

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO.145 OF 2019

Shri. Mahavir Bandopant Kolhapure : Petitioner
Vs.
Shri. Shyamrao Patil
Yaddavkar Educational and Charitable
Trust, Jaisinghpur Through Chairman
Mr. Rajendra Shamgonda Patil (Yaddavkar)
and others : Respondents

Mr. Mandar Limaye for Petitioner.
Mr. Sandesh Patil a/w Mr. Manoj Patil for Respondent No.1.
Mr. M. M. Pabale, AGP- Respondent Nos.2 to 6.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.
DATE : 07th SEPTEMBER, 2023**

P.C. :

Heard Mr. Mandar Limaye learned counsel representing the Petitioner, Mr. Sandesh Patil learned counsel representing Respondent No.1 and, Mr. Pabale, learned AGP representing the Respondent Nos. 2 to 6-State.

2. This Public Interest Litigation Petition has been filed raising certain objections to the constructions carried out by Respondent No.1 on land bearing Gat No.473-A and 525 situate at village Yadeav, Taluka Shirol, District Kolhapur. Pointing out

certain alleged irregularities in obtaining the requisite permission for construction and also in relation to certain discrepancies in the land use, it has been prayed by the Petitioner that a direction be issued to demolish the building as it has come up unauthorizedly for non-compliance of the provisions of the Maharashtra Regional and Town Planning Act, 1966 and Rules framed thereunder.

3. Though an Affidavit in Reply by Respondents-State has been filed, however, instead of clearing the air, the Affidavit creates more confusion. Respondent No.1 has also filed its response to this Public Interest Litigation by stating that at the relevant point of time when the construction of the building was undertaken, as per law the requirement was for seeking permission from the Village Panchayat and not from the Collector.

4. Learned counsel representing Respondent No.1 has further stated that Respondent No.1-Trust undertakes to fulfill the conditions and the requirements as mentioned in the letter dated 25th February 2016 written by the Assistant Director, Town Planning, Kolhapur to the District Collector, Kolhapur. He, however, draws our attention to the Notification dated 4th January 2018 issued by the Urban Development Department of the Government of Maharashtra whereby certain modifications in the zoning have been made. As per the said Notification, the

land bearing Gat No.473 of village Yedrao has been deleted from Public Semi Public Zone and included in the Residential Zone. It has, thus, been argued that, if any adjudication regarding the liability of Respondent No.1, if any, is to be done on the basis of the letter dated 25th February 2016, the modifications in the zoning effected vide Notification dated 4th January 2018 is also to be taken into account.

5. In view of aforesaid facts, especially keeping in view the undertaking extended by Respondent No.1 that, it shall comply with the terms of the letter dated 25th February 2016 provided its liability, if any, is fixed taking into account the Notification dated 4th January 2018, we dispose of this Public Interest Litigation in the following terms :-

- 1] The District Collector, Kolhapur shall determine the liability of Respondent No.1, if any, in terms of the letter dated 25th February 2016 written by the Assistant Director, Town Planning, Kolhapur to the District Collector, Kolhapur and while doing so the Collector shall also take into account the effect of the Notification dated 4th January 2018 so far as it relates to the subject land.
- 2] For the purposes of determination of the liability of Respondent No.1 under this order, one Representative

of Respondent No.1 and the Petitioner or his representative shall be present before the District Collector, Kolhapur on 9th October 2023 at 11.00 am. and they shall submit their respective cases. In case for any reason the Collector is not available on 9th October 2023, the parties shall be intimated, by the office of the collector, any other suitable date within a fortnight from 9th October, 2023.

- 3] The District Collector, Kolhapur shall, on submissions of the respective cases by the Representative of Respondent No.1 and the Petitioner or his representative before him, provide a brief hearing to their representatives and take a final decision under this order within a period of three weeks from the date hearing is concluded.
- 4] Once the determination of liability, if any, in terms of this order is done as per the procedure as given above, the District Collector, Kolhapur shall take all appropriate steps to ensure that Respondent No.1 discharges its liability, if any, as early as possible, say within a period of three months from the date of final decision is taken by him.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)