

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

949 WRIT PETITION NO.4792 OF 2021

**HOMEOPATHIC COLLEGE BEED THR ITS AUTHORIZED TRUSTEE
NANASAHEB RAOSAHEB KAKDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr.G.k. Naik Thigle
AGP for Respondent Nos. 1 to 4-State : Mrs.G.L.Deshpande
Advocate for Respondent No. 5 : Mr.Shirsat Suhas R.

...

**CORAM : SANDEEP V. MARNE, J.
DATE : 18.10.2022.**

PER COURT :

1. The development permission was granted by the Municipal Council, Beed on 20th December, 2012. Aggrieved by that development permission, respondent No. 5 appears to have been filed a representation to the Minister for Social Justice and Special Assistance. The Minister made a remark on that representation on 18.07.2020 to initiate action for cancellation of development permission granted in favour of the petitioner. Acting on the remark made by the Minister, the Collector, Beed has passed order dated 19.11.2020. Even though, the Collector has rightly held in his order that the appropriate remedy for respondent No. 5 for challenging the development permission is to file appeal under Section 47 of the Maharashtra Regional and Town Planning Act, 1966, the Collector has made certain observations and recorded findings in his order. In my

opinion, the Collector did not have jurisdiction to pass order dated 19.11.2020. The correct remedy for respondent No. 5 to challenge the development permission dated 20.12.2012 was to file an appeal before the State Government under Section 47 of the M.R.T.P. Act. It appears that, respondent No. 5 has indeed file such an appeal before the Minister of the Urban Development Department which is annexed as "A" to Exh. R-3 to the affidavit-in-reply filed by respondent No. 5.

2. Consequently the order passed by the Collector, Beed on 19.11.2020 is set aside. The State Government (Ministry of Urban Development Department) is requested to take a decision on the appeal filed by respondent no. 5, as expeditiously as possible, preferably within a period of four months from today. It is clarified that I have not dealt with any contention on merits and all the questions, including the question of limitation, are left open.

3. With these observations, the petition is partly allowed.
No costs.

(SANDEEP V. MARNE)
JUDGE

mahajansb/