

Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2003 OF 2025

SAYALI
DEEPAK
UPASANI

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Date: 2025.03.20
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Shree Chhatrapati Shivaji
Foundation Society Dharwad
Through its President and Others ...Petitioners

Versus

The State of Maharashtra
through the Sec. And Others ...Respondents

Mr R.V. Pai, Senior Advocate, with Mr Akshay Pai, with Ms
Siddhi Bhosale, for Petitioner.
Ms R. A. Salunkhe, AGP for State-Respondent Nos. 1 and 3.
Mr Pankaj P Deokar, for Respondent No. 2.

CORAM: M.S. Sonak &
Jitendra Jain, JJ.

DATED: 19 MARCH 2025

PC: - (Per M.S. Sonak, J.)

1. Heard learned Counsel for the parties.
2. The challenge in this Petition pertains to the show cause notice dated 2 January 2025, by which the Petitioner is required to show cause as to why their hospital registration should not be cancelled for failing to produce the final fire NOC.
3. The impugned show cause notice required the Petitioner to show cause within seven days. Mr Pai, learned Senior

Advocate for the Petitioners, states that the cause was shown on 06 January 2025, i.e., within the prescribed time limit.

4. This petition seeks to challenge only a show cause notice. The principles established in **Whirlpool Corporation v. Registrar of Trademarks, Mumbai, and Others**¹ are not met. None of the grounds raised in this petition or urged during the arguments suggest that the impugned show cause notice is wholly without jurisdiction. Therefore, no case is made to sustain a challenge solely against a show cause notice.

5. In **Special Director and Another Vs. Mohd. Ghulam Ghouse and another**² the Hon'ble Supreme Court has held that unless the High Court is satisfied that the show-cause notice was totally non-est in the eyes of the law for absolute want of jurisdiction of the authority *even to investigate the facts, writ petitions should not be entertained for mere asking and as a matter of routine. The writ petitioner should invariably be directed to respond to the show cause notice and raise all defences and contentions highlighted in the writ petition.* Whether the show cause notice was founded on any legal premises is a jurisdictional issue the recipient can urge before the authority issuing the notice. Such issues can also be adjudicated by the authority initially issuing the notice before the aggrieved party could approach the Court.

¹ 1998 (8) SCC 1

² (2004) 3 SCC 440

6. In **Malladi Drugs and Pharma Limited vs. Union of India and another³** , *the Hon'ble Supreme Court held that the High Court was absolutely correct in dismissing the writ petition against the mere show-cause notice. The High Court, in the impugned judgment, held that the appellant should first raise all the objections before the authority that issued the show-cause notice. If any adverse order was passed against the appellant, liberty was granted to approach the High Court.*

7. In any event, Mr Deokar learned Counsel for Respondent No. 2, which has issued the show cause notice, states that the Petitioners will be heard, and final orders will be made to dispose of the show cause following the law and on its own merits within a maximum of four weeks from today. This statement is accepted, and Respondent No. 2 is directed to act consistent with this statement.

8. Mr Pai states that a provisional fire NOC has already been produced. Further, the Petitioners applied for the final fire NOC to the Fire Officer -Respondent No. 3—on 28 November 2024. The Petitioner is ready to comply with all due requisitions regarding the final fire NOC.

9. Considering these factors, we direct that if Respondent No. 2 makes any adverse order, it should not be implemented for two weeks from the date of its communication.

³ (2020) 12 SCC 808

10. The Petitioner/their representatives should attend the personal hearing on the date indicated by Respondent No. 2 and not seek any adjournments. The Petitioners' representative will appear before Respondent No. 2 on 02 April 2025 at 10.30 a.m. so that a hearing can take place. In any event, the show cause must be disposed of within four weeks from today.

11. At Mr Pai's request, the Petitioners are granted liberty to file further submissions/statements in response to the show cause notice. Such submissions/statements must be filed on or before 02 April 2025. All contentions of all parties are left open.

12. This Petition is disposed of under the above terms without any cost order. All concerned to act on an authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)