

SQP

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (LODGING) NO. 389 OF 2015
IN
PUBLIC INTEREST LITIGATION NO. 45 OF 2012**

National English High School ...Applicant

IN THE MATTER BETWEEN :

Ali Asgar Mohammed Tahsildar ...Petitioner

Versus

State of Maharashtra & Ors. ...Respondents

Mr. Tushar Gujjar with Mr. Ameet Mehta I/b Solicis Lex 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. The learned Counsel appearing for the applicant (National English High School) on instructions states that the applicant is accepting that it is illegally running a School in a premises allotted by the Mumbai Municipal Corporation for residential purpose. He also accepts that illegal

structures which are mentioned in the order dated 11th July, 2015 (Exhibit 'F' to the affidavit in support) have been constructed by the applicant without obtaining permission. He, therefore, states that the applicant intends to apply for regularization of its possession as well as the regularization of the illegal structure to the Mumbai Municipal Corporation. He states that as students have been admitted to the School, a liberty may be granted to the applicant to apply for regularization. He seeks three months time to apply for regularization.

2. The aforesaid statements made by the applicant on instructions show that the applicant has accepted that it is illegally and unauthorisedly running a school in the premises of the Municipal Corporation. The applicant has also accepted that illegal construction was made for the purpose of school. The order dated 11th July, 2015 is in relation to two structures of ground plus two upper floors. Though the applicant has accepted that it has committed gross illegalities, only in view of the fact that the applicant has admitted students to the School which is run in the premises in question that we propose to show indulgence of permitting the applicant to apply for regularization.

3. Accordingly, we dispose of the Notice of Motion by passing the following order :

ORDER

(a) It will be open for the applicant to apply to the Mumbai Municipal Corporation for regularization of possession as well as regularization of the illegal structures, within a period of three months from today. It is obvious that the application for regularization of the structures shall be filed in appropriate format through a licensed Architect.

(b) On the failure of the applicant to make an application for regularization of the illegal structures as well as the possession within a period of three months from today, the Mumbai Municipal Corporation shall immediately take action of demolition and removal of the applicant on expiry of period of three months from today.

(c) If application(s) for regularization are made within the stipulated period, the same shall be decided by the Appropriate

Authority of the Municipal Corporation within a period of two months from the date of filing of the application(s).

(d) Orders passed on the application(s) be served to the applicant.

(e) In the event, the orders be adverse to the applicant, no action shall be taken on the basis of the said orders for a period of one month from the date of service of the said order on the applicant.

(f) It is made clear that we have made no adjudication on merits of the application(s) for regularization proposed to be made by the applicant and all contentions are kept open.

(REVATI MOHITE DERE, J.)

(A. S. OKA, J.)