

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Civil Application (CAW) No.2231 of 2022

In

Writ Petition No.1585 of 2022

Shri Santosh S/o Hemandas Valecha and another

Versus

State of Maharashtra and others

[Non-Applicant : Visvesvaraya National Institute of Technology, Nagpur,
through its Chairman & Director]

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Ms Aishwarya Karnik, Advocate for Applicants/Petitioners.

Shri K.L. Dharmadhikari, Assistant Government Pleader for
Respondent No.1.

Shri A.M. Quazi, Advocate for Respondent Nos.2 and 3.

Shri U.P. Dable, Advocate for Respondent Nos.4 and 5.

CORAM : SUNIL B. SHUKRE & G.A. SANAP, JJ.

DATE : 6th OCTOBER, 2022

1. Heard.
2. By this application, the petitioner is seeking a direction to the non-applicant Visvesvaraya National Institute of Technology, Nagpur to physically inspect the disputed structure and submit its structural stability report in respect of the disputed structure. Thus, the petitioner is now effectively seeking an adjudication from this Court to the disputed questions of fact.
3. The impugned notice dated 11-3-2022 is itself based upon the structural stability report given by the Government Polytechnic, Nagpur on 24-2-2022 and also the inspection of the disputed structure carried out by the Authorities of the Nagpur Municipal Corporation in the presence of the petitioners. In a case where the demolition notice is based upon the structural stability report, which clearly concludes

that the structure in question is so dilapidated and in such a dangerous condition that it cannot be occupied by the persons living therein, and also the inspection carried out by the Authorities of the Nagpur Municipal Corporation, the persons to whom the notice of demolition is served, must comply with such a notice. However, if such a person wishes to defy the notice, then it would be necessary for that person to prove the structural stability report being relied upon by the Authorities of the Nagpur Municipal Corporation as unreliable and incorrect, which would be possible only by filing appropriate civil proceedings.

4. Therefore, this application cannot be allowed and it is rejected.

5. As regards the prayer for grant of further time in the matter, on the ground that the learned counsel for the petitioners is out of town, the prayer is granted, but, subject to the condition that the interim relief granted by this Court on 25-3-2022 shall no longer be in operation.

4. Stand over for four weeks.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)

Lanjewar