

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4499 OF 2018

Amol Santaji Karpe

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri P. S. Pawar, Advocate for the Petitioner.

Shri K. S. Patil, A.G.P. for Respondent Nos. 1 to 3.

Shri V. S. Bedre, Advocate for the Respondent No. 4.

Shri A. S. Bajaj, Advocate for Intervenors.

**CORAM : S. V. GANGAPURWALA AND
R. G. AVACHAT, JJ.**

DATE : 13TH DECEMBER, 2018.

FINAL ORDER :

. The petitioner assails the order cancelling the certificate of registration issued in favour of the petitioner U/Sec. 5 of the Bombay Nursing Homes Registration Act, 1949 (for short "Said Act"). The learned counsel for the petitioner states that, the petitioner had filed an appeal U/Sec. 8(4) of the said Act, however, same is not decided since long and the respondents were initiating coercive action. According to the learned counsel, no show cause notice was issued to the petitioner as contemplated U/Sec. 8(1) of the said Act.

2. Affidavit is filed by the Municipal Council, Sangamner stating that the permission was granted to the petitioner for residence and clinic and the municipal council has not granted permission to the petitioner to use the premises as nursing home.

3. Mr. Bajaj, the learned counsel for intervenor submits that, the civil application is filed by the local residents. The petitioner is running his nursing home against the provisions of law. The petitioner had participated in the enquiry which was initiated by the authority. Thereafter order is passed. Nuisance is created due to running of the hospital by the petitioner. Same is not as per the building bye-laws.

4. We have heard the learned Assistant Government Pleader also.

5. The impugned order nowhere suggests that notice was given to the petitioner before cancellation of the registration as required U/Sec. 8(1) of the said Act. When the law requires a particular thing to be done in particular manner, same has to be done in the same manner only. In absence of any notice being given to the petitioner before passing the impugned order, the same would not be sustainable and is set aside. The impugned order shall be treated as show cause notice to the petitioner. The petitioner shall file reply to the same within a

period of fifteen days from today. Upon receipt of reply, the authority shall take decision upon the registration certificate of the petitioner after giving opportunity of hearing to the petitioner within a period of one month from the date of receipt of reply. In view of present order, the appeal filed by the petitioner U/Sec. 8(4) of the said Act shall stand disposed of.

6. In view of the above, the writ petition is disposed of. No costs.

[R. G. AVACHAT, J.]

[S. V. GANGAPURWALA, J.]

bsb/Dec. 18