

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.2537 OF 2014

Kullbhushan s/o Ramchandra Agrawal
and others

Petitioners

Versus

The State of Maharashtra & others

Respondents

Mr.Pramod F. Patni, advocate for petitioners.
Mrs.V.A.Shinde, A.G.P. for Respondent No.1.
Mr.A.M.Karad, advocate for Respondent No.2.

**CORAM : R.M.BORDE &
SUNIL P. DESHMUKH, JJ.
DATE : 12th February, 2015**

PER COURT:

1 We have already recorded in the order passed by us on 11.02.2015, that the construction permission, as requested by the petitioners has been rejected by the Municipal Corporation and there is an efficacious remedy provided under the provisions of Section 47 of the M.R.T.P. Act, which can be availed of by the petitioners.

2 Petitioners contend that building permission is required to be sought under the provisions of Bombay Provincial Municipal Corporations Act and against the order of rejection of building permission, there is no remedy provided under the Bombay Provincial Municipal Corporations Act.

3 The application seeking permission for development is also required to be dealt with under the provisions of M.R.T.P. Act and the Municipal Corporation is a Planning Authority under the provisions of the said Act. Section 47 of the Act of 1966 provides for remedy against an order of rejection of permission for development; and rejection of an

application seeking building permission can also be equated with an order of rejection of permission for development and as such, remedy provided under Section 47 of the Act of 1966 can be availed of.

4 Learned Counsel for petitioners, on instructions, seeks leave to withdraw the petition with liberty to file appropriate appeal.

5 Leave granted. Writ Petition stands disposed of as withdrawn with liberty as prayed for. If petitioners tender an appeal within two weeks from today, the appellate authority shall deal with the appeal and take appropriate decision thereon on its own merits and in accordance with provisions of law, as expeditiously as possible, preferably within a period of four months from lodging of the appeal.

SUNIL P. DESHMUKH
JUDGE

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R.M.BORDE
JUDGE