

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

40 WRIT PETITION NO.7346 OF 2022

**PANKAJ PREMCHAND NAHAR
VERSUS
STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS**

...
Advocate for Petitioners : Mr. S.V. Dixit
AGP for Respondent/State : Mr. A.R. Kale
...

**CORAM : RAVINDRA V. GHUGE &
ARUN R. PEDNEKER, JJ.**

DATED : AUGUST 10, 2022.

PER COURT :

1. We have considered the prayers put forth by the petitioners.
2. A resolution passed on 15.9.1990, by the Seva Sahakari Society, is sought to be assailed before this Court after 32 years. There are several disputed issues. An issue is also raised with regard to the illegal construction, that is erected over the plot belonging to respondent no. 5 – Society. The petitioner is a member of respondent no. 5 – society.
3. The learned advocate for the petitioner submits, on instructions, that insofar as the resolution dated 15.9.1990 is concerned, the petitioner would avail of the remedy, since the bar under section 163 does not preclude the petitioner in approaching the civil court.
4. Insofar as the illegal construction erected on the property of

the society is concerned, the petitioner has already approached the Chief Officer with the representation dated 13.1.2022.

5. As such, this petition is disposed off, with liberty as is prayed for.

6. Insofar as the representation dated 13.1.2022 is concerned, we would expect, respondent no. 4 to respond to the said grievance of illegal construction/encroachment, i.e. without building permission, as expeditiously as possible, and preferably within a period of 90 days.

[ARUN R. PEDNEKER J.]

[RAVINDRA V. GHUGE, J.]

SSC/