

(Corrected as per speaking to minutes order dated 25.11.2025, in bold)

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

PUBLIC INTEREST LITIGATION NO. 54 OF 2015

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Praful Bhagwan Ghorpade

... Petitioner

Versus

State of Maharashtra & Ors.

... Respondents

.....
Mr. Chetan G. Patil a/w Mr. Bhushan S. Jadhav, Prathamesh P. Magdum,
Siddheshwari R. Chavan i/b Mr. Sachin Hande for the Petitioner.

Mr. Pradeep Salgar a/w Vaishnavi A. Shelar for the Respondent Nos. 6
to 21.

Mr. Shrikrishna Ganbavale (through VC) for Respondent Nos 10 to 21.

Mr. Manjiri Kulkarni i/b Abhijit M. Adagule for Respondent No. 22

Mr. V.M. Mali, AGP a/w Mr. A.A. Naik, AGP for the Respondent - State.

.....
**Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.**

Date : November 21, 2025.

ORAL ORDER :- (Per M.S. Karnik, J.)

1. Heard learned counsel.
2. The petitioners pray for the following substantive reliefs.

“(b) That this Hon’ble Court be pleased to direct Respondent No.1, 2, 4 and 5 to-

(i) to forthwith cancel the permission granted in favour of Respondents No. 6 to 21 by Respondent No.3 and further be pleased to resume the structure standing on Gat Nos. 147/2A, 142/6/8 and 96/4 B situated at either side of Tawde Hotel to Gandhinagar – Chinchwad Road;

(ii) to demolish the unauthorized construction done by Respondent No.6 to 21, standing on Gat Nos. 147/2A, 142/6/8 and 96/4 B situated at either side of Tawde Hotel to Gandhinagar-Chinchwad Road, District Kolhapur;

(iii) to take action as per provisions of Maharashtra Village Panchayats Act, 1958 against the Respondent No.3 and its office bearers for granting illegal permission for construction outside the limits of Gaathan;”

3. The facts of the case in brief are that the petitioner is resident of Uchgaon village and has filed the present PIL espousing public cause. Respondent Nos. 6 to 21 have purchased properties bearing Gat No. 147/2A, 142/6/8 and 96/4B situated at either side of the Gandhinagar – Chinchwad Road. According to the petitioner, Road No.24 is the main district Highway starting from Tawde Hotel near NH-4 to Gandhinagar-Chinchwad. The State Government has notified the ‘Building Line and Control Line’ on the District Highway and the distance to be maintained from the centre of the road for making construction vide Notification dated 9th October 2001. It is the contention of the petitioner that respondent Nos.6 to 21 carried out unauthorized construction in

violation of the aforesaid restrictions. The respondents authorities have although issued notice to the said respondents to remove unauthorised constructions, have not taken any further action for removal of unauthorised construction.

4. The present PIL raises the following principle grievances.

- (a) Unauthorised construction carried out by the respondent Nos. 6 to 21 in violation of 'Building Line and Control Line'.
- (b) The respondent Nos. 6 to 21 while describing the property in their sale deeds have mentioned that the property is situated within the limits of Kolhapur Municipal Corporation but while carrying out construction have taken permission from Uchgaon Grampanchayat.
- (c) The property in question is not situated within gaathan area of Uchgaon Grampanchayat and hence, the appropriate authority to grant permission is the Collector and not the Grampanchayat.
- (d) The respondent Nos. 6 to 21 although have taken permission for carrying out construction for residential purpose but have carried out construction for commercial purpose.

5. This petition had come up for hearing before this Court on 18th

April 2019 when this Court directed the Public Works Department (for short "PWD") to demolish the illegal construction. The respondent Nos.6 to 21 filed SLP before the Hon'ble Supreme Court. The Hon'ble Supreme Court remanded the matter back to this Court to decide the same afresh on the basis of pleadings and the documents. It would be profitable to quote relevant paragraphs of the order 14th February 2023 passed by the Hon'ble Supreme Court, which reads thus:-

"There are different structures, put up by the appellants, each of which may be or may not be in violation and even those structures which are in violation, may be located at different distances. Unless categorical findings are recorded either on the basis of the pleadings or on the basis of the documents recorded or on the basis of any inspection report called for by the High Court, a cryptic order directing the removal of such encroachments could not have been passed by the High Court. Therefore, the appeals are allowed. The impugned orders are set aside and the matter is remanded back to the High Court for fresh disposal.

The High Court shall ensure that the pleadings of all the parties including the newly impleaded parties are complete and thereafter, the High Court may decide the matter afresh on the basis of the pleadings and the documents. If necessary, an inspection shall be ordered to be carried out for the purpose of appropriate adjudication.

Thereafter, the High Court may pass orders in accordance with law after hearing all the parties preferably within a period of six months."

6. We have carefully perused the order of the Hon'ble Supreme Court. Our attention is invited by learned counsel for the petitioner to the order dated 13th November 2025 passed by this Court in PIL No. 94 of 2019, which also pertains to unauthorised constructions, which were

carried out on the very same road, which is the subject matter of the present PIL. This Court on 13th November 2025 disposed of the PIL by issuing the following directions :-

"2. The present PIL Petition seeks a direction to the Respondent-Authorities to remove the unauthorized constructions, which are being erected on both sides of the road without leaving any space, when the road currently is only 30 feet wide. The direction is therefore sought for initiating steps for removal of illegal structures raised by the Respondent Nos.17 to 46 in accordance with law.

3. The Petitioner seeks a direction to the Respondent Nos.5 to 16 to conduct the inquiry and submit a detailed report, as to, how many constructions permissions have been granted with respect to said lands i.e. Gat No. 200/6, 145/2, 175/2/14, 174/4, 175/C of Uchgaon Grampanchayat and Gat Nos. 182/2/3, 124/6, 185/5/6, 183/2 & 184/4/A, 132/14, 132/15, 132/16 of Walivade Grampanchayat, Gat Nos.413/1/7 of Gadmurshingi Grampanchayat, District Kolhapur in contravention to the Circular dated 22nd December 2010 passed by the Respondent No.4-Gram Vikas Department, in violation of provisions of the Bombay Highway Act, 1955 and Ribbon Development Rules, 1937 and the Maharashtra Village Panchayat Extension of Village Sites and Regulation of Buildings Rules, 1967 and Government Resolution dated 9th March 2001 and 11th December 2015.

4. The Petitioner seeks a direction to quash and set aside all the construction permissions / No Objections granted by the Respondent Nos.12 to 16 in respect of aforesaid lands. Further direction is sought to demolish the existing structures in the aforesaid lands. The Petitioner also seeks a direction to the Respondent Nos.1 to 16 to finalize and demark the area of proposed 100 feet road widening of major district road 20 and secure its boundaries by demolishing the illegal structures erected in place of and along side the proposed 100 feet road.

5. We find that in this PIL Petition, the Petitioner wants this

Court to conduct a roving inquiry into the construction permissions, which according to him are illegally granted.

6. *In our opinion, if the Petitioner is aggrieved by any building construction permissions, which have been granted illegally, it is for the Petitioner to approach the concerned Authorities by filing a comprehensive representation placing on record the materials and relevant provisions of law for the purpose of initiating action against such illegal / unauthorized constructions.*

7. *If it is the contention of the Petitioner that illegal constructions are put up on the major district roads, obviously the Public Works Department ("P.W.D." for short) is bound to initiate action in accordance with law against the unauthorized structures which have come up on such major district roads and those unauthorized constructions alongside the highways. It is open for the Petitioner to bring to the notice of the concerned officials of the P.W.D. the details of such illegal structures. The concerned Authorities of the P.W.D. shall if it finds that such constructions are put up on the major district roads / highways unauthorisedly, which are subject matter of this PIL Petition, issue notice to those who are to be affected by any action is to be taken by the P.W.D. and after hearing all the concerned including the Petitioner and conducting the necessary inquiry, proceed to take an action against such unauthorized structures / constructions in accordance with law.*

8. *The Petitioner is at liberty to make a comprehensive representation, which the Authorities shall undoubtedly look into and act on the same to take it to its logical conclusion in accordance with law.*

9. *PIL Petition is disposed of in above terms."*

7. Learned AGP submitted that affidavit-in-reply has been filed by the PWD clearly stating that the action against any unauthorised constructions which have come up on the road, which is subject matter of the petition, is to be initiated and taken to its logical conclusion by

the PWD. Accordingly, notices have been issued. In response to this stand of the learned APP, learned counsel for the respondent Nos. 6 to 21 invited our attention to the decision of this Court in *Abhijit Prakashrao Patil & Ors. Vs. The State of Maharashtra & Ors.* in PIL No. 224 of 2014, decided on 5th February 2020. Learned counsel submitted that it is not open for the PWD to take any action as this Court has clearly decided the issue that the road in question is **not a** major district road governed by the Maharashtra Highways Act, 1955. Learned counsel for the **Respondent Nos. 6 to 21** submitted that in terms of the order passed by this Court, it is not open for the PWD to initiate action. If that is so, it is for the respondents to raise such a contention before the PWD authorities in response to the show-cause notice by relying on the decisions of this Court.

8. What we are really concerned with is illegal construction which the petitioner alleges have come up on the major district road. Even the PWD has issued notices to those who are responsible for putting up these illegal constructions. In such view of the matter, it would be for the PWD to take the notices to its logical conclusion in accordance with law. If it is the contention of the respondents that the PWD does not have any authority to take action against the unauthorised constructions in view of the decision of this Court, it is the respondents

who may take up such contention before the PWD. We, therefore, direct the PWD to hear the respondents and those responsible for putting up unauthorised constructions and after giving them proper opportunity of hearing in support of their contentions, pass appropriate orders. In case the PWD after hearing all concerned is of the opinion that it is necessary to proceed with demolition, adequate prior notice regarding such demolition will be issued to the concerned respondents.

9. Another issue which has been pressed by the petitioner is that the construction permissions have been obtained from authorities which had no jurisdiction to grant such permissions. If that is the case, it is open for the petitioner to approach the concerned / appropriate authority bringing to its notice these illegal constructions within their jurisdiction, which do not have any authorisation. The competent authorities are bound to take action in accordance with law against these illegal constructions after carrying out necessary inquiries and after hearing the respondents.

10. We find from the affidavit-in-reply the following stand taken by the PWD. Paragraphs 3, 4, 5 and 6 of the affidavit-in-reply, read thus:-

"3. I say that, the final Order and Judgment of Dated. 18th

April 2019 passed by, Hon'ble High Court of Judicature at Bombay in Public Interest Litigation No.55 of 2015 and thereby allowing Public Interest Litigation filed by the Respondent No.6 is the right decision as per the Law and is also right decision as per the provisions of Bombay Highway Act 1955 and also right decision as per the circular Dated. 09th March 2001 issued by the State Government of Maharashtra in respect of the constructions between Building Line and Control Line. The Hon'ble High Court has come to the right conclusion after perusing the facts and the evidence of this matter.

4. *The Hon'ble High Court has not considered in passing the order against the Public Works Department to demolish the illegal constructions. The Public Works Department having no authority to demolish the illegal constructions which are erected beyond their Land width. The Construction erected on Private Land within the Building Line and Control Line in the Contravention of provisions of Bombay Highway Act 1955. Then as per the. Provision of Bombay Highway Act 1955, The Public Works Department have only authority to Issue notice to the illegal constructions, which are erected beyond their Land width, The Illegal construction erected within the Building Line and Control Line, The Competent Authority to demolish the illegal constructions between Building Line and Control Line in the limits of Gaathan of Grampanchayat, is the concerned Grampanchayat as per the Section 52 of Maharashtra Village Panchayat Act 1958. And beyond the Limits of Gaathan area the concerned collector of District have the authority to demolish the illegal constructions, as per the Government Relousation Dated. 11th December 2015 in this regard.*

5. *The State Government has declared the Policy for the development of the roads in state at every 20 years as "Road Development Plan". This process is continuously takes place after every 20 years. Under this policy The Road Development Plan Scheme for 1981-2001 was sanctioned by State Government in the year 1986 as per Government Resolution No.RDP-1083/8156 / Planning-2 Dated.30th October 1986. The said road also included in this plan as Major District Road by the Name from **"Tawade Hotel to N.H.-4 to Joining New Chinchwad Rukadi Phata Rukadi MDR-25, MDR-24"**.*

The Same policy also declared by the State Government

*for The Road Development Plan Scheme year 2001-2021 in the year 2012 as per Government Relousation No.Misc.-2008/E.No.2/Planning-2 Dated.24th April 2012. The said road also included in this plan as Major District Road as **"N.H.-4 to Gandhinagar New Chinchwad Rukadi Phata to joining S.H.-200 road MDR-20"**.*

*As per the Policy of the State Government in the year 1997 the 28 roads of various categories have been transferred to the Public Works Department of Kolhapur from Zilla Parishad Kolhapur for further development and maintenance. The transfer order of those roads had been declared by the State Government in the Gazette dated.22th May 1997 And the said road also included as Major District Road at serial No.10 of as the Name from **"N.H.-4 to Gandhinagar New Chinchwad Rukadi Phata to joining S.H.-200 road MDR-20"**. At the time of that declaration of Gazette the petitioners or any one, had not filed any objection about the category of this said road.*

It means when the said road transferred to the Public Works Department In year 1997 it was the standard of Major District Road already. The said road in dispute is in existence as Major District Road from long time i.e. from 1986. So I say that at this stage the question of declaration of Gazette about the Standard of road i.e. Major District Road is not required, nor necessary.

So the construction erected by, petitioners are falling in the "Control Line and Building Line" and the constructions and structures which are erected by petitioners are the illegal constructions and the No Objection Certificate of this department has not been obtained by the petitioners for the said constructions from this department.

6. I say that, the final Order and Judgment of Dated. 18th April 2019 passed by Hon'ble High Court of Judicature at Bombay in Public Interest Litigation No.54 of 2015 and thereby allowing Public Interest Litigation filed by the Respondent No.6 is the right decision as per the Law and to also correct as per the sections of Bombay Highway Act 1955 and also correct as per the circular Dated.09th March 2001 issued by the State Government of Maharashtra in respect of the constructions between Building Line and Control Line. The Hon'ble High Court has come to the

right conclusion after perusing the facts and the evidence of this matter.”

11. Since action has been initiated, the same may be taken to its logical conclusion in accordance with law and in terms of what has been observed by this Court hereinabove.

12. By keeping all contentions open, the PIL petition is disposed of.

[Ajit B. Kadethankar, J.]

[M. S. Karnik]