

Jvs.

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

PUBLIC INTEREST LITIGATION NO. 105 OF 2024

Firoz Khurshed Jamshedji } Petitioner
Versus
The State of Maharashtra & Ors. } Respondents

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Mr. Nitin Gangal with Ms. Prapti Karkera for petitioner.

Ms. Neha S. Bhide, Government Pleader with Mr. O. A. Chandurkar, Additional Government Pleader and Ms. R. A. Salunkhe, AGP for respondents 1 to 5.

Mr. Joshua D'souza with Mr. Chirag Sancheti i/b. Bulwork Solicitor for respondent no. 7 (MSRDC).

Mr. Durgesh Rege with Mr. Anvay Homkalas and Ms. Pooma Lamba i/b. Mr. Subodh Pathak for respondent no. 8.

Mr. Atmaram Shivaji Gharat, Circle Officer, Tahsil Dahanu, Dist. Palghar present.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
AMIT BORKAR, J.**

DATE: JANUARY 3, 2025

P.C.:

1. By means of the order dated 22nd July 2024, the Tahsildar and Executive Magistrate, Dahanu has levied certain penalty in terms of section 45 of the Maharashtra Land Revenue Code, 1966 and has also directed removal of certain illegally constructed shops within six months.

2. It has been stated by learned counsel representing respondent no. 8 that pursuant to the said order dated 22nd July 2024, the amount of penalty has been deposited, however, since

the time period, as given in the order, expires on 21st January 2025, the constructions have not been removed. He has also stated that the respondent no. 8 is in the process of challenging the order dated 22nd July 2024.

3. Without prejudice to the case of either of the parties, we may only observe that the order dated 22nd July 2024 has partially been complied with by respondent no. 8 by depositing the amount of penalty, however, even after expiry of the period of more than five months, the order dated 22nd July 2024 has not been challenged in any other higher forum/Court or Tribunal.

4. Mr. D'souza, learned counsel representing respondent no.7-Maharashtra State Road Development Corporation (MSRDC) shall seek instructions as to whether the subject road has been developed by or transferred, assigned or handed over for construction, maintenance, development or improvement to the said Corporation. If it is discovered that the road has been entrusted for the said purposes to MSRDC, in terms of the proviso appended to section 4 of the Maharashtra Highways Act, 1955, the said Corporation will be the Highways Authority under the said enactment which is empowered to take various actions including removal of encroachment etc. Mr. D'souza will, thus, have complete instructions in the matter by the next date of listing.

5. Stand over to **29th January 2025 (High on Board).**

(AMIT BORKAR, J.)

(CHIEF JUSTICE)