

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

WRIT PETITION NO. 10370 OF 2018

Yuvraj Kondiba Nale and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Chandrakant V. Thombre, Advocate for Petitioners.

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

Shri V. B. Deshmukh, Advocate for the Respondent No. 4.

Shri Sanjay A. Wakure and Shri Girish K. Thigale, Advocates for the Respondent No. 5.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 30TH JANUARY, 2019.

FINAL ORDER :

. We have heard Mr. Thombre, the learned advocate for petitioners, Mr. Deshmukh, the learned advocate for the respondent No. 4 and the learned Assistant Government Pleader for respondents/State.

2. On 09th January, 2019 we had passed following order.

1. The petitioner had made various complaints. Pursuant to the said complaints, the enquiry committee was constituted. As per the affidavit filed by the Tahsildar and the District Administrative Officer in the office

of Collector, Osmanabad the enquiry is concluded.

2. In respect of points no.3, 7 and 8 the enquiry is concluded and the enquiry report has been submitted to the Commissioner. In respect of other points the said enquiry is under process. So after the conclusion of the said enquiry, the enquiry report would be submitted to the District Collector and thereafter Municipal Administration. Parties may proceed with the said enquiry.

3. The respondent no.4 shall submit affidavit in respect of the nature of construction of house no.22/63 within two weeks from today, its extent and about it being authorized/unauthorized and to the extent if some part is unauthorized, and further shall file affidavit as to why no decision has been taken in respect of the same as yet.

3. Thereafter, additional affidavit is filed by the respondent No. 4 stating that the application for compounding has been filed by the brother of the respondent No. 5 and the same is under consideration.

4. As far as prayers in respect of point Nos. 3, 7 and 8 are concerned, enquiry is concluded and enquiry report is with the Commissioner. The Commissioner shall proceed further pursuant to the enquiry report. With regard to other points, the enquiry is in process. The enquiry shall be concluded in accordance with law and the report shall be submitted to the District Collector and thereafter Municipal Administration. It is expected that the enquiry shall be concluded and report

submitted diligently. With regard to unauthorized construction of house No. 22/63 is concerned, additional affidavit has been filed accepting that there is unauthorized construction to the extent of 215 square meters, as per the report of the Town Planner dated 22.01.2019. As per the report of the Town Planner of the year 2011, the area of unauthorized construction is shown different. It is further submitted that, application for compounding has been filed by the brother of the respondent No. 5. The decision in respect of compounding has not been taken. The respondents shall expedite the decision on the said application and same shall be taken in accordance with law.

5. With these observations the purpose of the writ petition stands served. The writ petition accordingly is disposed of. No costs.

6. Mr. Thombre, the learned counsel for petitioners submits that, an amount of Rs. 1,00,000/- is deposited in this Court.

7. Having found the nature of the petition and as we have passed order, an amount of Rs. 1,00,000/- is required to be refunded to petitioners.

8. Mr. Thombre, the learned counsel submits that an amount of Rs. 10,000/- be allowed to be given to the charitable institution

namely Shree Sai Gramin Punarrachana Sanstha, Near Bembade Hospital, Beed By-pass Road, Aurangabad. We accept the said statement and direct to refund of an amount of Rs. 90,000/- (Rs. Ninety thousands only) to petitioners and Rs. 10,000/- (Rs. Ten thousands only) be paid to Shree Sai Gramin Punarrachana Sanstha, Near Bembade Hospital, Beed By-pass Road, Aurangabad.

[A. M. DHAVALÉ, J.]

[S. V. GANGAPURWALA, J.]

bsb/Jan. 19