

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5139 OF 2015

(Samir Kedarnath Agrawal and others vs. The Commissioner, Akola Municipal Corporation and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri C.S. Kaptan, Senior Advocate with Shri A.A. Naik,
Advocate for petitioners.

Shri F. Mirza, Advocate for respondent nos.1 and 2.

Shri B.M. Lonare, Assistant Government Pleader for
respondent no.3.

CORAM : B.R. GAVAI AND
P.N. DESHMUKH, JJ.

DATED : DECEMBER 16, 2015

We were required to summon Commissioner, Municipal Corporation, Akola since when the matter was listed on 9/12/2015, a statement was made by the learned Counsel appearing on behalf of Municipal Commissioner that he had spoken to Municipal Commissioner and the Municipal Commissioner sought a week's time to state whether he would proceed in accordance with law laid down in the case of Sopan Maruti Thopte

and another vs. Pune Municipal Corporation and another (1996(1) Mh.L.J. 963) and **Hari Hotumal Tanwani vs. Commissioner, Ulhasnagar**

Municipal Corporation and others (2005 (3) Bom. C.R. 921). We were amazed with the statement made at the Bar that even for deciding whether the Authority would act in accordance with law, it required a week's time to think over.

Every Authority is bound to comply with the law as laid down by this Court. A simple statement on behalf of Municipal Commissioner that he would act in accordance with law would have ended the matter. We had also made it clear that we were restricting the issue for the present only to the unauthorized construction and not regarding possession of the premises in question.

Be that as it may, Shri Ajay Pralhad Lahane, presently working as Commissioner, Municipal Corporation, Akola is present in the Court and has also filed an affidavit-in-reply. He has tendered his unconditional apology. He has stated that he has also issued order on 14/12/2015 to the

Designated Officer, i.e. Zonal Officer (West Zone) of Akola Municipal Corporation to initiate appropriate proceedings forthwith in accordance with law in regard to unauthorized construction. He has also categorically stated that he shall proceed in accordance with law and in the light of law laid down in the case of **Sopan Maruti Thopte and another vs. Pune Municipal Corporation and another** (1996(1) Mh.L.J. 963) and **Hari Hotumal Tanwani vs. Commissioner, Ulhasnagar Municipal Corporation and others** (2005 (3) Bom. C.R. 921).

In that view of the matter, we accept the unconditional apology tendered by Municipal Commissioner and discharge the notice issued to him.

Since Municipal Commissioner has made a statement that he will act in accordance with law, nothing survives in the petition. The petition is disposed of accordingly.

JUDGE

JUDGE

khj