

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 13198 OF 2017

Mr. Abhay Jugalkishor Agrawal Petitioner.
V/S
The State of Maharashtra
and another Respondents.

**WITH
WRIT PETITION NO. 12937 OF 2017**

Mrs. Vidyadevi Patodia Petitioner.
V/S
The State of Maharashtra
and another Respondents.

**WITH
WRIT PETITION NO. 12940 OF 2017**

Mr. Vipul Hariom Choudhary Petitioner.
V/S
The State of Maharashtra
and another Respondents.

**WITH
WRIT PETITION NO. 12941 OF 2017**

Ms. Paridhi Agrawal Petitioner.
V/S
The State of Maharashtra
and another Respondents.

**WITH
WRIT PETITION NO. 12942 OF 2017**

Mrs. Archana Garg Petitioner.
V/S
The State of Maharashtra
and another Respondents.

**WITH
WRIT PETITION NO. 12943 OF 2017**

Mrs. Anju Patodia	 Petitioner.
V/S	
The State of Maharashtra and another	 Respondents.

**WITH
WRIT PETITION NO. 12944 OF 2017**

Mr. Hariom Choudhary	 Petitioner.
V/S	
The State of Maharashtra and another	 Respondents.

**WITH
WRIT PETITION NO. 12945 OF 2017**

Mrs. Shilpa Patodia	 Petitioner.
V/S	
The State of Maharashtra and another	 Respondents.

**WITH
WRIT PETITION NO. 12946 OF 2017**

Mr. Nilesh Jaipuria	 Petitioner
V/S	
The State of Maharashtra and another	 Respondents.

**WITH
WRIT PETITION NO. 12947 OF 2017**

Ms. Hariom Jaipuria	 Petitioner
V/S	
The State of Maharashtra and another	 Respondents.

**WITH
WRIT PETITION NO. 12948 OF 2017**

Mr. Hariom Jaipuria	 Petitioner
V/S	

The State of Maharashtra
and another

.... Respondents.

**WITH
WRIT PETITION NO. 12949 OF 2017**

Mr. Rakesh Sharan Agrawal
V/S

.... Petitioner

The State of Maharashtra
and another

.... Respondents.

**WITH
WRIT PETITION NO. 12950 OF 2017**

Mr. Bhagyashree Jaipuria
V/S

.... Petitioner

The State of Maharashtra
and another

.... Respondents.

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Mr. A.M. Saraogi for the Petitioners in all writ petitions.

Mr. N.R. Bubna for Respondent No.2 in all writ petitions.

Mr. N.C. Walimbe, AGP for State in writ petition Nos.
13198/2017, 12937/2017, 12940 to 12943/2017.

Ms. Nisha Mehra, AGP for State in writ petition Nos.112944/2017
and 12950/2017.

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***CORAM : Smt. Vasanti A Naik &
Riyaz I. Chagla, JJ.***

DATE : 29th November, 2017.

P.C. :

Since the issue involved in these writ petitions is almost identical and similar prayers are made therein, they are heard together and are decided by this common order.

By these writ petitions, the petitioners seek a direction against the respondent no.2-Mira Bhayander Municipal Corporation, not to take any coercive action for demolition of the

petitioners' premises, except by following the due process of law.

Mr. Saraogi, the learned counsel for the petitioners submits that in most of the petitions, the petitioners are using the residential premises for running the play school. It is stated that in the other petitions, the premises are used for other commercial purposes. It is submitted that after the Corporation was informed by the petitioner that they were using the premises for commercial purposes and that they should be granted permission to utilize the premises for commercial use, the Corporation had started imposing taxes on the petitioners, as are prescribed for commercial premises. It is submitted that though applications are made by the petitioners for regularising the change of user, the applications are not decided. It is stated that without deciding the applications of the petitioners for regularization, the respondent no.2 has sought to take coercive action for the removal of the shutters affixed by the petitioners to the concerned premises.

It is not disputed by the learned counsel for the respondent no.2 that the applications are received from the petitioners for regularization as per the provisions of the Maharashtra Regional and Town Planning Act. It is however submitted that the applications are not made in the proper form and they are vague. It is however not disputed that the applications are not decided by the respondent-Corporation till date. It is stated that till the applications of the petitioners are decided, the petitioners may not be permitted to use the premises for commercial purposes.

In the circumstances of the case, it would not be proper for the respondent no.2-Corporation to take steps for the removal of the fixtures and shutters of the premises of the petitioners, specially when the applications made by the petitioners for regularization are pending with the respondent no.2-Corporation. It would be necessary for the respondent-Corporation to decide the applications made by the petitioners, for regularization of the user. The Corporation may consider the applications made by the petitioners for change of user in accordance with law. However, before the said applications are decided, no coercive steps could be initiated against the petitioners for removal of fixtures or the part of the structures.

In the circumstances of the case, the writ petitions are partly allowed. The respondent no.2-Corporation is restrained from taking any coercive steps against the petitioners till the applications made by the petitioners for regularization are decided by the Corporation. Order accordingly. No costs.

(Riyaz I. Chagla J)

(Smt.Vasanti A Naik, J)