shantaram Chamankar |] | |
| of Mumbai Indian inhabitant |] | |
| Residing at A-902, |] | |
| Aditi Co-operative Housing Society, |] | |
| Opp. Versova Telephone Exchange, |] | |
| SVP Nagar, MHADA, Anadheri (West), |] | |
| Mumbai - 400 053. |] | |

Mr. Shakeeb Shaikh a/w. Ms. Alfiya Diamondwala, Ms. Trushti Talekar and Noorain Patel i/b. M/s. Diamondwala and Co., Advocate for the Petitioner.

Mr. Jai Chhabria a/w. Ms. Taniya D'souza and Ms. Takshita Singh i/b. M/s. Rashmikant and Partners, Advocate for Respondent Nos. 1 and 2.

Mr. Amrut Joshi a/w. Duj Jain and Ms. Karishma Shah i/b.

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M/s. Kiran Jain and Co., Advocate for Respondent No.3.
Mr. Manish Upadhye, AGP for State-Respondent No. 4.

**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.**

DATED: 02 FEBRUARY 2026.

JUDGMENT (PER : MANJUSHA DESHPANDE, J.) :-

1. The Petitioner in this Writ Petition who is an Architect by profession raises challenge to the order dated 2nd June, 2020, passed by the Council of Architecture, thereby suspending the Petitioner from his practice as an architect, for a period of one year, and further directing him to surrender certificate of registration issued by the Council of Architecture within a period of 30 days, from the receipt of the communication.

2. The challenge is also raised to the report dated 25th April, 2019, submitted by the Respondent No. 2, on the basis of which impugned order came to be passed on the ground that, the report submitted by the Respondent No.2 is prepared ex-parte without affording any opportunity of hearing to the Petitioner for the alleged professional misconduct.

3. The learned advocate Mr. Shakeeb Shaikh appearing for the Petitioner, submits that, the Respondent No. 3 who is also an Architect, was appointed by one Mahakali Darshan Co-operative Housing Society and Mahakali Darshan 'A' Co-operative Housing Society, as an architect for the slum-

rehabilitation scheme to be implemented on the plot bearing CTS No. 78 and 79 of village Gundavali, Andheri (west), Mumbai in the year 2004. The Slum Rehabilitation Authority (for short 'SRA') issued an office order with regard to streamlining the procedure for termination of earlier Architect appointed by society/developer and to appoint new Architect under the SRA Scheme. The office order issued by the SRA was subjected to challenge by the Respondent no 3, in Writ Petition No. 1015 of 2014, before this Court. The said Writ Petition was finally decided on 19.03.2015, holding that the office order dated 04.01.2014, was not in conflict with the Architect's Act and the regulation made thereunder, further holding that the relation between the Architect and Developer/society is purely contractual in nature. Hence, the Developer/society can give a written notice to the Architect about termination of his/her service with regard to the SRA Scheme.

4. The Society, for whom the Respondent No. 3 was engaged, decided to terminate his service as an Architect for the Slum Rehabilitation Scheme, in the meetings of the Managing Committee of both the societies convened on 28.09.2014 and 05.10.2014, respectively. In furtherance of the decision taken in the meeting of the Managing Committee, the Respondent No. 3 was informed that his services as an Architect are terminated due to unsatisfactory service and irresolvable differences, with the developer *vide* communicated dated 06.10.2014. This decision was also communicated to the SRA on 28.10.2014 accompanied by the

declaration cum indemnity dated 31.10.2014, indemnifying the SRA and its office bearers against any claim or loss that may be caused due to pending claims of Respondent No. 3.

Simultaneously, a decision of the society to appoint the Petitioner as the new Architect to carry out further work of the SRA Scheme was communicated to the SRA on 17.10.2014. Thereafter the said society informed the Petitioner that he has been appointed as an Architect authorizing him to complete all the formalities for obtaining the approval for the SRA plans, during the construction of the building till the completion of its project, as per the resolution passed in the meeting of the managing committee.

5. It is submitted that the Petitioner, has accepted the offer of appointment after the termination of service of Respondent No. 3 as an Architect. Even the Slum Rehabilitation Authority, after seeking the legal opinion accepted the termination of Respondent No. 3 as an Architect and appointed the Petitioner as an Architect for the same Slum Scheme *vide* letter dated 26.11.2014. The Respondent No. 3 feeling aggrieved by the termination, filed a SC Suit No. 2842 of 2014, before the City Civil Court, Mumbai. However, he could not obtain any favorable order, therefore he has filed a complaint before Respondent No. 1 for alleged professional misconduct invoking rules of the Architects (Professional Conduct) Regulations 1989.

It is alleged that the Petitioner has violated Regulation No. 2(1)(xiii) and 2(1)(xv). The Respondent no. 1 forwarded

a copy of the complaint to the Petitioner calling upon him to submit his statement of defence within 15 days. The Petitioner in response to the said notice submitted his statement of defence to Respondent No. 1 on 13.01.2015.

6. It is the contention of the Petitioner, that though he has submitted his statement of defence, he was not called upon by the Respondent No. 1 for any hearing and has unilaterally submitted a report to the Respondent No. 2. The Disciplinary committee, held that Petitioner is found guilty for violating Regulation No. 2(1)(xiii) and 2(1)(xv) of the Architects (Professional Conduct) Regulations, 1989.

The Petitioner was surprised when he came to know about the report when he visited the SRA office, since he did not receive any such report from the Respondent No. 1. It is submitted that, the Respondent No. 2 had decided to hear the complaint alleging professional misconduct against the Petitioner, without even issuing any notice, claiming that notice was already issued to the Petitioner.

7. It is submitted that, the Petitioner remained present before the Respondent no. 2 and submitted that his appointment is confirmed only after the termination of service of Respondent No. 3, by strictly following the guidelines and the regulation in that behalf. It is further brought to the notice that the Slum Rehabilitation Authority has confirmed the termination of Respondent No. 3 and appointed the Petitioner to carry out further work of rehabilitation, as per the guidelines issued under the office

order dated 04.01.2014. Yet ignoring all the valid grounds raised by the Petitioner, Respondent No. 1 suspended the license of the Petitioner for a period of one year by issuing the impugned order dated 02.06.2020.

8. The Petitioner challenges the impugned order on the ground that the report submitted by the Respondent No. 1 was prepared without extending any opportunity of hearing to him. The disciplinary authority has failed to appreciate that the Slum Rehabilitation Authority has appointed the Petitioner in place of Respondent No. 3 in accordance with the office order dated 04.01.2014, which is approved by the Division Bench of this Court in its order dated 19.03.2015, which is still valid and binding on the Respondents. Thus, the findings recorded are contrary to the purport of the Regulation 2(1)(xiii) and (xv) of the Architects (Professional Conduct) Regulations 1989.

9. The learned advocate for the Petitioner submits that though the penalty imposed was to operate for a period of one year from the date of order i.e. from 02.06.2020, it was never implemented since he was protected by the orders passed by this Court vide order dated 10.07.2020 by staying the effect, operation and implementation of the impugned order dated 02.06.2020. Thus, the impugned order was never given effect to. Hence, the challenge to the impugned order still survives.

10. Responding to the submissions made by the learned advocate for the Petitioner, Mr. Shakeeb Shaikh, learned advocate for Respondent No.3 submits that he was appointed

as an Architect for providing architectural services for the Slum Rehabilitation Scheme, Mahakali Darshan CHS and Mahakali Darshan “A” CHS by the resolution passed in the General Body Meeting *vide* appointment orders dated 07.11.2003 and 19.01.2004. The Slum Rehabilitation Scheme was sanctioned by the SRA Authorities on 17.03.2006. According to him, the Scheme was in difficulty, faced with multiple problems, during such time the Petitioner in collusion with the builder M/s. Sunshine Builders obtained a fabricated Resolution dated 28.09.2014 and 05.10.2014, from the provisional and illegal Committees of the Societies, thereby replacing the Respondent no. 3. It is alleged that M/s. Sunshine Builders has issued a termination letter dated 06.10.2014, without giving 30 days prior notice as agreed in his appointment letter. The builder has also executed indemnity bond dated 30.10.2014, to indemnify the SRA for termination of services of Respondent No.3.

11. The learned advocate submits that the Petitioner is in a habit of flouting the provisions of Architect Act. He is an in-house architect of all projects of M/s. Omkar Developers including the Slum Rehabilitation project of Mahakali Co-operative Housing Society. Wherever the ongoing projects are taken over by M/s. Omkar Developers, the Petitioner enrolls himself as an Architect, without obtaining no objection from his predecessor, thereby violating the provisions of Architect Act. Even in the case of Respondent No.3, the Petitioner has adopted the same policy.

Even the Slum Rehabilitation Authority, without verifying the facts and examining the record had issued a letter dated 26.11.2014, to the Petitioner accepting the Supervision Memo submitted by him. He was therefore constrained to file a complaint against the Petitioner for the alleged professional misconduct, which was considered by the Council in its 66th meeting held on 25.10.2016. Upon being satisfied about the *prima facie* case as alleged against the Petitioner, the case of the Petitioner was referred to the Disciplinary Committee for detailed investigations, as per the regulations. After affording opportunity to all the parties, the impugned order has been passed, which does not deserve any interference.

12. Mr. Jai Chhabria appearing for the Respondent Nos. 1 and 2 has opposed the prayers in the Writ Petition contending that, the Respondent No.2 is the Disciplinary Committee of Council of Architecture i.e. Respondent No.1. The Disciplinary Committee is constituted under Rule 35 of the Council of Architecture Rules, 1970. The Council of Architecture prescribes the professional conduct, etiquette and code of ethics for the architects. Section 30 of the said Act also provides that, if a complaint is received by the Council of Architecture, and a person is found guilty of professional misconduct, it will render him unfit to practice as an architect. Upon holding inquiry, the Council of Architecture may by order reprimand, suspend from practice or remove his name as an architect from the register.

It is stated that the Respondent Nos. 1 and 2 have followed the due procedure prescribed in Regulations, while deciding the complaint of professional misconduct against the Petitioner and all the members of the Council have unanimously come to the conclusion that the Petitioner is guilty of infraction of Regulation No. 2(1)(xiii) and 2(1)(xv) of The Architects (Professional Conduct) Regulations, 1989.

A notice of hearing was issued to the Petitioner for the hearing to be conducted before the Respondent No.2 on 18.07.2018. Accordingly he did remain present on 30.07.2018. Hence, there is no substance in the allegations that he has not received any notice. According to him, the following acts of the Petitioner amounts to misconduct, therefore, attract Regulation No. 2(1)(xiii) and 2(1)(xv) of The Architects (Professional Conduct) Regulations, 1989.

(i) The Petitioner has taken up the subject project on the same day of termination of service of Respondent No.3;

(ii) When the Petitioner took up the project the SRA had not terminated the service of Respondent No.3 on its record;

(iii) The Petitioner has not satisfied himself, that services of Respondent No. 3 have been terminated before accepting the appointment;

(iv) the Petitioner has not given any notice to Respondent No.3 about accepting his appointment by the society, where the Respondent No.3 was already working.

Referring to the undated appointment letter of the Petitioner, it is submitted that the said letter does not refer to the termination of Respondent No.3. In the same manner the acceptance of appointment by the Petitioner addressed to the builder also does not bear any date.

Thus the Petitioner did not have any evidence before him to satisfy himself before accepting the appointment, that services of Respondent No.3 have been terminated by the society and the developer. As a result, the Council of Architects has come to a conclusion that the the Petitioner has violated Regulation No. 2(1)(xiii) and 2(1)(xv) of The Architects (Professional Conduct) Regulations, 1989.

13. We have heard the respective counsel for the parties and have perused the documents placed on record with their assistance. The grievance of the Respondent No. 3 raised before the Disciplinary Committee of the Council of Architecture appears to be that, while he was working as an Architect for the two SRA projects of Mahakali Darshan Co-operative Housing Society, the Petitioner herein supplanted him and violated the Rules of professional conduct and regulations. The Petitioner has not inquired with the Respondent No.3 whether his services have been terminated and his fees has been paid by the client. Perusal of the report of the Disciplinary Committee of Council of Architecture,

dated 25.04.2019, reflects that the Respondent No. 3 had complained that the Petitioner took the project on the same day when his services were unilaterally terminated by the Executive Body of the society. Petitioner has taken up the project knowing it fully well that the Respondent No.3 was engaged as an Architect on the said project. It was alleged that the conduct of the Petitioner violated Regulation No. 2(1)(xv) of the Architect Conduct Regulation 1989. Though the allegation was in respect of violation of Regulation No. 2(1)(xv), the Disciplinary Committee submitted its report alleging violation of Regulation 2(1)(xiii) and (xv) of the Architect (Professional Conduct) Regulations, 1989.

The aforementioned Regulation read thus:

“2. -- (1) Every Architect, either in practical or employment, subject to the provisions of the Central Civil Services (Conduct) Rules, 1964 or any other similar rules applicable to an Architect, he shall. :-

(i) ensure that his professional activities do not conflict with his general responsibility to contribute to the quality of the environment and future welfare of society.

.....

.....

(xiii) not supplant or attempt to supplant another Architect,

....

(xv) not attempt to obtain, offer to undertake or accept a commission for which he knows another Architect has been selected or employed until he has evidence that the selection, employment or agreement has been terminated and he has given the previous Architect written not that he is so doing;

Provide that in the preliminary stages of works, the client may consult, in order to select the Architect, as may Architects as he wants, provided he makes payment of charges to each of the Architects so consulted;"

14. The report of the Disciplinary Committee was placed before the Full Council of the Council of Architecture on 25.01.2020, both the parties along with their respective advocates were heard and after hearing the Council has come to a unanimous decision that the Petitioner is guilty of professional misconduct, since he took up the project for which the complainant was already engaged, without termination of service of the Respondent No. 3, thereby failed to comply with the Regulation No. 2(1)(xv) of the Architect (Professional Conduct) Regulation, 1989, which has culminated in imposing penalty of suspension from practice for a period of one year.

Upon perusal of the documents placed on record, we find that the society Mahakali Darshan SRA Co-operative Housing Society and Mahakali Darshan SRA-A Co-operative Housing Society by way of Resolutions dated 28.09.2014, and 05.10.2014, respectively have resolved to terminate the services of Respondent No. 3 and in the same meeting a further Resolution was passed to appoint the Petitioner. The

Resolution dated 28.09.2014, was received by the SRA Authority on 30.10.2014. Similarly, the decision of the Mahakali Darshan SRA was communicated by the developer M/s. Sunshine Builders to the Respondent No. 3 on 06.10.2014. Simultaneously, the developer has also addressed a communication to the SRA Authority, seeking approval to the appointment of the Petitioner which was received by the SRA Authority on 20.10.2014, followed with a declaration cum indemnity issued by the developer dated 31.10.2014.

It appears that simultaneously, the Mahakali Darshan SRA also communicated about its decision of terminating Respondent No.3 and appointing the Petitioner to the Chief Executive Officer of SRA on 17.10.2014 and the CEO SRA has granted approval to the appointment of the Petitioner on 19.11.2014. Though the Respondent No.3 has alleged that, the appointment order of Petitioner is undated, however, from the contents of the communication addressed by the Developer M/s. Sunshine Builders to the Chief Executive Officer, SRA received by them on 20.10.2014, it is evident that the Petitioner has been appointed for the two SRA societies as an Architect vide letters dated 11.10.2014 and 09.10.2014, respectively, which falsifies the claim of the Respondent No. 3 that he, as well as the Petitioner have been appointed and terminated on one and the same day. Thus, we do not find any substance in the allegations made by the Respondent No.3, which forms basis for the impugned order.

15. At this juncture, it would be apposite to refer a decision of this Court in Writ Petition No.1015 of 2014, wherein the Respondent No. 3 herein had challenged the office order issued by the Slum Rehabilitation Authority dated 04.01.2014 contending that it is in conflict with the provisions of Architect Act, 1972 and Rules framed thereunder. An objection was raised by the Respondent No.3 to the office order issued by the SRA on the ground that, it is only the Council of Architecture, who can provide Regulations for regulating the appointment or resignation/removal of an Architect.

Turning down the challenge to the office order issued by the SRA, this Court has held as under:

“11 In any case, the said Regulations can only govern the conduct of the Architects. The Respondent No.3 has no authority to govern the conduct of the clients of the Architect. The relationship between the Architect and the Developer/Co-operative Society is purely contractual in nature. On the contrary the impugned guidelines are in tune with the Regulation No.13. Clause 2 of the said guidelines specifically provides that the Developer has to give a written notice to the Architect that his services with regard to the Slum Rehabilitation Scheme are terminated. The Developer has also to submit an acknowledgment of the notice given to the Architect before the Slum Rehabilitation Authority. The main purpose of the said guidelines is to

indemnify the Respondent No.2 in case there are any proceedings initiated or pending on account of termination, between an Architect and the Developer/Co-operative Society. We find no conflict with the Regulations notified by the Respondent No.3 and the impugned communication.”

Thus, in pursuance of the office order dated 04.01.2014, the Developer has terminated the service of the Respondent No.3 in consultation of the Society and has appointed the Petitioner, which find support from the documents placed on record. The documents placed on record clearly indicate that the Respondent No. 3 has been terminated which was accompanied by the indemnity and only after completing the formalities, the SRA Authority granted approval to the appointment of the Petitioner. All these facts have not been gone into and recorded in the orders passed by the Respondent Nos. 1 and 2. Thus, the order impugned becomes vulnerable and unsustainable. While making submissions, the learned advocate for Respondent No. 3 has submitted that the Petitioner is in a habit of enrolling himself as an Architect, without obtaining no objection from the previous Architect thereby violating the provisions of Architect Act.

When we made a query, whether the Petitioner has ever been penalized for his alleged misconducts previously, the Respondents could not point out any such order. Hence, we do not find any substance in the aforesaid allegations made by the Respondent No. 3.

16. It also needs to be appreciated that the Respondent No. 3 has also filed a suit against the builders, SRA Authorities and the Society in which one of the prayer is regarding termination of notice dated 06.10.2014 and 27.10.2014. A prayer is also made for restraining the Respondents from appointing new Architect in his place. However, the Respondent No.3 could not secure any favorable order and the suit is still pending.

17. In the wake of aforementioned facts and circumstances we find that the order passed by the Respondent Nos. 1 and 2 is unsustainable, since it is passed without taking into consideration the facts of the case, and is also contrary to the record, it reflects non-application of mind by the Respondent 1 & 2. Thus, the order impugned is quashed and set aside.

18. Rule is made absolute in terms of prayer Clauses (a) and (b).

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)