

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

WRIT PETITION NO. 2278/2016

Shri Vijay Keshavrao Dharpal

...Versus...

State of Maharashtra, through its Secretary, Public Works Department, Mantralaya,
Mumbai – 32 and others

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

Court's or Judge's orders

Shri S.M. Puranik, Advocate for petitioner
Shri N.H. Joshi, AGP for respondent nos.1, 3 and 4

CORAM : SMT. VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.

DATE : 16.04.2016

By this writ petition, the petitioner seeks a direction to the respondent – Municipal Council to implement the notice issued to the respondent nos.5 and 6 under the provisions of Section 53 (1) of the Maharashtra Regional and Town Planning Act, 1966.

The petitioner claims to be the Councillor of the Municipal Council. It is the case of the petitioner that the respondent nos.5 and 6 have not made the construction for operating the petrol pump, in accordance with the sanctioned plan and a notice has been served on the respondent nos.5 and 6 by the Municipal Council. It is stated that the Municipal Council is not taking any further steps in the matter of the notice served on the respondent nos.5 and 6.

We find on hearing of the learned Counsel for the petitioner and on a perusal of the documents annexed to the writ petition that the petitioner has not made a demand for further action in the matter of the implementation of the notice to the Municipal Council. In the absence of a demand or request, a writ of mandamus cannot be issued against the respondent – Municipal Council directing them to implement the notice. Even otherwise, if the petitioner is a Councillor of the Municipal Council, the petitioner can as well take steps to ensure that further action is taken against the respondent nos.5 and 6, if at all they have really made the construction in contravention of the building plan.

For the reasons stated herein above, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

Wadkar