

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 189 OF 2015**

Umesh Ramrao Bhosale	...Petitioner
Versus	
State of Maharashtra & Ors.	...Respondents

Mr. Maurya Kailash Nath for the Petitioner

Mr. Vinod Mahadik for the Respondent – BMC

Ms. Anjali Purav Yajurvedi for the Respondent Nos. 6 to 21 & 24

CORAM : A. S. OKA AND
REVATI MOHITE DERE, JJ.

FRIDAY, 12th JUNE, 2015

P.C. :

1. By making various allegations as regards illegalities committed by the sixth respondent and its trustees, the petitioner has approached this Court by filing this writ petition under Article 226 of the Constitution of India, seeking a writ of mandamus against the State Government and the Municipal Corporation to probe into the alleged illegalities.

2. Learned counsel appearing for the petitioner is unable to produce even a single representation made by the petitioner to the

concerned authorities pointing out the alleged illegalities committed by the sixth respondent and its trustees. He has produced for perusal of the Court a copy of the letter addressed by him to the Commissioner of Municipal Corporation, which only seeks personal meeting with the Commissioner.

3. The law is well settled. Before approaching a writ Court for seeking a writ of mandamus under Article 226 of the Constitution of India, the petitioner has to make a demand calling upon the concerned authorities to perform their mandatory duties. Only when there is a refusal or when a refusal can be inferred that writ jurisdiction can be allowed to be invoked. The law has been laid down to that effect by the Apex Court in the case of ***Saraswati Industrial Syndicate Ltd. & Ors. vs. Union of India***¹.

3. Hence, at this stage, we are not inclined to entertain the petition. We accordingly dispose of the petition. However, it will be open for the petitioner to make a detailed representation to the concerned Officer of the first respondent as well as the Commissioner of the second respondent. If such representation is made, the concerned authorities shall consider the same in accordance with law as expeditiously as possible.

1 (1974) 2 SCC 630

4. Subject to above direction, the petition is disposed of.
5. All concerned to act upon authenticated copy of this order.

(REVATI MOHITE DERE, J.)

(A. S. OKA, J.)