

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 6417 OF 2025

Aniruddha A. Sheth }
Aged 52 Years, }
M/s. Akruti SMC Joint Venture, }
101 SMC Square, LBS Road, }
Khopat, Thane – 400 601. } ... Petitioner

Versus }

1. **Maharashtra State Minority Commission,** }
A Public Body constituted by the }
Government of Maharashtra under the }
Maharashtra State Commission Act, 2004, }
having address at, Badruddin Tyabji Marg. }
Chhatrapati Shivaji Maharaj Terminus, }
Mumbai – 400 001. }
2. **Mr. Paras Subhaschandra Jain** }
An Adult, Indian Inhabitant, }
having address at, Plot No. 18, }
Bhandara Road, H.B. Town, }
Pardi Naka, Nagpur, }
Maharashtra – 400 008. } ... Respondents

Mr. Smeet Savla i/b Ms. Sayali Sawant, for the Petitioner.

Mr. Chaitanya Nikate a/w Mr. Ketan Joshi, B-Panel Counsel for the Respondent No.1 - State.

Mr. Shubhankar Kulkarni, for the Respondent No.2.

**CORAM : REVATI MOHITE DERE &
SANDESH D. PATIL, JJ.**

DATE : 26TH NOVEMBER, 2025.

JUDGMENT (Per Sandesh D. Patil, J.) :-

1. Heard learned Counsel for the parties.
2. **Rule.** Rule is made returnable forthwith with consent of both the parties and is taken up for final disposal.
3. Mr. Ketan Joshi, learned B-Panel Counsel for Respondent No.1- State waives notice on behalf of Respondent No.1- State and Mr. Shubhankar Kulkarni, learned Counsel for the Respondent No.2 waives notice on behalf of Respondent No.2.

4. By this Petition, the Petitioner is challenging the notices dated 15th January 2025 and 12th February 2025, issued by the Respondent No.1- Maharashtra State Minority Commission as well as all further proceedings initiated before the Respondent No.1 pursuant to the issuance of said notices.

5. The Petitioner is engaged in business of construction of infrastructure projects. The Respondent No.2 had entered into a Memorandum of Understanding with the Petitioner for obtaining lease rights in respect of the premises bearing Unit No. 201, 2nd floor, SMC Square, LBS Marg, Khopat, Thane (W). The said premises were admeasuring 28,800 sq. ft. The total consideration of the said transaction was fixed to the tune of Rs.27,00,00,000/- (Rupees Twenty Seven Crores only) and an amount of Rs.50,00,000/- (Rupees Fifty Lakhs only) was deposited by the Respondent No.2 with the Petitioner. There was a balance amount of Rs.26,50,00,000/- (Rupees Twenty-six Crores and Fifty Lakhs only) which was due and payable by the Respondent No.2 to the

Petitioner. Since a dispute arose between the Petitioner and Respondent No.2, the later approached the Respondent No.1 for redressal of his grievance arising from the aforesaid Memorandum of Understanding.

6. The learned Counsel appearing for the Petitioner contended that the notices dated 15th January 2025 and 12th February 2025 are issued by the Respondent No.1 under the provisions of the Maharashtra State Minority Commission Act, 2004 (hereinafter referred to as the “**said Act**”). He states that the Respondent No.1 did not have jurisdiction to send such notices. It was further contended by the learned Counsel for the Petitioner that the Petitioner has not committed any act which can confer jurisdiction to the Respondent No.1 to invoke the powers of the Respondent No.1 under the provisions of Section 10(1) of the said Act. The learned Counsel appearing for the Petitioner contended that the Respondent No.2 has not even supplied the copy of the complaint to the Petitioner and that the entire proceedings before the Respondent No.1 was without jurisdiction.

7. The learned Counsel Mr. Chaitanya Nikate appearing for the Respondent No.1 stated that the complaint was maintainable. He states that a petition against mere show cause notice would not lie before this Court and that the Petitioner can very well make all the submissions before the Respondent No.1 and that this Court under the provisions of Article 226 of the Constitution of India may not entertain the Petition. He prayed for a dismissal of the present Writ Petition.

8. We had asked the learned Counsel appearing for the Respondent No.2 to produce the copy of the complaint which his client had made to the Respondent No.1. Accordingly, the learned Counsel for Respondent No.2 had tendered the copy of the complaint. The contents of the said complaint are as follows :-

*“ To,
Honourable Shri Pyrae Khan Sir,
President,
Alpasankhyak Aayog Maharashtra Rajya*

*Applicant : Paras Jain, F 103, Radhe Apartment, HB
Town, Wardhaman Nagar, Nagpur*

Subject : Request for your interference in the matter of refund of Rs. 50 Lakhs from M/s Akruti SMC Joint Venture.

Dear Sir,

I introduce myself as Paras Jain a resident of HB Town, Pardi Naka, Wardhaman Nagar, Nagpur. Sir, I have paid Rs. 50 lakhs on 02/03/2022 to M/s Akruti SMC Joint Venture, having its registered office at 101 SMC Square, LBS Marg, Khopat, Thane – 400601 acting through the authorized signatory Shri. Aniruddha A. Seth, as an advance for purchase of a commercial unit no. 201, 2nd floor, Akruti SMC, LBS Marg, Khopat, Thane. Sir, the mentioned property was mortgaged with the financier Bajaj Finance Ltd. The seller was required to provide the NOC from the financier upon which I had to make the balance payment from the loan which I was to borrow from bank. The bankers needed the NOC for providing the loan. The seller has not provided the NOC and hence no registry of the said property was made. However, post which I have been following up with the seller for the refund of Rs.50 Lakhs. No amount has been received till date. And for no fault of mine I have to suffer tremendous losses.

Sir, request your interference for the refund of hard earned money of Rs. 50 Lakhs from the party for not providing the NOC and non-execution of the Sale deed.

Thanking you

Paras Jain”

9. We have with the able assistance of the parties perused the provisions of Section 10(1) of the said Act. On bare perusal of

the said provisions, the present dispute does not fall within the purview of section 10(1) of the said Act.

10. The learned Counsel appearing for the Petitioner rightly relied upon the decision of this Court in the matter of *HDFC Bank Limited and Others v. State of Maharashtra and Others*, [(2024) SCC Online Bom 3048]. We are in agreement with the view taken by the Division Bench of this Court, and we are of the considered opinion that the Respondent No.1 did not have jurisdiction to entertain the said complaint. As far as the objection of the learned Counsel appearing for the Respondent No.2 regarding entertaining the present Writ Petition challenging the show cause notice is concerned, the Apex Court has in the matter of *State of U.P. and Anr. v. Anil Kumar Ramesh Chandra Glass Works and Anr.* [(2005) 11 SCC 451] held as under :-

“6. In our view, the High Court proceeded on an incorrect basis. Hence, the decision cannot stand. In any event, this Court had repeatedly held that Article 226 should not be permitted to be invoked in order to challenge show-cause notices unless accepting the fact in the show-

*cause notices to be correct, either no offence is disclosed or **the show-cause notices are ex facie without jurisdiction.** That could not be said as far as the eight show-cause notices in question are concerned. The High Court, therefore, should not have interfered and should have left the respondents to pursue their remedy by way of an appeal under Section 9 of the Act from the order of assessment which, according to the High Court, had admittedly been passed before the writ petition had been filed by the respondent.”*

11. We are of the opinion that the present Writ Petition can very well be entertained by this Court inasmuch as *ex facie* the Respondent No.1 did not have jurisdiction to entertain the complaint preferred by the Respondent No.2. The entire proceeding before the Respondent No.1 is without jurisdiction. The Respondent No.2 could very well file proceedings before the appropriate Civil Court for the purpose of redressal of his grievances.

12. For the reasons mentioned above, keeping open the remedies available to the Respondent No.2 before the competent

Civil Court, we allow the present Writ Petition in terms of prayer clause (a) , which read as under :-

(a) That this Hon'ble Court may be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction under Article 226 or 227 of the Constitution of India calling for the records, papers and proceeding of the complaint filed by the Respondent No.2 before the Respondent No.1 and after going into the legality and propriety thereof, be pleased to quash and set aside the impugned notices dated 15th January 2025 and 12th February 2025 and the proceedings initiated by the Respondent No.1 on the complaint made by the Respondent No.2;"

13. We make it clear that we have not gone into the merits of the Petition and all the contentions of the parties on merits are kept open to be urged before the appropriate Civil Court. The petition is, therefore, allowed.

14. There shall be no order as to cost.

15. **Rule** is made absolute in the above terms.

16. The Writ Petition is allowed and thereby stands disposed of.

17. All concerned parties to act upon an authenticated copy of this Order.

(SANDESH D. PATIL, J.)

(REVATI MOHITE DERE, J.)

VDMokal