

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

WRIT PETITION NO. 5295 OF 2016

(Nagsen Gyan Prasarak Mandal, Amravati thr. its President vs. The State of Maharashtra thr. its Secretary, Revenue and Forest 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 &
ROHIT B. DEO, JJ.
JULY 21, 2017.**

Shri S.G. Jagtap, learned counsel for the petitioner, Shri A.S. Fulzele, learned Acting GP for respondent Nos. 1 to 3 and Shri S.S. Shingane, learned counsel for respondent No. 4.

2. Leave to add Amravati Municipal Corporation through its Commissioner as party respondent No. 5 is granted. The necessary amendment be carried out forthwith.

3. Shri Shingne, learned counsel waives notice for added respondent No. 5.

4. Shri Shingne, learned counsel informs that the Municipal authorities have already given no objection to the proposal of the petitioner.

5. The learned Acting GP appearing for the Collector points out an affidavit in reply. According to him, bed of nullah is allowed to be covered by putting slab. About 6000 square feet of area is required to be covered and slab, therefore, is likely to obstruct movement and flow of water, below the slab through nullah.

5. With the assistance of the respective counsel, we have perused the papers. It is not in dispute that on earlier occasion, a commercial structure (Mall) has already been allowed to cover the bed of nullah. However, this by itself cannot act as a precedent. In the present matter, on either banks of nullah, the petitioner is having its Schools. If slab is allowed to be put, without obstructing free flow of water through nullah, two establishments can be connected and as the petitioner is not going to put any further construction on slab, an open space ad measuring 6000 square feet becomes available for School children.

6. In view of this situation, we are inclined to grant the petitioner an opportunity to submit a drawing with necessary details, pointing out how structural construction of slab without constructing pillar in the bed of nullah is viable.

7. If such a plan drawn by the Competent Civil Engineer and Architect is submitted to Respondent No. 3 – Collector as also to added respondent – Municipal Commissioner, the authorities shall evaluate it technically and take suitable decision upon it. If the plan is submitted within four weeks from today, the authorities to attempt to consider it within next three months.

8. With these directions and keeping all rival contentions open, we dispose of the present writ petition. No order as to costs.

JUDGE

JUDGE