

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5407 OF 2015

Mr.Abhijit Kulkarni i/b D.D And Abhijit Associates
for the Petitioner
Ms N.M.Mehra, AGP for the respondent Nos.1 and 2
Mr.Rajdeep S. Khadapkar for respondent Nos.3 to 6

P.C.:

3 The petitioner claims that on the basis of the development permission and commencement certificate granted by the third respondent-corporation, the petitioner carried out construction of a building consisting of Recreation Hall, Cafeteria etc.. Occupation certificate was issued on 27th April

2001. According to the case of the petitioner, he was granted temporary health licence for setting up business of running a marriage hall. By the first impugned communication dated 26th May 2015, the temporary health permission has been cancelled on the ground that the property of the petitioner is within green belt. By the second impugned communication dated 27th May 2015, the petitioner was called upon to stop the business on the ground that the property comes under green zone/belt as in view of clause M-7 of the Development Control Regulations, the user was not permissible.

4 Admittedly, both the impugned communications/orders were issued without giving an opportunity of being heard to the petitioner. By the impugned communications, the right of the petitioner to carry on business has been adversely affected. Only on this ground, the impugned communications deserve to be set aside. However, the licence granted to the petitioner has already been expired and therefore, before re-commencing the business, the petitioner will have to obtain necessary licence from the third respondent-Corporation.

5 Hence, we dispose of the petition by passing the following order:

(I) The impugned communications dated 26th May 2017 and 27th May 2017 (Exhibits G and H respectively) are hereby set aside only on the ground of breach of principles of natural

justice;

- (II) The questions whether the property of the petitioner is within green zone and whether clause M-7 of the DCR is applicable to the said property are kept open;
- (III) We make it clear that as the licence granted by the Pune Municipal Corporation has since expired, the petitioner will not be entitled to re-commence the business without obtaining a proper licence/permission. It will be open for the petitioner to apply for grant of licence. If such application is made, the same shall be decided on its own merits within sixty days from the date of the application;
- (IV) Rule is made absolute on above terms;
- (V) All concerned to act upon an authenticated copy of this order.

(VIBHA KANKANWADI, J.)

(A.S.OKA, J.)