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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 3472 OF 2022

Pride Properties & Anr.

..... Petitioners

Vs.

Municipal Corporation of
Greater Mumbai & Ors.

..... Respondents

Dr.Abhinav Chandrachud a/w Mr.Aseem Naphade a/w Ms.Swati
Sawant a/w Ms.Kavita Anchan for the Petitioner

Mr.Girish Godbole a/w Mr.Yashodeep Deshmukh a/w Mr.Kunal
Waghmare i/b Mr.Sunil K. Sonawane for the Respondent / BMC

**CORAM: S.V.GANGAPURWALA &
ARIF S DOCTOR, JJ.**

DATED : NOVEMBER 21, 2022

P.C.

1 The Petitioners are challenging the rejection of an application
for grant of permission to develop the subject property.

2 In normal course, we would not have entertained the petition
and relegated the Petitioner to alternate remedy, however, perusal
of the impugned order it is manifest that the authority, while passing
the impugned order, has not assigned any reason. On the contrary,
has passed the order pursuant to the directions of the Deputy Chief
Engineer. The order only states that the Deputy Chief Engineer has
intimated that in respect of the subject property, no construction

permission be granted and as such construction permission is refused.

3 It is trite that when the statute requires a particular authority to exercise its powers, the authority has to exercise the powers and ought not to be dictated by superior authority. Otherwise, the said order would be an order under dictation.

4 Moreover, the order does not spell out reasons. The reasons now are considered to be one of the pillars of the principles of natural justice. The reasons depict the application of mind of the authority passing the order and order sans reasons cannot be sustained.

5 The impugned order, apart from being passed without assigning any reasons, is also passed under dictation. The same would not be permissible.

6 In light of the above, the impugned order dated 08.10.2020 is set aside and the matter is relegated before the authority under section 45 of the MRTP Act.

7 The said Authority shall take decision upon the application of the Petitioner for grant of construction permission on its own merits and pass the order afresh, expeditiously.

8 Writ Petition is accordingly disposed of. No costs.

9 It is made clear that we have not considered merits of the contention of either parties qua the subject property.

(ARIF S DOCTOR,J.)

(S.V. GANGAPURWALA, J.)