

Talwalkar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 39 OF 2024**

Pratik Pratap Maheshwari	...Petitioner
<i>Versus</i>	
The State of Maharashtra & Anr	...Respondents

Mr Amit A Karva, for the Petitioner.
Mrs RM Shinde, AGP, for the Respondent-State.
Mr Mahindra Deshmukh, for Respondent No 2.

**CORAM G.S. Patel &
 Kamal Khata, JJ.**
DATED: 5th January 2024

PC:-

1. It is clear that the Petitioner was given no hearing before arriving at a conclusion that the structure cannot be regularised. Indeed, this is admitted because all that was done was the institution of an enquiry and a resultant finding, but without any opportunity being afforded to the Petitioner to show how the structure could be regularised. The Petitioner seeks that a notice dated 20th November 2023 be quashed and set aside. It was issued in respect of a structure on Barrack No 1332, Sheet No 78, Municipal Ward No 57, Ulhasnagar 421 005, District Thane.

2. On behalf of Ulhasnagar Municipal Corporation, it was conceded that no hearing was afforded to the Petitioner before

ARUNA
SANDEEP
TALWALKAR

Digitally signed by
ARUNA SANDEEP
TALWALKAR
Date: 2024.01.08
15:05:04 +0530

issuing the notice. The argument from the Ulhasnagar Municipal Corporation, which is only to be stated to be rejected, is that there is a governing Ordinance of 2006 which contemplates only an enquiry but no hearing. We do not know what this ordinance is, but it is certainly not a creature known to law and not one that can survive as an ordinance from 2006 to 2024.

3. No such provision of denying an opportunity of hearing could survive a constitutional challenge.

4. The Petitioner maintains that the structure has not been demolished.

5. Accordingly, we issue rule, make it returnable forthwith and make it absolute in terms of prayer clause (a), which reads thus:

(a) That this Hon'ble Court may be pleased to issue writ of certiorari and or any other appropriate writ and may be please to quash and set aside notice dated 20/11/2023 issued by the Respondent No2 to the Petitioner in respect of structure of the Petitioner on Barrack No. 1332, Sheet No. 78, Municipal Ward No 57, Ulhasnagar – 421 005, Dist. -Thane.

6. No costs.

(Kamal Khata, J)

(G. S. Patel, J)