

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

PUBLIC INTEREST LITIGATION NO. 78 OF 2017

(Sunil s/o Pandhari Awchar vs. The State of Maharashtra thr. its Secretary, Department of Home & 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 &
MRS. SWAPNA JOSHI, JJ.
JANUARY 10, 2018.**

Heard Shri P.D. Sharma, learned counsel for the petitioner, Shri S.P. Deshpande, learned Additional GP for respondent Nos. 1 to 3 and Shri A.R. Deshpande, learned counsel for respondent Nos. 4 & 5.

2. Except for allegation that FL-II shop has been shifted with undue haste and has been permitted to function in another unauthorized construction, there is no specific plea in the Public Interest Litigation.

3. In relation to structure, the respondents have pointed out a certificate issued by the Town Planner stating that the structure is not unauthorized.

4. The petitioner has, however, failed to point out to this Court any provision in Bombay Prohibition Act, 1949, or Bombay Foreign Liquor Rules, 1953, which does permit the licensed shop to function in an unauthorized structure. The effort of the petitioner is to show that the shop is in vicinity of Educational institute. There is no

specific plea in this respect in the PIL.

5. The respondents have pointed out previous history and urged malafides. They tried to paint the petitioner as mischief monger who tries to extort money.

6. It appears that though the shop started functioning on 07.04.2017, present petition has been filed on 23.06.2017 i.e. after more than two months and this Court has issued notice on 14.07.2017 i.e. after more than three months. In this situation, we refrain from taking cognizance of PIL.

7. With liberty to the petitioner to take such other steps as are open in law, we dispose of the present PIL. However, there shall be no order as to costs.

8. The amount deposited by the petitioner is allowed to be withdrawn by him.

JUDGE

JUDGE

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