

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7404 OF 2024**

Yashwant Anna Bhoir
Versus
State of Maharashtra & ors

...Petitioner

...Respondents

Mr. Avinash Fatangare a/w Ms Archana Shelar for Petitioner.
Mrs. M. P. Thakur, AGP for State/ Respondent Nos.1 to 3.
Mr. Dinesh Adsule a/w Mr. Chinmay Bhole for Respondent No.4.
Mr. Sumedh Modak i/b Mr. Vijay Killedar for Respondent No.5.
Mr. Maruti Gaikwad, Chief Officer, KBMC, present.

**CORAM : G.S. KULKARNI &
ARIF S. DOCTOR, JJ.**

DATE : 7th OCTOBER, 2025.

P.C:

1 In pursuance to our order dated 23rd September 2025, the proceedings are listed today for compliance. At the outset, we may note our order dated 23rd September 2025, which read thus:

“1. Considering the orders which we have passed on the present proceeding on 14 August, 2025, the proceedings are listed before us. However, we find that none of the directions as issued by the Court, more particularly paragraph nos. 4, 5, 6 and 7 of our order dated 14 August, 2025, have been complied either by the Chief Officer of the Municipal Council or by the private respondent in undertaking the work as specifically directed. Insofar as these compliances are concerned, we direct the Chief Officer as also respondent no. 5 to place on record the compliance affidavit on or before the adjourned date of hearing.

2. We are really surprised that although a time of more than one month was granted, i.e., from the date of the said order, there is no seriousness shown either by the Chief Officer of the Kulgaon Badlapur Municipal Council nor respondent no. 5 to comply with the orders passed by the Court, this more particularly when the Court has observed in paragraph 6 of the order that any non-compliance will be considered as

breach of the order passed by this Court. The approach appears to be too casual. We shall proceed to hear the parties on such specific directions on the adjourned date of hearing and pass appropriate orders if the Court is not satisfied and compliances achieved.

3. In the event of any non-compliance of the Court's direction, we direct the Chief Officer of the Kulgaon Badlapur Municipal Council to remain present in the Court so that further appropriate orders can be passed.

4. Compliance affidavit be furnished to the advocate for the petitioners well in advance.

5. At this stage, we are informed that honararium of the expert as appointed by this Court is not deposited by respondent no. 5. Let the same be deposited by tomorrow, i.e., 24 September, 2025. All the amounts be released by the Registry of this Court to the expert.

6. Stand over to 7 October, 2025 at 2.45 p.m. for compliance."

2 A compliance affidavit in reply of Mr. Maruti Gaikwad, Chief Officer, Kulgaon Badlapur Municipal Council, is filed setting out the various compliances which have been made and more particularly in terms of the observations of this court in terms of the judgment and order dated 19th September 2025 rendered on the Writ Petition. The relevant paragraphs of the said compliance affidavit is required to be noted, which read thus:

"2. I say that, at the outset, I tender my unconditional apology to this Hon'ble Court and I am bound to follow the directions issued by this Hon'ble Court on the priority basis.

3. I say that, as per directions issued by this Hon'ble Court on 14th August, 2025, in para 4 & 5, on application dated 21/07/2025 of the Respondent No.5, we have already given a permission to the Respondent No. 5, builder for construction of compound wall after receipt of their request letter dated 26/08/2025. Copy of the permission letter dated 26/08/2025 issued by the office of the Respondent No. 4, Kulgaon-Badlapur Nagar Parishad is hereto annexed and marked as Exh. "A".

4. I say that, as per directions issued by this Hon'ble Court on 14th August, 2025, para 6, we have written a letter on 04/10/2025 to the concerned Police Station stating that to provide police protection.

Copy of the letter dated 01/10/2025 issued by the Respondent No. 4 is hereto annexed and marked as Exh. "B". I further say that, whenever situation arises, I under take to apply for Police protection from the concerned Police Station.

5. As per directions issued by this Hon'ble Court on 14th August, 2025, para 7, survey of all wards in the Kulgaon-Badlapur Nagar Parishad, I say that it will take some time since there are more than 80 thousand structures in the Kulgaon Badlapur Nagar Parishad I say that I have given directions and deployed Municipal Officers by an order No.KBMC/ASTHA/600/2025-25 dated 01/09/2025 to find out the illegal and unauthorized constructions in the area of Kulgaon-Badlapur Nagar Parishad and take proper steps according to law. I say that, till today, we have identified 57 illegal and unauthorized structures till today and work is still going on. Copy of the list of identified illegal and unauthorized structure is hereto annexed and marked as Exh. "C". I further say that, out of which 6 unauthorized structure are demolished after the order passed by this Hon'ble Court hereto annex copies of the said demolished structures is hereto annexed and marked as Exh. "D" and Copies of the some of the Notices issued u/s 189/8 (4) of the Maharashtra Municipal Councils, Nagar Parishad Panchayat and Industrial Townships Act, 1965, to some of the occupants are hereto annexed and marked as Exh. "E" (Coll.).

6. As per directions issued by this Hon'ble Court on 19th September, 2025, on 23/09/2025, we have written letter to Addl. Chief Secretary, Urban Development Department (UD-2), Mantralaya, Mumbai and given proposal to them. I say that, we will co-operate to the State Government or any other authority for setting up of an "Improvement Committee for Kulgaon-Badlapur Municipal Area". Copy of the letter dated 23/09/2025, forwarded to Addl. Chief Secretary, Urban Development Department (UD-2), Mantralaya, Mumbai is hereto annexed and marked as Exh. "F".

7. As per directions issued by this Hon'ble Court on 19th September, 2025, para 51, we have already paid Rs. 50,000/- to the Petitioner on 30/09/2025 by issuing cheque no.756348 of Canara Bank, Kulgaon Branch. Copy of the Cheque dated 30/09/2025 issued by the Respondent No. 4 to the Petitioner is hereto annexed and marked as Exh. "G".

8. I say that, in continuation of averments in para 9 to 11, the affidavit dated 15/07/2025 filed by me, I say that the land of the Petitioner false in third phase. For that we have submitted proposal to the Government of Maharashtra for approval its 3rd phase and said proposal is pending with the Government. Copy of the letter dated 30/09/2025 forwarded to the Addl. Chief Secretary, Urban Development Department-2, Mantralaya, Mumbai is hereto annexed and marked as Exh. "H". I say that, if any Co-Operation, help is required by the Respondents or Government Officers, we will be doing on the priority basis, therefore, the present compliance affidavit may be taken on record."

3 We accept the statement which are made by the Chief Officer in the said affidavit and further record that the various steps as indicated in regard to the illegal and unauthorised constructions need to be taken up expeditiously and appropriate ward wise publication of such illegal structures should be notified in local newspapers routinely, if possible every week, so that automatically there is a deterrent for persons who undertake illegal constructions.

4 It appears that although clear directions were recorded in paragraph 49 (i) and (ii) of the judgment and order dated 19th September 2025 in regard to the constitution of the improvement committee which was to be constituted within two weeks from the date of the order, we have not been informed by any of the officials of Respondent Nos.1 to 3 about constitution of the said committee. We accordingly direct the State Government as also the Collector Thane to place on record an affidavit annexing appropriate documents in regard to the constitution of the committee and setting out as to when the first meeting of the committee is intended to be convened. Let such affidavit be placed on record by tomorrow, i.e. 8th October 2025. The office is directed to place such affidavit before us, so that considering such affidavit we will decide on the further listing of the present proceedings only on this issue, before the Court closes for Diwali vacation.

5 Mr. Modak, learned counsel for respondent no.5 has made a statement in regard to the deposits of the amounts, his client was to undertake in compliance of the directions of this Court. He also stated that his client shall

undertake the construction of the compound wall as also levelling of the petitioner's land. It is however, submitted that as the petitioner's plot of land is waterlogged, such work cannot be immediately undertaken and which can be undertaken as soon as the plot is accordingly available. In our opinion, let the work of completion of the compound be completed within 8 weeks from today, as suggested by Mr. Modak, as also the levelling of the petitioner's land be completed within a period of three months from today. The appropriate compliance in that regard be placed on record.

6 We are also informed that the compensation of Rs.10 lacs has already been paid to the petitioner on 1st October 2025, by respondent no.5. Also the Kulgaon Badlapur Municipal Council has paid the costs of Rs.50,000/- to the petitioner. We accordingly record such compliance.

7 We also expect that the improvement committee, so constituted, shall immediately convene its meeting and undertake the work assigned to it under our judgment and order dated 19th September 2025. The Chief Officer is also directed to place on record the minutes of such meeting and the actions which were taken by the committee by a separate affidavit. The affidavit be vetted by the members of the committee before it is placed before us. We may also observe that in regard to appropriate actions being taken by the KBMC, it has already approached the officer in charge of the concerned police station. The police aid be provided by the Commissioner of Police Thane (Rural) whenever such requisition is made on behalf of the KBMC.

8 In so far as the society is concerned, we are informed by Mr. Modak that

it is causing obstructions. If that be so, we permit coercive actions to be taken by the KBMC with the police aid. We also observe that any non co-operation or obstruction on the part of the society, shall be considered to be contempt of the orders passed by this Court and appropriate actions against the office bearers shall be taken by the Court. This order to be communicated to the Chairman and Secretary of the society-respondent no.6.

9 We are informed that when this order is passed, the Chief Officer of the KBMC is present in the Court. He has also appreciated the anxiety of the Court and the various obligations which he is required to undertake in discharge of his public duties and more importantly in public interest /interest and more particularly the of the citizens of the Kulgaon Badlapur Municipal Council area. The Chief Officer can never overlook that in regard to the enormous powers he wields, there is equally an onerous public duty and responsibility in discharging such powers and for public good. No less no more.

10 Before parting, we may observe that in regard to the identification of the unauthorised and illegal constructions, there shall not be any delay whatsoever and regular reporting and record in that regard of the appropriate actions as may be taken in accordance with law and be kept ready to be placed before the Court.

11 For further compliance we list the proceedings on 21st November 2025 at 2.45 p.m.

[ARIF S. DOCTOR, J.]

[G.S. KULKARNI, J.]