

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5021 OF 2012

MD. AKHIL AHMED MD. IDRIS FAROOQUI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.H.I.Pathan, Advocate for the petitioner.

Mr.A.R.Kale, AGP for respondent No.1.

Mr.S.S.Bora, Advocate for respondent No.2.

Mr.Sudhir Bhalerao h/f Mr.V.P.Latange, Advocate for respondent Nos.3
and 4.

(CORAM : DIPANKAR DATTA, CJ AND
RAVINDRA V. GHUGE, J.)

DATE : JANUARY 21, 2021

PER COURT :

1. The prayer in this writ petition is for a direction on the respondent No.2, i.e. the Commissioner, Municipal Corporation, Parbhani to take action against the respondent Nos.3 and 4 for alleged unauthorized construction made by them without permission on House No.337.

2. A reply affidavit has been filed on behalf of Municipal Corporation. Paragraph No.3 of such reply affidavit reads as follows :-

"3. I say and submit that, on 22-8-2012 the Municipal Corporation Parbhani has issued notice to the respondent No.3 and 4 under Section.53(1) of the Maharashtra Regional and Town Planning Act and the Corporation will deal with the matter in accordance with law and if necessary will demolish the said structure after completion of the entire enquiry. Hereto annexed and marked Exhibit 'R-2' is the copy of the notice u/s 53(1) of the Maharashtra Regional and Town Planning Act."

2. It is indeed surprising that during the period of nearly 8 years, this writ petition has remained pending, the Municipal Corporation has been in slumber. Show cause notice having been issued on 22/08/2012 and no order of injunction having been passed by this Court restraining the Corporation from proceeding further, we would have expected the Corporation to take the notice issued by it to a logical conclusion in the meanwhile.

3. Be that as it may, this writ petition stands disposed of with a direction upon the Commissioner to put the parties i.e. the respondent Nos. 3 and 4 (persons allegedly responsible for raising unauthorized construction) and the petitioner (complainant), on notice. After hearing the parties and upon such inspection as may be considered necessary, the Commissioner shall pass a final order

disposing of the proceeding in accordance with law. This order shall be complied with as early as possible, but not beyond 6 weeks from date of receipt of its receipt.

4. If any application has been filed by the respondent Nos. 3 and 4 for regularization of unauthorized construction, it may also be considered in accordance with law.

5. There shall be no order for costs.

(RAVINDRA V. GHUGE, J.)

(CHIEF JUSTICE)