

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

WRIT PETITION NO.6949 OF 2019

Manojkumar Nemaji Shahare, Post Khairi, Tah. Kamptee, Dist. Nagpur

-vs-

State of Maharashtra, Thr. Its Principal Secretary, Urban Development Dept. Mantralaya,
Mumbai and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri A. R. Ingole, Advocate for petitioner

Shri A. M. Deshpande, Additional Government Pleader for respondent
Nos.1,2,4,7 and 8.

Shri G. A. Kunte, Advocate for respondent No.3.

CORAM : A. S. CHANDURKAR AND G. A. SANAP, JJ.

DATE : February 24, 2022

The petitioner is aggrieved by the orders dated 10/01/2019 and 30/09/2019 passed by the Assistant Engineer, Nagpur Mahanagar Regional Development Authority. It is the case of the petitioner that he had undertaken construction of a house after being granted such permission by the Gram Panchayat which was the Competent Authority. The Gram Panchayat by resolution dated 29/11/2006 had granted permission for construction and it is the case of the petitioner that the same was completed in the year 2008. On 31/08/2010 the area where the petitioner was residing was included in the jurisdiction of the Nagpur Improvement Trust and it was declared as a Special Planning Authority. On 03/07/2017 a

notice was issued by the said Planning Authority calling upon the petitioner to produce the relevant records with regard to the construction undertaken by him including the sanctioned plan. It was stated that if those documents were not submitted, action would be taken under Section 53 of the Maharashtra Regional and Town Planning Act, 1966. The petitioner submitted certain documents in response on 25/12/2018. The petitioner was however informed on 10/01/2019 that since his application was not submitted through the Citizens Service Center and it was not in the proper form, it could not be entertained. He was asked to submit the documents by following the due procedure. The petitioner proceeded to challenge this order by filing an appeal and the Assistant Engineer on 30/09/2019 dismissed the said appeal on the ground that there was no order passed under Section 45 of the Act of 1966 for such appeal to be maintainable.

2. We have heard the learned counsel for the parties and we have perused the documents on record. We find that at this stage the petitioner has merely been called upon by the respondent Nos.3, 5 and 6 to submit relevant documents pertaining to the construction undertaken by him to facilitate

issuance of a release letter. Since the petitioner failed to submit those documents through the Citizens Service Center, the documents otherwise submitted could not be considered. The said communication also required the petitioner to submit those documents in the proper format after which it is stated that the matter would be examined on its merits. There was no reason for the petitioner to challenge this order more so when such appeal against the order calling for submission of documents in a proper form is not maintainable under the Act of 1966.

3. Be that as it may, since the petitioner had been called upon to submit the relevant documents pertaining to his construction as per communication dated 10/01/2019, we grant time of three weeks to comply with the communication dated 10/01/2019 to enable the respondent No.6 to examine those documents and take a decision for issuance of release letter. The decision taken be communicated to the petitioner. Since this Court has directed the parties to maintain status quo with regard to demolition of the property which order is operating since 11/10/2019, the same is continued till the respondent No.6 takes a decision on the application moved by the petitioner. If the respondent No.6 proposes to initiate any action against the

petitioner, fresh notice shall be issued informing the action proposed to the petitioner. The application moved by the petitioner shall be considered on its own merits and in accordance with law. The points raised in the writ petition are kept open.

Writ Petition is disposed of with aforesaid directions.

No order as to costs.

(G. A. Sanap, J.)

(A. S. Chandurkar, J.)

Asmita