

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2333 OF 2015
WITH
CIVIL APPLICATION NO. 3844 OF 2015

Sudhir s/o Chandrakant Fattepurkar
Age 41 years, Occ. Medical practitioner
R/o. Ashwini Hospital, Near IDBI Bank,
Ausa Road, Latur
district Latur

...Petitioner

versus

1. The State of Maharashtra,
through the Secretary
Urban development Department
Mantralaya, Mumbai 32.
2. The Municipal Corporation, Latur
Through its Commissioner
3. The Town Planner,
The Municipal Corporation, Latur

...Respondents

.....

Mr. V.D. Sapkal h/f Mr. S.S. Manale, advocate for the petitioner
Mr. S.G. Karlekar, AGP for respondent No.1
Shri V.D. Hon, senior counsel i/b Mr. A.V. Hon, advocate for respondent
Nos. 2 and 3.

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**CORAM : R. M. BORDE AND
V. K. JADHAV, JJ.**

DATED : 21st APRIL, 2015

JUDGMENT (PER R.M. BORDE, J.): -

1. Rule. Rule made returnable forthwith. By consent of the parties petition is taken up for final hearing at admission stage.

2. The petitioner is assailing the order passed by the Municipal Corporation on 3.2.2015 directing revocation of development permission accorded to the petitioner and further mandating him to stop further construction. The petitioner claims that he has completed about 60 to 65% construction in accordance with development permission accorded by the Municipal Corporation. The order impugned in the instant writ petition is passed without extending any opportunity of hearing to the petitioner and is passed at the instance of some interested parties. Reliance is placed on the judgment in the matter of ***Mahavir Enterprises vs. State of Maharashtra and others, reported in 1990 (2) Mh.L.J. 1015.*** In identical situation, while disposing of said petition, this court observed that the action contemplated under Section 51 of the Maharashtra Regional Town Planning Act, 1966 is subject to observance of the principles of natural justice which is a condition precedent for the exercise of power under Section 51 of the Act by the Planning Authority. Since the planning authority has issued an order in absence of observance of principle of natural justice, the action needs to be quashed and set aside and as such order impugned in the instant writ petition is quashed and set aside.

3. It would be open for the Municipal Corporation to issue

appropriate show cause notice to the petitioner pointing out the deficiencies and calling upon the petitioner to answer such deficiencies/irregularities and shall thereupon after extending an opportunity of hearing to the petitioner, shall proceed to pass appropriate orders, in accordance with the provisions of law.

4. In view of the above, writ petition is disposed of. Rule made absolute accordingly.

5. It is clarified that this Court has not dealt with merits of contentions raised by the petitioner. It would be open for the Planning Authority or the Authority invested powers under Section 51 of the Act to take appropriate steps without being prejudiced by any of the observations made by the Civil Court while issuing the interim order in the pending litigation.

6. Pending civil application is also disposed of.

(V. K. JADHAV, J.)

(R. M. BORDE, J.)

rlj/