

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. WRIT PETITION NO. 1207 OF 2015

Shri Samir Hirani

... Petitioner.

V/s.

The Municipal Corporation of Gr. Mumbai
and Anr.

... Respondents.

Mr. Amit P. Ghag, Advocate for the Petitioner.

Mr. D. R. More, APP for the State.

Mr. H.E. Pimpale for the BMC- Respondent No.1.

CORAM : M.L.TAHALIYANI,J.

DATE : 30th MARCH, 2015

P.C. :

1 Admit. Heard finally.

2 Perused the complaint and the inspection report.
Heard the learned counsel for the Petitioner, learned APP for the State and learned Advocate Mr. Pimpale for the Mumbai Municipal Corporation, Greater Mumbai, Mumbai.

3 The petitioner is facing trial for the offence punishable under section 471 read with 347-A of the MMC Act. It is alleged that M/s. Kushalchand Industries' Unit 25K situated at Laxmi Industrial Estate, New Link Road, Andheri (W), Mumbai -400053 was converted to commercial use though it was originally meant for industrial use. I have gone

through the complaint and the inspection note. Relevant portion of the inspection note can be reproduced as under :

“2) Unit 25K :- - Owner (Mrs. Samir Hirani)

- As per plan, two door are found with toilet inside.
- Three wooden cabins observed upto hight of 7'
- The said unit is use for commercial office purpose.
- No any amalgamation observed with adjucent units.”

As such it is apparent that the only allegation against the petitioner in the inspection report is that “the said unit is used for commercial office purpose”. There is no material in the inspection note as to how and when it was declared as “industrial unit” and as to in what manner it was being used for “commercial purpose”. Inspection note is very cryptic and it is not clearly communicated to the petitioner as to what offending act had been committed by him.

4 It is noticed by this court that most of the inspection reports are written by corporation officers in a cryptic manner and they do not mention in detail as to how a particular provisions of the Mumbai Municipal Corporation Act has been violated. It is also noticed that even the complaints filed in the court of Magistrate are very cryptic. This court is aware of the fact that the Corporation has to file about

hundred complaints per day. Therefore, a printed proforma is used for filing complaints but one thing is to be noted here that there is sufficient place in the printed proforma also to state allegations in brief so that the accused comes to know as to what he has to face before the trial court. Such cryptic inspection notes and complaints are in fact detrimental to the interest of the Corporation itself. Apart from the fate of the present complaint what is important is that the senior officers of the Corporation should take note of all these aspects and issue necessary directions to the concerned departments and officers to prepare inspection notes properly and to prepare the complaints in a proper manner.

5 The complaint in question i.e. criminal case no. 9135/SS/2014 is quashed for the above stated reasons.

6 Copy of this order shall be forwarded to the Municipal Commissioner of Municipal Corporation of Greater Mumbai for being circulated among Law Officers and other officers concerned with the prosecutions under the Mumbai Municipal Corporation Act.

7 The writ petition is allowed in the above terms and stands disposed of accordingly.

(JUDGE)