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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION ST. NO. 24411 OF 2018

1. Vinod Subhash Thorat	
2. Kailas Dinkar Deshmukh	.. Petitioners
Vs.	
The State of Maharashtra & ors.	.. Respondents

WITH
CIVIL APPLICATION (INTERVENTION) NO. 63 OF 2018
IN
PUBLIC INTEREST LITIGATION ST. NO. 24411 OF 2018
(NOT ON BOARD)

Vasant Rajaram Jadhav & ors.	.. Intervenors/ Applicants
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IN THE MATTER BETWEEN

1. Vinod Subhash Thorat	
2. Kailas Dinkar Deshmukh	.. Petitioners
Vs.	
The State of Maharashtra & ors.	.. Respondents

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Mr. R.S. Apte, Senior Advocate and Mr. Uday Warunjikar I/by
Mr. Navin R. Chomal and Mr. Pravartak Aathale for the
petitioners.

Mr. A.M. Khandekar for the applicants in CAI/63/18.

Mrs. Shruti D. Vyas, 'B' Panel Counsel for respondent Nos. 1 & 2.

Mr. S.V. Marne for the respondent Nos. 3 and 4.

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**CORAM : B.R.GAVAI &
M.S. KARNIK, JJ.**

DATE : 1st NOVEMBER, 2018

JUDGMENT (PER M.S.KARNIK, J.) :-

1. Rule. Rule is made returnable forthwith.

2. Heard by consent of the parties.

3. The petitioner Nos.1 and 2 are public spirited residents of Nashik and claim to have strived for religious and spiritual causes in particular for the interest of the general public and the society. By this Public Interest Litigation ('PIL' for short), the petitioners have prayed for appropriate directions to the respondent Nos. 3 and 4 – Nashik Municipal Corporation to comply with the Government Resolution ('G.R.' for short) dated 5/5/2011 by giving due and proper publicity to the list of the religious structures which according to them are falling within Clause B of G.R. dated 05/05/2011; by publishing the list in some local leading newspaper/s having reasonably wide circulation in the city of Nashik, with a view to enable all the concerned stake holders having interest in the various religious structures which are likely to be affected, to know their precise

status and come up with their objections along with proof and supporting materials. The petitioners have also prayed for some consequential reliefs.

4. It is the case of the petitioners that the respondent No.4 – Corporation has issued notices to as many as 530 religious shrines in the city of Nashik in purported compliance of the G.R. dated 5/5/2011 of the State Government. It is the case of the petitioners that the respondent No.4 – Corporation is issuing notices of demolition in utter contravention of the G.R. dated 5/5/2011.

5. The respondent No.4 – Corporation on 8/8/2018 issued notices to the aforesaid religious shrines about its intention to demolish them within two weeks under the garb of following the G.R. dated 5/5/2011. It is alleged that the notices dated 8/8/2018 were affixed by the respondent No.4-Corporation on the temples as well as other religious shrines/structures situated within the local limits of the respondent No.4

– Corporation. This act of the Respondent No.4 took the members in the management of the said shrines as well as local residents/ devotees who are the worshipers by surprise.

6. The relevant events leading to the issuance of the G.R. dated 5/5/2011 can be summarized thus :-

(A) On 25.03.2008, the Hon'ble Supreme Court of India taking note of the newspaper item published in Times of India, Ahmedabad Edition, dated 02.05.2006, took suo motu cognizance of the illegal public structures erected on public places, roads, footpaths. The Hon'ble Supreme Court of India has been thereafter considering the issue with regard to removal of illegal religious structures which have come up by way of encroachments on public lands. Various orders have been passed by the Hon'ble Supreme Court from time to time. Certain directions were issued by the Hon'ble Supreme Court on 29.09.2009. The matter again came up before the Hon'ble Supreme Court on 07.12.2009 wherein the following directions were issued:-

“ This Court on 29th September, 2009, after taking into consideration the letter dated 19th September, 2009, sent by the Union Home Secretary to the learned Solicitor General of India, we passed the following order:-

“We have heard the learned counsel for the parties. Looking to the far-reaching implications and consequences of the orders of this Court, on the oral request of the learned Solicitor General of India, we deem it appropriate to implead all the States and the Union Territories as respondents to this petition. The Registry is directed to issue notices to all the States and the Union Territories within three days. The Union of India is directed to supply the entire set of papers to all the Standing Counsel appearing for the State Governments and the Union Territories.

The States and the Union Territories may file replies within four weeks and the Union of India is granted liberty to file rejoinder within two weeks thereafter.

As an interim measure, we direct that henceforth no unauthorized construction shall be carried out or permitted in the name of Temple, Church, Mosque or Gurudwara etc. on public streets, public parks or other public places etc.

In respect of the unauthorized construction of religious nature which has already taken place, the State Governments and the Union Territories shall review the same on case to case basis and take appropriate steps as expeditiously as possible.

In order to ensure compliance of our directions, we direct all the District Collectors and Magistrates/Deputy Commissioners in charge of the Districts to ensure that there is total compliance of the order passed by us. They are

directed to submit a report within four weeks to the concerned Chief Secretaries or the Administrators of the Union Territories who in turn will send a report to this Court within eight weeks from today.

List this matter for further directions on 7th December, 2009.”

All the States and the Union Territories have been served. Despite service, most of the States and Union Territories have not filed affidavits as directed by this Court. In the interest of justice, we grant one more opportunity to the Chief Secretaries/Administrators of the respective States and Union Territories to file affidavits. Let the same be filed within six weeks, failing which the concerned Chief Secretaries and Administrators shall remain present in Court on the next date of hearing.

In case the Chief Secretaries and the Administrators have not issued circulars to all the Collectors and the District Magistrates of the Districts, it shall be issued within two weeks from today.

The Chief Secretaries, in consultation with the respective Governments are directed to frame the policy in respect of existing unauthorized construction of religious nature, which had already taken place. This Court directed the respondents to review this same on case to case basis. Let the policies be formulated by all the States and the Union Territories within four weeks from today.

We are reiterating that the Chief Secretaries, the concerned District Magistrates and the Collectors/Deputy Commissioners in- charge of the Districts must ensure total compliance of our order. Any breach in this respect shall be

viewed seriously by this Court.

We direct the Chief Secretaries/Administrators of all the States and Union Territories to circulate copies of the order dated 29th September, 2009 and this order to all the District Magistrates and Collectors/Deputy Commissioners, other public bodies and local bodies.

We direct the learned Standing Counsel appearing for various States and the Union Territories to ensure that all copies of the affidavits are filed in this Court on or before 27th January, 2010 with an advance copy to the learned Solicitor General of India, who is requested to get all these affidavits tabulated and submit a report to this Court on or before 2nd February, 2010.

Place this petition for further directions on 4th February, 2010. Looking to the gravity of this matter, we direct that no order or direction inconsistent to our orders, shall be passed by any other Court in the country.”

(B) The matter thereafter again came up before the Hon’ble Supreme Court on 16.02.2010 wherein again certain directions were issued by the Hon’ble Supreme Court. A perusal of the order passed by the Hon’ble Supreme Court dated 16.02.2010 would reveal that the State Governments were directed to review the cases in respect of unauthorized constructions of religious nature which have already taken place on public streets, public parks or other public places. The

Hon'ble Supreme Court being not satisfied with the affidavits filed on behalf of the State Government, directed all the States and the Union Territories to formulate comprehensive policy regarding the removal/ relocation/ regularization of the unauthorized construction within a period fixed therein. Lastly by the order dated 31.01.2018, the Hon'ble Supreme Court directed that to ensure the implementation of directions issued by the Hon'ble Supreme Court, the implementation of the order should be supervised by the concerned High Courts. Accordingly the matters were remitted to the respective High Courts for ensuring the implementation of the orders in effective manner.

(C) Pursuant to the issuance of the directions by the Hon'ble Supreme Court, the State Government came out with the policy for regularization of unauthorized religious shrines by issuing G.R. dated 5/5/2011.

7. Under the said G.R., a Committee has been constituted at the State Level, the District Level, as well as at the level of the Municipal Corporation for the purpose of

finalizing the list of unauthorized religious structures within a period of three months from the date of issuance of the said G.R. The unauthorized constructions carried out after 29/9/2009 are to be demolished in accordance with the directions of the Hon'ble Supreme Court as indicated above.

8. In so far as the religious structures constructed prior to 29/9/2009 are concerned, the G.R. provides for classification of said structures in three categories viz. Class 'A', Class 'B' and Class 'C'. Those religious structures which can be duly regularized are classified as Class 'A'. The unauthorized religious structures which are creating obstacles on public roads, or for the law and order situation or contrary to the DC Rules, which cannot be regularized are to be classified as Class B. The structures which can be relocated to some other suitable place are to be classified as Class 'C'.

9. Learned Senior Counsel for the petitioners inviting our attention to the said G.R. submits that, a specific procedure

has been prescribed before the action of regularization/relocation/demolition can be taken. Learned Senior Counsel would submit that the action on the part of the respondent no.4 – Corporation in directly issuing the notices of demolition is in utter contravention of the said G.R. and that the procedure laid down in the G.R. has not been followed. Learned Senior Counsel would further submit that no show cause notice or due opportunity of hearing is given to those stake holders who are affected by the action of demolition.

10. The objection of the learned Senior Counsel is that the respondent No.4 – Corporation has not given wide publicity to the list of religious structures in the local newspapers having wide circulation in the city of Nashik.

11. The list of structures classified as Class A, Class B and Class C categories are so classified by depriving all concerned from the the opportunity of raising objections to the said classification. It is further submitted by the learned Senior

counsel that though the list of such religious structures does not appear in any of the leading newspapers, however, the list of such religious structures purportedly finds place in the website of the Corporation which is not at all user friendly and/or easily accessible for the use or knowledge of the stake holders/common citizens. Learned Senior Counsel while expressing reservations about the manner in which the list appears on the website, urged that even on the website there is no classification of religious structures into Class A, Class B and Class C. This according to the Learned Counsel, not only violates the G.R. but also acts to the detriment of the stake holders as they have no knowledge as to in which category the religious structures are classified. He would submit that in any case publishing the list on the website cannot be regarded as sufficient compliance of the G.R. dated 5/5/2011. According to him, this would amount to denial of reasonable opportunity to all the concerned citizens to raise their objections to the said classification.

12. Learned Senior Counsel would further submit that

the respondent No.4 – Corporation is required to consider the case of each religious structure separately and individually on its own merits after giving due opportunity to the stake holders to raise objections.

13. It is further pointed out that the structures for which the present PIL has been filed are situated in the open space to which the citizens have no objection. The structures are not on the public road either causing obstruction to the traffic or are creating any law and order problem. He therefore submits that structures can very well be regularized.

14. Our attention is invited to the PIL No. 104/2010 which came to be filed in this Court. The PIL was disposed of on 1/10/2016 by issuing various directions. Another W.P. being Civil Writ Petition No. 14195 of 2016 came to be filed in this court alleging contravention of G.R. dated 05/05/2011 in respect of the religious structure which was the subject matter of the said W.P. This Court had directed the Corporation to issue

public notices in widely circulated newspapers and to paste the notice on the conspicuous parts of the structures so as to follow due process of law.

15. It is the grievance of the learned Senior Counsel that the respondent No.4 – Corporation has not issued the public notices in the widely circulated local newspapers but has simply pasted demolition notice dated 8/8/2018 about its intention to demolish the religious structures if not removed within the period of 15 days. Learned Senior Counsel thus has strenuously urged that the G.R. dated 5/5/2011 is not followed in its letter and spirit despite this Court on the earlier occasion directing the Corporation to take appropriate action in terms of the G.R. dated 5/5/2011.

16. Learned Senior Counsel has invited our attention to the order passed by the Nagpur Bench of this Court in Writ Petition No. 3446 of 2007 and in connected Petitions, where similar issue came up for consideration. Learned Senior Counsel

submits that the petitioners' case is squarely covered by the decision of the Nagpur Bench of this Court dated 19th September, 2018.

17. Per contra, Learned Counsel for the respondent No.4 – Corporation, opposed the PIL. According to the learned Counsel for the respondent No.4 – Corporation, the 72 religious structures in respect of which public notices/panchanama are produced at Exhibit 'F' to the Petition, are constructed after 29th September, 2009. It is submitted that towards implementation of the G.R. dated 5/5/2011, the Corporation prepared and published separate lists of religious structures constructed before and after 29th September, 2009. Such lists prepared by the Corporation were published on the website of Nashik Municipal Corporation and Nashik Police.

18. In his submission, the factum of publication of such lists on the website was prominently published on 24th February, 2016 in all leading newspapers in Nashik by the

Municipal Corporation by issuing Press Note. Learned Counsel would submit that the Corporation invited suggestions and objections to the said lists to be submitted by 3rd March, 2016. On publication of such comprehensive lists, 64 objections were received by the Municipal Corporation Level Committee. The said 64 objections were about the date of existence of the religious structures. Upon hearing the said objections, the Municipal Corporation Level Committee accepted 19 objections and rejected 45 objections.

19. Learned Counsel submit that the Committee undertook the exercise of classifying the religious structures in existence prior to 2009 into categories A,B and C as provided in the G.R. dated 5/5/2011. It is the contention of the Corporation that the list was prepared and category A and B were published by the Municipal Corporation in the six Divisional Offices of the Municipal Corporation and public notice of preparation of proposed A and B lists were published prominently in leading newspapers 'Sakal' and 'Punyanagari'. As no objections were

received, the proposed list A and B were finalized and a report to that effect was sent to the State Government. 249 religious categories were classified in Category A and 659 religious structures were classified in Category B.

20. As regards those religious structures that came up after 29th May, 2009, the respondent No.4 classified as many as 176 such unauthorized religious structures. According to the learned Counsel, 71 unauthorized religious structures made after 29/9/2009 remained to be demolished. Learned Counsel for the Corporation submitted that as no unauthorized constructions have been permitted after the order of the Hon'ble Apex Court dated 29th September, 2009, the G.R. dated 5/5/2011 directed that all unauthorized religious structures be demolished without any delay.

21. Learned Counsel further submits that even this Court vide order dated 1st October, 2016 directed that all the religious structures made after 29th September, 2009 were required to be demolished on or before 31st December, 2016. It is the

contention of the learned Counsel that as this PIL is filed in respect of those religious structures which are constructed after 29th September, 2009, the same are required to be demolished immediately in compliance of the orders passed by this Court.

22. Learned Counsel moreover submits that in pursuance to the various orders passed in PIL No.104 of 2010 and in view of the affidavits filed on behalf of the respondent No.4 – Corporation therein that the Corporation shall endeavour to demolish 71 unauthorized structures made after 29th September, 2009 as well as 503 religious structures made before 29th September 2009 by 31st December, 2018. Pursuant to the filing of the said Affidavit further orders have been passed by this Court. It is in these circumstances that the respondent No.4 – Corporation has issued the notice to immediately demolish the said 71 unauthorized structures constructed after 29th September, 2009.

23. Heard learned Counsel for the respective parties.

24. Shri Marne, learned Counsel for the Corporation initially attempted to argue that the list of religious structures were published as required by the G.R. dated 5/5/2011, but later on, fairly conceded that the list of religious structures which are published in the website are not strictly in conformity with the G.R. dated 5/5/2011.

25. In this context, it would be pertinent to refer to the decision of Nagpur Bench of this Court (to which one of us 'Gavai J.' was a member) in Writ Petition No. 3446 of 2007. This Court has considered the G.R. dated 5/5/2011 in detail. This Court after analyzing the G.R. set out in detail the procedure prescribed under the said G.R. for deciding as to whether a particular unauthorized religious structure is required to be regularized or demolished or relocated. It has been observed while doing so, various factors are required to be taken into consideration by the said Committee.

26. This Court has observed that the G.R. of 2011 has been issued by the State Government in compliance with the

directions issued by the Hon'ble Supreme Court with regard to the menace of unauthorized religious structures. It is thus observed that though the G.R. itself may not be construed to be quasi-legislative piece of legislation but since it is issued by the State Government in compliance with the orders issued by the Hon'ble Supreme Court of India, the procedure prescribed by that will have to be construed to be a procedure prescribed by law before taking an action. It would be material to reproduce paragraph 22 of the order passed by the Nagpur Bench of this Court, which reads thus :

“22. In this respect, we may gainfully refer to the observations of the Hon'ble Supreme Court in the case of **Central Coalfields Limited .vs. SLL-SML (Joint Venture Consortium)** reported in **A.I.R. 2016 Supreme Court 3814** :

“There is a wholesome principle that the Courts have been following for a very long time and which was articulated in Nazir Ahmad v. King Emperor -AIR 1936 PC 253 namely “Where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.” There is no valid reason to give up this salutary principle or not to apply it mutatis mutandis to bid documents. This principle deserves to be applied in contractual disputes, particularly in commercial

contracts or bids leading up to commercial contracts, where there is stiff competition. It must follow from the application of the principle laid down in Nazir Ahmed that if the employer prescribes a particular format of the bank guarantee to be furnished, then a bidder ought to submit the bank guarantee in that particular format only and not in any other format. However, as mentioned above, there is no inflexibility in this regard and an employer could deviate from the terms of the said bid document but only within the parameters mentioned above.”

It could thus be seen that the principles laid down in the case of **Nazir Ahmad .vs. King Emperor** (AIR 1936 P.C. 253) that when law requires a particular thing to be done in a particular manner, it shall be done in that manner alone or not at all, is more than well-settled. From the aforesaid judgment, it could be seen that the Apex Court has also applied the same principle even in contractual matters and held that when an employer requires a bank guarantee to be given in a particular format, it has to be given in that format alone and not in any other format. We find that the said G.R. prescribes the procedure and lays down a policy to give effect to the directions issued by the Hon'ble Supreme Court. It provides for categorization of the structures into three categories i.e. the one which can be regularized, the second one which are required to be demolished and the third one which can be relocated. The G.R. provides the procedure for categorization, regularization and demolition of thousands of structures in the State of Maharashtra, belonging to the people professing different religions like Hinduisim, Islam, Christianity, Buddhism and Sikhism. It provides for the different factors which are required to be taken into consideration while finalizing the categorization. It also provides for the principles of natural justice, which are required to be followed while taking

the decision by the Committee. We, therefore, see no reason as to why the aforesaid well settled principle laid down in the case of **Nazir Ahmad** and which has been consistently followed by the Hon'ble Supreme Court should also not be made applicable to the aforesaid G.R.”

27. The well settled principle of law that when law requires a particular thing to be done in a particular manner, it shall be done in that manner alone or not at all, has been made applicable to the aforesaid G.R. It is in the light of these well settled principles of law that this Court ultimately proceeded to issue directions in paragraph 32 of its order which reads thus :-

(i) The Municipal Corporation Level Committee under the Chairmanship of the Commissioner of the Municipal Corporation and consisting of the other Members as provided in sub-clause (iii) of Clause (1) of the G.R., shall categorize the unauthorized religious structures constructed prior to 29.09.2009 into Category A i.e. all the structures which can be regularized, Category B of the structures which are liable for demolition within a period of one month from today. We clarify that classification as directed shall be done only by the Committee which is required to be constituted as per the said G.R. No doubt that the Committee would be entitled to take assistance of the subordinate officers, but the decision with regard to the categorization will have to be taken by the Committee constituted under the said G.R.

(ii) After the categorization is completed within the aforesaid

period, the Committee shall publish a list of such unauthorized religious structures which have been categorized in Category A and B along with the proposed plan for regularization/ demolition of such structures within a period of one week from the finalization thereof. The publication shall be made in at least one English, one Hindi, one Marathi and one Urdu newspaper having a wide circulation in the city of Nagpur. While publishing the list, the Committee shall also notify that, such of the persons/institutions who have any objection either to the categorization or proposed draft plan for regularization/demolition, would be entitled to raise their objections within a period of one month from the date of the publication of the said notice.

(iii) Upon receipt of such objections to the categorization/regularization/demolition , the objectors would be given an opportunity to submit the evidence in support of their claim and they should also be given an opportunity of being heard, wherever the Committee finds it necessary or such a demand is made by the objectors. The said exercise shall be completed within a period of three months from the last date of the receipt of the objections.

(iv) We further direct that while considering the objections and where it is found that the structures are liable to be demolished but their relocation is possible, the Committee shall also consider the said issue and prepare a list of Category C i.e. list of the structures which are entitled for relocation.

(v) After the exercise of giving hearing as contemplated

hereinabove is completed, the Committee also prepare a final categorization of three lists. List A shall be of the structures which are entitled to be regularized. List B shall be of the structures which are found liable for demolition. List C shall be of the structures which are found to be entitled to be relocated.

(vi) Insofar as the structures in List A i.e. of the structures which are found entitled to be regularized, the steps will be taken by the Municipal Corporation Level Committee for the regularization of the said structures.

(vii) Insofar as the structures which are found liable to be demolished and which are constructed prior to 01.05.1960, the District Level Committee shall forward the list of such structures to the State Level Committee within the period of one month after final lists are prepared. The State Level Committee shall take the decision with regard to the aforementioned structures erected prior to 01.05.1960 within a period of one month from the date of the receipt of the list. After the decision is communicated to the Municipal Corporation Level Committee by the State Government with regard to aforesaid structures erected prior to 01.05.1960, the Municipal Corporation Level Committee shall give effect to and implement such a decision within a period of one month from the date of decision of the State Level Committee.

(viii) Insofar as the structures which are constructed after 01.05.1960 and which are found to be included in Category B, the steps for demolition of such structures shall be taken within a period of one month from the date of final categorization. Needless to state

that as provided in the G.R. dated 05.05.2011, the Municipal Corporation Level Committee shall affix a notice of proposed demolition prior to 15 days of taking the action for demolition.

(ix) Insofar as the list C i.e. the list of the structures which are found eligible for relocation is concerned, the period of three months shall be given for relocation to the persons/institutions who are interested in relocating such structures. Such structures which are found entitled to be relocated, the persons concerned should be directed to relocate the said structures to the place where its relocation is approved, within the period of three months from the date of final categorization and demolish the old structures within the aforesaid period.

(x) In case such of the structures which are found eligible for relocation in category C, are not demolished and relocated within the aforesaid period of three months, the Municipal Corporation Level Committee shall take steps for demolition of such structures within a period of one month after lapsing of the aforesaid period of three months.

(xi) We further clarify that insofar as the unauthorized religious structures or for that matter any unauthorized structure standing on the footpath, public streets/roads are concerned, they will not be covered by the aforesaid order. All such unauthorized structures standing on the public streets/roads and footpath will have to be demolished by the Municipal Corporation and N.I.T. The Municipal Corporation and the N.I.T. shall file an affidavit within a period of one week from today with regard to the steps taken for demolition

of structures on public streets/roads and footpath.

(xii) We further clarify that the aforesaid order would also not be applicable to such of the structures which are erected after 29.09.2009 and all such structures will have to be demolished by the respondent- Municipal Corporation and the N.I.T. The affidavit which is required to be filed by the Municipal Corporation shall also indicate the steps taken by it with regard to demolition of such structures which are erected after 29.09.2009.

28. Thus the Nagpur Bench of this Court in Writ Petition No. 3446 of 2007 has upon analysis of the G.R. dated 5/5/2011 issued these directions as the Nagpur Municipal Corporation had proceeded to take action against the religious structures in contravention of the G.R. dated 5/5/2011. This Court had thus directed that the Corporation has to proceed against the religious structures in conformity with the procedure laid down in the G.R. dated 5/5/2011.

29. Coming back to the facts of the present case, it is the contention of the respondent No.4 – Corporation that the structures considered while classifying in these 3 categories also

include structures constructed after 29/9/2009. The petitioners' dispute that the religious structures have been constructed after 29th September, 2009. It is their case that an opportunity ought to have been given to the stake holders before the Corporation came to the conclusion that the religious structures are constructed after 29/9/2009.

30. Let us deal with the contention of the petitioners that there has been no compliance of the G.R. dated 05/05/2011 as it is the specific contention of the petitioners that the notices of demolition were pasted on the structures without complying with the procedure as laid down in the G.R.

31. With a view to test the contention of the petitioners as regards there being non publication of the list of the structures so categorized in the newspapers having a wide circulation in the city of Nashik, we have gone through the documents viz. Minutes of the Meeting, the advertisement issued etc. produced by the learned counsel for the Corporation.

We find that the list of the structures of which the categorization is to be made has not been published in the newspapers having a wide circulation in the city of Nashik as per the requirement of the G.R. dated 5/5/2011. Moreover, even the learned Counsel for the respondent No.4 – Corporation Shri Marne fairly stated that the actual list of the affected religious structures has not been published in the newspapers having wide circulation in the city of Nashik in terms of the G.R. dated 5/5/2011. Mere release of a Press Note in the newspaper that the list of structures categorized can be found in the website of the Corporation is not sufficient compliance of the G.R.

32. We therefore conclude that before categorization of the unauthorized religious structures constructed prior to 29/9/2009 into three categories or in respect of those structures which are erected after 29/9/2009, it is incumbent upon the respondent No.4 – Corporation to follow the procedure laid down in the G.R. dated 5/5/2011 and as is clarified by this Court in terms of the directions issued by this Court in

paragraph 32 of the decision of this Court in Writ Petition No. 3446 of 2007 delivered by Nagpur Bench of this Court.

33. We have therefore come to the considered conclusion that, though the Corporation has taken a unilateral decision to the effect that these structures are erected after 29/9/2009, it has been done so without offering an opportunity of countering the said claim and proving that the said structures were erected prior to 29/9/2009 and therefore the decision of the Corporation is in violation of mandatory procedure prescribed in the G.R. dated 5/5/2011.

34. As indicated earlier, admittedly except for pasting of the impugned notices of demolition on the religious structures, no notice or opportunity of hearing is given to the petitioners before coming to the conclusion that the structures are erected after 29/9/2009.

35. Undoubtedly, in respect of the structures which are

erected after 29/9/2009, the Corporation is free to take action in accordance with the G.R. dated 5/5/2011. However, before taking such action, the respondent No.4 – Corporation will have to abide by the procedure as laid down in the G.R. dated 5/5/2011 as directed by this Court in its order in Writ Petition No. 3446 of 2007.

36. In this view of the matter, the PIL is allowed in terms of the order passed in paragraph 32 of the Writ Petition No. 3446 of 2007 of Nagpur Bench of this Court.

37. Rule is accordingly made absolute with no order as to costs.

38. In view of the disposal of the PIL, nothing survives in the Civil Application for consideration. Hence, Civil Application is disposed of.

(M.S. KARNIK, J.)

(B.R.GAVAI, J.)