

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

PUBLIC INTEREST LITIGATION NO. 74 OF 2016

(Anil s/o Sharadchandra Mardikar vs. State of Maharashtra thr. its Secretary, Ministry of Rural Development and Water Conservation Department & Ors.)

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

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
ARUN D. UPADHYE, JJ.
SEPTEMBER 06, 2017.**

Heard Shri A.S. Jaiswal, learned Senior Advocate with Shri N.C. Phadnis, learned counsel for the petitioner, Shri D.P. Thakare, learned Additional GP for respondent Nos. 1 & 2 and Shri S.M. Puranik, learned counsel for respondent No. 3.

2. Shri Puranik, learned counsel submits that he has drafted affidavit which shows that after 2009, while sanctioning Building Plan, compliance with Rain Water Harvesting system has been made compulsory.

3. The learned Senior Advocate points out that after amendment in 2009, it is mandatory and though in Building Plan such compliance is insisted upon and sanctioned, practically it has not been implemented thereafter. He makes a grievance that no deterrent action has been taken and hence all the owners, who are getting plans sanctioned, are avoiding to have said system at place.

4. According to learned Senior Advocate, in about 145 such matters, out of 191 sanctioned plans, there are violations and Nagpur Municipal Corporation is attempting to collect fine only @ Rs.1000/- per 100 square meters.

5. Shri Puranik, learned counsel submits that fine amount is taken as per directions of the State Government.

6. We do not and cannot in this Public Interest Litigation, at this stage, go into any specific case. However, it appears that in most of the matters, though the compliance with rain water harvesting has been insisted upon, and is expected, it has not been done. It is, therefore, apparent that Nagpur Municipal Corporation, in this situation, has to take appropriate steps. As the rain water harvesting has not been provided for, it is felt that in such cases, the owners may not have obtained occupancy certificate or completion certificate. The NMC, therefore, can for occupying building, without such occupancy certificate or completion certificate, initiate necessary action as per the Maharashtra Regional Town Planning Act, 1966 (hereinafter referred to as the Act). Under Section 56 of the Act, it may initiate necessary action for removal of even authorized structures.

7. Hence, we direct the Nagpur Municipal Corporation to examine each such case and to proceed against violators as per law. The necessary steps in this respect shall be initiated within three months from today.

8. With these directions and with liberty to the petitioner to approach again, if grievance survives even thereafter, we dispose of the present Public Interest Litigation. However, there shall be no order as to costs.

JUDGE

JUDGE

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