

Arun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15271 OF 2023

Kiran B Bhoite & Anr

...Petitioners

Versus

Phaltan Nagar Parishad & Anr

...Respondents

Mr Prathamesh Bhargude, *with Ranjit Shinde, for the Petitioner.*

Mr Avinash B Patil, *for Respondents Nos. 1 & 2.*

Mr Viraj Hake, *with HD Chavan, for Respondent No.3.*

CORAM G.S. Patel &
Kamal Khata, JJ.

DATED: 20th March 2024

PC:-

1. Rule. Rule returnable forthwith.

2. The 3rd Respondent added by amendment is one Sumit Chandrakant Chormal. Before us his Counsel candidly states that his client has absolutely no interest or connection with the Petitioners' property CTS No 6481 (part), Laxmi Nagar within the local limits of Phaltan Nagar Parishad ("**PNP**"). As a result of Chormal's complaint, the Collector directed that the PNP to take action and this resulted in two impugned orders of 13th October 2023 and 10th November 2023. These were issued against the

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Petitioners' construction long after it was completed. Photographs are annexed at page 35.

3. Our difficulty is not with the PNP exercising its statutory powers or discharging its function. The difficulty arises when PNP officers start exercising these powers not in a neutral fashion but at the instance of private individuals without making the slightest attempt to investigate the background, antecedents or bona fides of the complainant. Far from being a neutral party and one that is properly and legitimately exercising powers under a controlling statute or a controlling planning statute such as the Maharashtra Regional Town Planning Act ("**MRTP Act**"), the PNP then becomes an active participant. Allegations of fraud, corruption and collusion fly thick and fast. The necessary administrative objectivity is entirely compromised.

4. Our entire problem is that the PNP has not maintained sufficient distance from the complainant — and does not do so even in Court before us.

5. That is sufficient reason for us to quash and set aside both notices, but we do so without prejudice to the rights of the PNP to independently take action against the Petitioners or their structure or construction strictly in accordance with law and after giving due notice and affording the Petitioners a proper opportunity of being heard. We clarify that we have not examined the merits of either the complaint or of the municipal action. Since this is an invocation of our powers of judicial review of administrative action, we are not

concerned with the merits of the decision but with this decision-making process. It is the decision-making process that we find has been entirely compromised and therefore unsustainable. It is open to the PNP to take such action as it deems fit in accordance with law.

6. The impugned notices are quashed and set aside.

7. The Petition is disposed of in these terms. There will be no order as to costs.

(Kamal Khata, J)

(G. S. Patel, J)