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

WRIT PETITION NO.1047 OF 2019

1. Shaikh Sajid s/o Ahmed Iqbal,
Age: 41 years, Occu: Business,
R/o. Plot No.11, Survey No.1/2,
Asefbaug, Beside Aref Colony,
Aurangabad
2. Dr. Mohd. Ejaz s/o Mohd. Hanif,
Age: Major, Occu. Medical Practitioner,
R/o. Plot No.8 & 9, Survey No.1/2,
Asifbaug, Besides Aref Colony,
Aurangabad
3. Hashmi Shahin Fatema w/o Iliyas Khan,
Age: Major, Occu: Household,
R/o. Plot No.10, Survey No.1/2,
Asefbaug, Beside Aref Colony,
Aurangabad

..PETITIONERS

VERSUS

1. The State of Maharashtra,
through the Collector,
Aurangabad
2. The Municipal Corporation,
Aurangabad,
through its Commissioner
3. Mushtaq Ali Khan Aref Ali Khan,
Age: 58 years, Occu: Business,
R/o. H.No. 5-1-62, opp. Kings Bakers,
Near Barapulla Gate, Kotwalpura,
Aurangabad

..RESPONDENTS

Ms Fatema Kazi, Advocate for petitioners;
Mr K. N. Lokhande, A.G.P. for respondent No.1

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

(2)

DATE : 24th January, 2019**ORAL ORDER:**

Heard learned Counsel appearing on behalf of the petitioners.

2. It is the submission of learned counsel for the petitioners that respondent No.3 is engaged in the activity of illegal construction of function hall shed in residential area. A representation is submitted to respondent No.2 i.e. Commissioner of Aurangabad Municipal Corporation, Aurangabad. The Copies of representation and reminder are placed on record at Exh.'A' and 'B'. One of such last representation is of 12th November, 2017. It seems that one Shri Akhtar Ali Khan approached the Municipal Corporation with an application under the Right to Information Act, 2005, seeking certain documents by providing necessary documents and the said application is decided. The petitioner has placed on record a copy of notice issued to respondent No.3 under Section 260 of the Maharashtra Municipal Corporation Act. This shows that the Corporation is following provisions of law and issued notice. This notice is giving opportunity of hearing to respondent No.3.

3. The prayer (B) of the petitioners is to direct respondent Nos.1 and 2 to remove illegal constructions and prayer (C) is an another prayer. It is the submission of learned Counsel for the petitioners that after issuance of

(3)

notice, no further steps are initiated by the Corporation. On the backdrop of these facts, we are unable to entertain the petition.

4. So as to consider the basic prayer in the petition i.e. prayer clause (B), if the Corporation authorities and the Commissioner are proceeding in the matter by following the provisions of law, we have no reason to arrive at a conclusion at this stage that respondent No.3 has undertaken some activity of illegal construction.

5. It seems that after 2017, the petitioner has not approached the Corporation authorities for a request for expeditious steps. If the petitioner approaches the authorities and particularly respondent No.2 for expeditious steps, respondent No.2 to consider such application and decide the same on its merits.

With the aforesaid observations, the petition is dismissed.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

sjk