

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12119 OF 2024

Anjuman Gulshan-E-Madina ...Petitioner

Versus

State of Maharashtra & Ors. ...Respondents

VASANT
ANANDRAO
IDHOL

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Mr .Ansari Shahed –Ali Inayatoli for the Petitioner.

Ms.Rupali Shinde, AGP, for the Respondents Nos.1,3 and 4.

**CORAM. M.S. Sonak &
 Kamal Khata, JJ**
DATED. 27th August 2024

PC:-

1. Heard Mr.Ansari for the Petitioner, Ms.Shinde, learned AGP for the State.

2. The Petitioner challenges the order/communication dated 9.1.2024 issued by the Pimpri-Chinchwad Municipal Corporation (Respondent No.2), requiring the Petitioner to demolish the illegal construction put up by the Petitioner without bothering to obtain any permissions from the Corporation or any other authority.

3. Learned counsel for the Petitioner submits that on 11.1.2024, after receiving the notice, the Petitioner made an

application for regularisation. He refers to the application in Exhibit E (page 34) in support of his contention.

4. Mr. Ansari submits that the impugned notice dated 9.1.2024 granted the Petitioner only 24 hours to remove unauthorised construction, and the grant of such a short time is arbitrary and unreasonable. He submits that the Hon'ble Supreme Court, in the case of *Mumbai Municipal Corporation vs. Sabnis Hightech Developers Pvt. Ltd.* (citation of which learned counsel for the Petitioner claims he does not know), has held that at least 15 days should be granted for removal of unauthorised constructions and even a panchanama should be drawn at the site.

5. Mr Ansari submits that due process needs to be followed by the Corporation, and in any event, the Petitioner is ready to go for regularisation of the unauthorised construction. Therefore, he submits that the impugned demolition notice must be quashed, and directions must be issued to the Corporation to regularise the unauthorised construction. Mr. Ansari submits that the Petitioner is a Trust and doing religious activities, and therefore, some consideration should be given to the Petitioner.

6. We have considered the above submissions and the material placed on record by the Petitioner and the Petition.

7. The impugned demolition notice was issued to the Petitioner on 9.1.2024, requiring the Petitioner to remove unauthorised construction, details of which were set out in the impugned

notice. Though the impugned notice required the Petitioner to remove unauthorised construction within one day, it is almost eight months since the Corporation issued its notice. The Petitioner has also not bothered to remove the unauthorised construction. Therefore, the contentions about 24-hour notice being arbitrary or unreasonable or the circumstance about the grant of 15 days to remove the unauthorised construction.

8. The Petitioner was, in effect, granted more than 8 months to remove unauthorised construction, and the Corporation, in such circumstances, can be said to have been almost charitable to the Petitioner, let alone unreasonable or acting arbitrarily.

9. Mr.Ansari's contention that the Petitioner on 11.1.2024 applied for regularisation vide application at Exhibit-E (page 34) is entirely misconceived. The application dated 11.1.2024 at Exhibit-E seeks permission for repairs. This application was made significantly after carrying out the unauthorised construction and receiving the impugned notice dated 9.1.2024. This can hardly be called any application seeking regularisation.

10. The Petitioner's offer to seek regularisation and even pay a fine cannot be grounds for interfering with the impugned notice dated 9.1.2024. The Petitioner, in this case, has brazenly put up an illegal construction and, seeing that there is no defence whatsoever, is now offering to go for regularisation. The benefit of regularisation is not to be extended in such situations. The circumstances that the Petitioner is doing religious activities is also

entirely irrelevant. No special considerations can be shown on this ground.

11. Accordingly, we find no grounds to interfere with the impugned orders/ notice. This Petition is liable to be dismissed and is hereby rejected.

12. There shall be no costs order.

(Kamal Khata, J)

(M.S. Sonak, J)