

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

WRIT PETITION NO. 6768 OF 2022

Dr. Vinayak Jaydeo Dhurjad,
Age 37 Years,
Occupation : Medical Practitioner,
R/o. Tike Nagar, Murtizapur,
Tq. Murtizapur, Dist. Akola.

...PETITIONER

...VERSUS...

1. The Collector, Akola,
Office at : Hospital Main Road,
Near Government Medical College,
Bhandaraj BK, Akola – Maharashtra.
2. The Chief Officer,
Municipal Council, Murtizapur,
Tq. Murtizapur, Dist. Akola.
3. Manmohan Krishnakumar Bhattad,
Age 35 Years, Occ.: Business,
R/o. Station Area, Murtizapur,
Taq. Murtizapur, Dist. Akola.

...RESPONDENTS

Mr. Arjun Deshmukh, Advocate h/f. Mr. Rajnish Vyas, Advocate for
Petitioner.

Mr. M. K. Pathan, A.G.P. for Respondent 1/State.

Mr. P. P. Deshmukh, Advocate for Respondent 2.

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

DATE: **17.04.2023**

ORAL JUDGMENT : (PER ROHIT B. DEO, J.)

1. Heard. **Rule.** Rule made returnable forthwith by
consent of the learned counsel for the parties.

2. The challenge is to the order dated 19.10.2022 rendered by the respondent 1 – Collector, Akola, as is reflected in the note-sheet of the proceedings initiated at the instance of Mr. Manmohan Bhattad - the respondent 3 herein, whereby the Planning Authority is directed to demolish the construction.

3. The petitioner and respondent 3 have settled their *inter se* dispute. Nonetheless, it would be the Municipal Council as the Planning Authority which shall have to decide whether the construction of the petitioner is legal.

4. Having so observed, we have no hesitation in holding that the order impugned is manifestly illegal. We are not required to consider the broader question of jurisdiction. It is common ground that the order impugned is passed without hearing the petitioner.

5. We therefore quash and set aside the order impugned.

6. We clarify, that if the Municipal Council so desires, it is free to act in accordance with law, and after hearing the petitioner, uninfluenced by the proceedings before the Collector.

7. The petition is disposed of in the aforestated terms.

8. Rule accordingly. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(ROHIT B. DEO, J.)

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