

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

CIVIL APPLICATION (W) NO.1375/2023

IN

WRIT PETITION NO. 5153 /2012

Vinod s/o. Gangaramji Bhalave

Vs.

The Nagpur Municipal Corporation, Nagpur and Ors.

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

Court's or Judge's order

.....
Mr. N. S. Trivedi, Advocate for Applicant/Petitioner.

Mr. J. B. Kasat, Advocate for Respondent 1.

Mr. S. M. Puranik, Advocate for Respondent 4.

CORAM : ROHIT B. DEO AND
MRS.VRUSHALI V. JOSHI, JJ.
DATED : 26.04.2023

. This application is preferred in Writ Petition 5153/2012 which is decided by judgment dated 27.01.2023. The relief sought in the instant application is that the Planning Authority – Nagpur Municipal Corporation be restrained from demolishing the existing construction and from sealing the Petrol Pump, which action is scheduled on 26.04.2023.

2. The operative part of the judgment dated 27.01.2023 reads thus :

“(i) The Writ Petition is partly allowed.

(ii) The HPCL is directed to allot alternate retail outlet to the Petitioner within the city of Nagpur, as expeditiously as possible, and in any case within six months from the date of the order.

(iii) The Respondent No.2 – HPCL is at liberty to apply for regularization of the construction under question by filing appropriate proceedings before the Respondent No.1 – NMC, which shall be processed by the NMC as per Rules.

(iv) This order shall come into effect after expiry of four weeks from today.”

3. This application is preferred contending that the six months period within which the HPCL was directed to allot alternate retail outlet to the petitioner is yet to expire.

4. We are afraid that no restraint order as claimed in the petition can be passed. The time of six months within which the HPCL is expected to allot alternate

retail outlet to the petitioner is a matter between the petitioner and HPCL. The Planning Authority cannot be restrained from discharging its statutory duty of demolishing illegal construction, and admittedly the construction of the Petrol Pump is illegal. It is true that liberty was given to HPCL to apply for regularization of the construction. Evidently, the construction is not regularized till date.

5. We note that the petitioner has not challenged the judgment dated 27.01.2023.

6. The application seeking restraint order against the Planning Authority is dismissed.

7. If there is any grievance against the HPCL, the petitioner is at liberty to prosecute the same before the appropriate forum.

(MRS.VRUSHALI V. JOSHI, J.)

(ROHIT B. DEO, J.)