

WRIT PETITION NO. 7404 OF 2024

...Petitioner

...Respondents

...Respondents

Ms M. P. Thakur, AGP for Respondent Nos.1 to 3-State.

Mr. Vikay Killedar for Respondent No.5

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

P.C:

2 An affidavit as tendered on behalf of Respondent No.5 is taken on
record.

3 In our opinion, this is a serious case where we need to question the occupation certificate, which has been granted to this construction undertaken by respondent no.5 without providing for the basic requirements of linking the sewer outlet of the building into a sewer line, and merely providing a small

septic tank for such large complex. As to now respondent no.4 has accepted this to be the fulfillment of the requirement and proceeded to grant occupation certificate is really surprising. We, *prima facie*, find that there is a serious non compliance and/or dereliction of the responsibilities and obligations on the part of the municipal council in granting such occupation certificate. We shall pass appropriate orders after hearing the Chief Officer on affidavit which be filed on or before the adjourn date.

4 Also in compliance of our order dated 23rd June 2025, an affidavit on behalf of the State Town Planning Authority would be required to be placed on record. There shall not be further extension to place such affidavit on record.

5 The affidavit to be filed on behalf of the Municipal Council should also indicate the corrective steps which would required to be taken either by the Municipal Council or the Society or the developer. We also sound a note of caution in so far as the developer is concerned that in the event, we find that the developer has not made compliances under the law, the Court would have no option but to invoke the public trust doctrine and pass appropriate orders including of exemplary damages to be paid to the petitioner by the developer.

6 In the meantime the developer by following the procedure under the rules/law needs to take rectification measures, and the planning officer of the Municipal Council shall immediately consider such application and grant appropriate permission so as to prevent further public nuisance. We do not find that for rectification of such glaring illegality and that too on compliance of the sewerage requirements, the Municipal Council can at all have any objection.

7 Another glaring aspect which as informed to us is, that within the municipal jurisdiction of Kulgaon Badlapur Municipal Council, there are no drainage, sewerage facilities provided by Kulgaon Badlapur Municipal Council resultantly, such waste including from the septic tank is stated to be discharged in the Ulhas River. There is no sewerage treatment plant although the municipal population is approximately 5 lacs. This is something which would shock the conscience of the Court. Such large city not having proper sewerage line as also not having a sewerage treatment plant, and that the municipal sewerage of all kinds are being discharged into the river and polluting the river, can never be tolerated. It is gross abuse of the environment laws.

8 Considering the seriousness of the issue affecting lakhs of people, we direct the Collector, Thane to visit the municipal area of Kulgaon Badlapur and inspect the municipal areas in the light of the grievances which are made by the petitioner and serious concerns which we have noted hereinabove, and make a report to the Court. We direct that the Court officer as appointed shall also accompany the Collector Thane, so that an appropriate report with such technical assistance would be available.

9 Let such visit take place on 12th July 2025 or 13th July 2025 as may be convenient to the Collector Thane. Awaiting such report, we adjourn the proceedings to **17th July 2025, High On Board.** The representatives of the parties who are before the Court are free to participate when the Collector Thane would visit the site.

10 We also clarify that the visit of the Collector, Thane shall not confine

only to the grievances in regard to the area in question but it shall be overall observation of the Municipal area and in regard to the issues of health and hygiene, which certainly would be under the revenue umbrella of the Collector Thane.

11 At the same time, we permit the developer to gather some wisdom and make all attempts to restore the health and hygiene, qua the complaint as made by the petitioner.

12 Parties to act on authenticated copy of this order.

[ARIF S. DOCTOR, J.]

[G.S. KULKARNI, J.]