

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.14120 of 2018**

Mr. Suresh Ramdeo YadavPetitioner
versus
The State of Maharashtra and ors.Respondents

Mr. A. S. Pandira, advocate for the petitioner.
Ms. A. A. Purav, AGP for the State.
Mr. Rohit Sakhdeo, advocate for the respondent Nos. 2 to 4.

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

DATE : 12th DECEMBER, 2018.

P. C. :

Heard learned counsel and learned AGP appearing for the respective parties.

2. The petitioner, by this petition, is challenging the communication dated 1st November, 2018, by the Executive Engineer, Town Planning, Thane Municipal Corporation, Thane. By the said communication, the petitioner's application for regularisation came to be rejected. Earlier, the petitioner had approached this Court by filing writ petition No.4791 of 2018 challenging the demolition notice. The petitioner accepted that the notice structure was unauthorized and, therefore, made submission that he want to go for regularization. The statement of the petitioner was accepted and, accordingly the petition was disposed by giving liberty to the petitioner to make an application

for regularisation and, thereafter, Corporation was directed to decide the same on its own merits. The notice structure was protected pending decision of the petitioner's application for regularisation.

3. The petitioner, thereafter, within the stipulated period of six weeks filed an application for regularisation, however, the same was not in prescribed form and by prescribed mode through licensed architect. On this sole ground, the petitioner's application was rejected and decision was communicated to him by the impugned communication.

4. The learned counsel for the petitioner submitted that the petitioner being illiterate, he was not aware of the fact that the application was required to be made online and that too, through licensed architect.

5. The learned counsel for the Corporation submitted that it was made clear in the order dated 17th April, 2018, that the application has to be made through an architect and in prescribed form. We find substance in the argument of the learned counsel for the Corporation. However, in the interest of justice, we are inclined to give one more chance to the petitioner to make an application for regularisation in prescribed form through licensed architect.

6. Accordingly, we dispose of the petition by passing the following order :

- 1) The petitioner is at liberty to make an application for regularisation to the appropriate authority of the 2nd respondent in prescribed form and by prescribed mode through an architect within a period of two weeks from today.
- 2) If such an application is made within the stipulated period of two weeks, appropriate decision shall be taken thereon by the 2nd respondent within a period of four weeks from the date of filing of the application.
- 3) The order passed on the application be communicated to the petitioner's architect. Till the date of communication of the order to the petitioner's architect, action of demolition shall not be taken on the basis of the earlier demolition notice. If the application is rejection, action of demolition shall not be taken for a period of four weeks from the date of communication of the order to the petitioner's architect.
- 4) On failure of the petitioner to apply for regularisation within the stipulated period of two weeks from today, it will be open for the 2nd respondent to demolish the structure without any further notice to the petitioner.

5) It is expressly made clear that we have not adjudicated on the merits of the petitioner's claim for regularization and the petitioner's application shall be decided in accordance with law.

6) All rights and contentions of the respective parties are kept expressly open.

The petition stands disposed of.

[REVATI MOHITE DERE, J.]

[RANJIT MORE, J.]