

SQP

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (LODGING) NO. 388 OF 2015
IN
PUBLIC INTEREST LITIGATION NO. 45 OF 2012**

Bharatmata High School

...Applicant

IN THE MATTER BETWEEN :

Ali Asgar Mohammed Tahsildar

...Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

Mr. Vikhil Dhole with Ms. Vaishali Raghuwanhsi and Ms. Anisha Singh
for the Applicant

Mr. Sushil Upadhye I/b Mr. A. M. Saraogi for the Petitioner

Mr. J. S. Saluja, A.G.P for the Respondent – State

Ms. Neha Bhide for the Respondent – MHADA

Ms. Trupti Puranik for the Respondent – BMC

**CORAM : A. S. OKA &
REVATI MOHITE DERE, JJ.
MONDAY, 13th JULY, 2015**

P.C. :

1. Heard learned Counsel appearing for the applicant (Bharatmata High School). There is an affidavit in reply filed by Shri R. S. Vaze, the Estate Manager of Maharashtra Housing and Area Development Board. It records that five galas were allotted to the applicant Bharatmata High

School. It is further stated that the said School converted the said galas being gala Nos. 3, 4, 5, 6 and 7 into one premises and also have constructed additional floor. A notice dated 10th June, 2015 has been accordingly issued to the applicant School calling upon them to remove the illegal structures. Learned Counsel appearing for the applicant states that notice has been served to the applicant and the applicant has filed a reply dated 29th June, 2015.

2. At this stage, learned Counsel appearing for the applicant states that by accepting the correctness of what is stated in the notice dated 10th June, 2015, the applicant wants to apply for regularization of the structure/structures erected by it. Learned Counsel appearing for the applicant on instructions states that the applicant will apply for regularization of the possession of the premises occupied by the applicant as well as the work carried out by the applicant within a period of three months from today. We accept the said statement.

3. In view of the aforesaid statement, it is apparent that the applicant Bharatmata High School has accepted that it has carried out

illegal construction on the galas originally allotted to it as well as on the adjoining galas. Only in view of the fact that the applicant has admitted the students during the present academic year, we propose to give time to the applicant to apply for regularization. Hence, we pass the following order :

ORDER

- (a) It will be open for the applicant to apply for regularization to the concerned Authorities within a period of three months from today;
- (b) If application is not made for regularization within the stipulated period of three months from today, the Municipal Corporation or MHADA shall proceed with the work of demolition ;
- (c) If application is made within a period of three months from today, appropriate decision shall be taken on the said application within a period of two months from the date on which application is made ;
- (d) Order passed on the application be communicated to the

applicant ;

(e) If the order be adverse to the applicant, the same shall not be implemented for a period of one month from the date on which the same is served on the applicant ;

(f) We make it clear that all contentions on merits of the application for regularization are kept open ;

(g) Notice of Motion is disposed of on the above terms.

(REVATI MOHITE DERE, J.)

(A. S. OKA, J.)