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

CIVIL WRIT PETITION NO.12416 OF 2018

Sahjeevan Datta Samaj Seva Mandal

Through its President

Surendra Baban Sonar

...Petitioner

Versus

Nashik Municipal Corporation

Through its Commissioner and Ors.

...Respondents

Ms.Leena Patil, for the Petitioner.

Mr.S.V.Marne, for the Respondent Nos.1 and 2.

Ms.K.R.Kulkarni, A.G.P. for the Respondent No.3– State.

***CORAM : RANJIT MORE &
REVATI MOHITE DERE, JJ.***

DATE : 21st NOVEMBER, 2018

P.C. :

1. Heard Ms.Patil, learned counsel for the Petitioner and Mr.

Marne learned counsel for the Respondent Nos.1 and 2.

2. This Petition is filed seeking following reliefs :-

- a) This Hon'ble Court may be pleased to issue writ of mandamus or any other writ in the nature of writ of mandamus thereby directing the Respondent Nos.1 and 2 to classify the Petitioner Sahjeevan Datta Samaj Seva Mandal's Datta Mandir into Category "A";
 - b) this Hon'ble Court may be pleased to issue writ of certiorari or any other writ in the nature of writ of certiorari thereby calling for records and proceedings Notice dated 05.10.2018 issued by the respondent no.2 and after perusing the legality, validity and propriety of the same, be pleased to quash and set aside the same.
3. The question which is raised in the present Petition had also fallen for consideration in a Public Interest Litigation before another Division Bench of this Court. The said Public Interest Litigation is disposed of by the Division Bench of this Court by a speaking order dated 1st November, 2018.

4. It is the specific case of the Petitioner that the subject temple is constructed in an open space of private layout. According to the Petitioner, the temple is constructed in the year 1965. Learned Counsel for Respondent Nos.1 and 2, however, states that these facts are required to be verified.

5. The State Government has laid down a policy for taking action against the unauthorized construction vide Government Resolution dated 5th May, 2011. Mr.Marne, learned counsel for the Respondent Nos.1 and 2 does not dispute that the Corporation is bound to follow the policy. Mr.Marne, learned counsel for the Respondent Nos.1 and 2 also submitted that in terms of the order passed by the Division Bench of this Court in Public Interest Litigation referred above, the entire exercise will have to be carried out afresh. He states that till the entire exercise is carried out, the Corporation will not take any action against the subject temple. Statement accepted.

6. In the light of the above, nothing survives for consideration in this Petition, for the time being. The same is disposed of accordingly.

REVATI MOHITE DERE, J.

RANJIT MORE, J.