

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2311 OF 2021

Shyam Narayan Dubey

.. Petitioner

Vs.

The Municipal Corporation of Greater Mumbai & Anr. .. Respondents

- Mr. Jitendra Gautam, for the Petitioner.
- Ms Racheeta Dhuru a/w. Ms Vandana Mahadik & Ms Pooja Yadav, for Respondent Nos.1 & 2-BMC.

**CORAM : SUNIL B. SHUKRE &
RAJESH S. PATIL, JJ**

DATE : 17th AUGUST, 2023.

P.C. :

1. The contention of the petitioner is that the petitioner was running a school under the name and title as “Bharat Bharati Hindi High School” from Room No.262, Shankar Pada, Near Shankar Mandir, Smashanbhumi Road, Kandivali (West), Mumbai, which the petitioner supports by relying upon the permission granted to the petitioner for running a school from 23.04.2021 by the Deputy Director Education, which is at Exhibit F, Page No.50. On this ground, the petitioner submits that he is entitled for the relief of alternate accommodation to be granted by the Respondent-Corporation. On going through Exhibit F, we find that permission granted to the Education Society by name Jay Bharat Bharti Education Institute is for a school running from different address, which is at Room No.6, Shree Compound, Yadav Nagar, Shakar

Road, Jogeshwari (E), Mumbai – 400 002, and not from the address of Kandivali Link Road. There is no document placed on record by the petitioner showing that he was granted permission by the Deputy Director Education to shift his school to the address at Room No.262, Shankar Pada, Near Shankar Mandir, Smashanbhumi Road, Kandivali (West), Mumbai.

2. If this is so; we are of the view that very basis of this petition is without any lawful authority existing in favour of the petitioner to run a school from Room No.262, Shankar Pada, Near Shankar Mandir, Smashanbhumi Road, Kandivali (West), Mumbai. Then, admittedly Room No.262 has been demolished in 2003 and this petition has been filed in the year 2021. There is no satisfactory explanation for inordinate delay caused in filing of the petition. The passage of such a long period of time has resulted in the petitioner losing whatever right he may have had in respect of the demolished structure and settling of the right of Corporation in demolishing of the structure in question. So we are also of the view that this petition is not maintainable even on the ground of laches.

3. In the result, we find that this petition is not maintainable on account of absence of any legal basis for filing of this petition and also for the delay or laches. The petition stands dismissed.

[RAJESH S. PATIL, J.]

[SUNIL B. SHUKRE, J.]