

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

**WRIT PETITION NO. 1755 OF 2024**

Shri Siddhivinayak Developers

... Petitioner

*Versus*

State of Maharashtra & Ors.

... Respondents

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Mr. Abhijeet Kulkarni a/w Mr. Gaurav Shahane & Mr. Krushna Jaybhay,  
for Petitioner.

Mr. Kedar Dighe, for Respondent No.2 – Pimpri Chinchwad Municipal  
Corporation.

Ms. S. D. Vyas, Addl. G. P. a/w Ms. P. J. Gavhane, AGP for State/  
Respondent Nos.1, 3 & 4.

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**CORAM: G. S. KULKARNI &  
FIRDOSH P. POONIWALLA, JJ.**  
**DATED: 8 February, 2024**

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**P.C.**

1. Not on board. Upon mentioning, taken on board on a praecipe as moved on behalf of the petitioner.
2. This petition under Article 226 of the Constitution of India is filed praying for diverse reliefs which revolves around the stop work order issued by the Deputy Labour Commissioner, Pune which had arisen in view of an incident which had taken place on 15 September 2022 when a worker of the contractors-Beton Infratech LLP, namely Mr. Habibur Mulla met with a fatal accident at the site, who fell from the fourth floor. He expired in such accident. A notice was accordingly issued by the Deputy Labour Commissioner in regard to the safety measures as adopted at the site. There was an appeal preferred

against the stop work order which ultimately came to be withdrawn with liberty to take out appropriate proceedings. Also in pursuance of letter dated 14 September 2023 the petitioner had deposited a bank guarantee for proposed compensation as insurance papers were not submitted by the parties.

3. Mr. Kulkarni, learned counsel for the petitioner has drawn our attention to the fact that a Safety Audit of the site styled as “Ganga Amber” site was undertaken on 30 September 2023 and in pursuance of which the petitioner by its application dated 6 October 2023, submitted to the Executive Engineer of the Building Permission Department of the respondent Municipal Corporation, requested that the compliances be examined and on verification of such safety measures as adopted, a certification be granted, of the compliances.

4. Our attention has also been drawn to a letter dated 11 October 2023, addressed by the Executive Engineer of the Municipal Corporation to the Deputy Commissioner of Labour that the compliance as set out in the Audit Report be examined by having an inspection in that regard.

5. Mr. Kulkarni, learned counsel for the petitioner would submit that the petitioner would not desire that all the prayers as made in the petition be adjudicated. It is submitted that the petitioner would restrict the prayers to the effect that the application of the petitioner dated 6 October 2023, for verification of the compliances on the various safety measures installed by the

petitioner and contained in the Safety Audit Reports are required to be examined. It is submitted that this has been acknowledged by the Municipal Corporation in its letter dated 16 October 2023 and is now to be verified by the Deputy Commissioner of Labour so that such compliances are taken to its logical conclusion and appropriate decision is taken, so as to consider revoking of the stop work notice.

6. The very purpose for which the Labour Commissioner issued such orders against the petitioner was in the light of the incident which has taken place on 15 September 2023 and on a *prima facie* consideration that safety measures were not installed by the petitioners, as the rules and regulations would mandate. Now the petitioner contends that the petitioner has installed / made available various safety measures and the same can be inspected by the Corporation, as also same being examined by the Labour Department, an appropriate view of the matter can be taken qua the stop work notice.

7. We find substance in the contention as urged on behalf of the petitioner that the construction site of the petitioners cannot be kept suspended indefinitely and / or for long period, hence, if the petitioner has made compliance by providing all safety measures even the authorities need to consider the same and pass further appropriate orders.

8. Thus, in the event, petitioner has complied with the safety requirements and as set out in the safety audit report, the concerned authorities are required

to take further appropriate action and on being satisfied of such compliances, the petitioner may be permitted to undertake its construction / development activities at the project site.

9. In the light of the above discussion, we are of the opinion that the petition deserves to be disposed of by the following orders:

**ORDER**

I. The respondents / Municipal Corporation as also the Labour Department shall take further appropriate steps to verify the safety measures as installed by the petitioner and on being satisfied on such installations, and on the petitioner furnishing an appropriate undertaking to maintain such safety measures throughout the period of construction, consider the application of the petitioner for continuation of the work on the project by revoking the stop work notice.

II. All contentions of the parties in regard to the proposed inspection and / or compliances are expressly kept open.

III. Let necessary decision in this regard be taken within a period of three weeks from today.

10. Disposed of in the above terms. No costs.

**(FIRDOSH P. POONIWALLA, J.)**

**(G. S. KULKARNI, J.)**

Corrected as per speaking to minutes of the order dated 8 February 2024