



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

949 WRIT PETITION NO. 13605 OF 2025

Mohammad Shaukat Mohammad Hanif And Others.

VERSUS

The State Of Maharashtra And Others

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Advocate for Petitioners : Mr. D. P. Palodkar a/w Mr. S.D. Nimbalkar

AGP for Respondents: Mr. S.B. Narwade

Advocate for Respondent 6, 7 : Mr. A.P. Bhandari

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CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.

Dated : November 21, 2025

ORDER :- (Per Hiten S. Venegavkar, J.)

1. Heard learned counsels for both the sides.
2. The petitioners have filed present petition seeking directions, quashing and setting aside the impugned notification dated 15.4.2025 to the extent of change/shifting in alignment of 30 meters wide '**DP**' road and further to restrain the Respondents Authorities from taking any coercive action against the properties of petitioners as mentioned in paragraph no.3 of the petition.
3. Petitioners state that they are the lawful owners and possessors of plot no.4, situated in gat no.101, in Mitmita by virtue of the registered sale-deed executed by the erstwhile

owner. They further submit that in the Sanctioned Development Plan of 1991 of additional area of Chhatrapati Sambhajinagar towards Western side of properties of the petitioners 60 meters wide DP road was shown, whereas a 30 meters wide DP road has been shown towards Northern side of property of the petitioners. There has been 'NA' permission on property of the petitioners granted on 13.10.1993 by the Collector, Chh.Sambhajinagar. Thereafter, Municipal Corporation, Aurangabad on 22.9.1999 has issued a certificate bearing no.436 of 1999 to that effect. Work of revision of Development Plan of Chhatrapati Sambhajinagar Municipal Corporation was initiated by the Appointed Officer as per directions of this Court as well as directions of the Hon'ble Supreme Court. Accordingly, Appointed officer has published a Draft Development plan under section 26 of the Maharashtra Regional Town Planning Act and in the Draft Development plan, alignment of 30 meters wide road was shown as changed since width of the road has not been increased and no widening was indicated, the petitioners and citizens at large had no reason to suspect or object the same. It is further submitted by the petitioners that proposed alignment in the changed DP road is being shown passing from the properties

belonging to petitioners and, therefore, they have approached this Court challenging said re-alignment.

4. It is further submitted that petitioners have received a notice under section 260 of the Maharashtra Municipal Corporation Act (for short said Act) on 29.10.2025 mentioning therein that the Corporation has objection to the construction of the petitioners. It is directed in the said notice to submit explanation within 24 hours/3days/7days15 days/30 days. Nature of the construction is also stated to i.e. Mobile Tower/unauthorized construction/excess construction without permission/unauthorized construction/unauthorized shade/construction on Nala etc. It is stated by the petitioners that a news item has already been published on the basis of the information provided by the Municipal Authorities that the Corporation is likely to take action for demolition in respect of the properties for which markings have been made in the past. Thus, according to the petitioners, Municipal Corporation authorities have also decided and declared that the petitioners properties will be demolished without awaiting any reply from the petitioners.

5. Learned counsel Mr. Bhandari appearing for the respondents/Corporation submits that properties of the petitioners are illegal and they have not been constructed in accordance with the sanctioned plan. Mr. Bhandari has also shown copy of the sanctioned plan and demonstrated that the sanctioned plan was for the purpose of residential properties, while photographs which are annexed to the petition clearly indicates that petitioners properties are commercial in nature. Mr. Bhandari, on instructions from the Respondents, makes a statement that, the alignment which the petitioners are referring has not been changed. He submits that the action which the Corporation intends to take against the petitioners is in view of section 260 of the the said Act only. He, therefore, argued that contentions of the petitioners in paragraph no.15 on oath are contrary to the record. Mr. Bhandari, learned advocate for the Respondents Corporation makes a statement that, the said proceedings under section 260 of the said Act would be decided within a period of one (1) week from today.

6. On perusal of prayer clauses in the petition, it is apparent that notice under section 260 of the said Act has not been challenged by the petitioners. What has been only

challenged before this Court is the process of change/shifting in alignment of 30 meters wide DP road and even no coercive action has been sought only in respect of the re-alignment of the said road.

7. Without going into the merits of the petition in respect of legality or illegality of properties of petitioners, the fact remains is that, Municipal Corporation has issued a notice under section 260 of the said Act, to which the petitioners have also submitted their reply. Thus, in view of judgment of the Hon'ble Supreme Court in case of **Municipal Corporation of Greater Bombay and others Vs. Sunbeam High Tech Developers Pvt Limited reported in (2019) 20 SCC 781**, we direct the Municipal Corporation, Chharapati Sambhajinagar, to decide the notice under section 260 of the said Act on it's own merits within a period of one week from today. We also note that the notice, which is issued under section 478 of the said Act could not have been issued without deciding the proceedings under section 260 of the said Act.

8. We accordingly **dispose of** the writ petition by giving directions to the Respondents Municipal Corporation to decide the proceedings under section 260 of the said Act

within a period of (1) one week from today. With these directions, writ petition stands disposed of. There shall be no order as to costs.

(HITEN S. VENEGAVKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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