

Arun Sankpal

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 12443 OF 2025**

RDC Concrete (India) Pvt Ltd

..Petitioner

A Private Limited Company,

Duly registered under the provisions  
of the Companies Act, 1956, having  
its registered office 701, Thane One,  
Ghodbunder Road, Majiwada,  
Thane (W) -400 610.

ARUN  
RAMCHANDRA  
SANKPAL

Digitally signed by  
ARUN  
RAMCHANDRA  
SANKPAL  
Date: 2025.10.10  
22:24:10 +0530

**Versus**

1. Mira Bhayandar Municipal Corporation

Through its Commissioner,

Having concerned Ward Office at,

Ward Office No. 6, Sahitya Ratna Lokshahir,

Anna Bhau Sathe Bhavan, Kashimira Police

Station, Kashimira, Thane: 401 107.

2. The State of Maharashtra,

Through the Office of Govt Pleader,

Department of Environment,

Government of Maharashtra,

New Administrative Building,

Madam Cama Road, Mantralaya,

Mumbai 400 001.

...Respondents

Mr. Amogh Singh, with Atul Singh, for the Petitioner.  
Mr. N. R. Bubna, for Respondent No.1.  
Mrs. Suvita Prabhune, AGP, for Respondent No.2.

**CORAM: N. J. JAMADAR, J.**  
**RESERVED ON: 6<sup>th</sup> OCTOBER, 2025**  
**PRONOUNCED ON: 10<sup>th</sup> OCTOBER 2025**

**JUDGMENT:**

**1.** Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.

**2.** The challenge in this Petition is to an order dated 30<sup>th</sup> September 2025 passed by the Respondent No.1-Mira Bhayandar Municipal Corporation, revoking the licence granted to the Petitioner to operate a Ready Mix Concrete Plant.

**3.** Shorn of superfluities, the background facts leading to this Petition can be stated as under:

3.1 The Petitioner is a limited company, registered under the Companies Act, 1956. The Petitioner is engaged in the business of manufacturing and supply of Ready Mix Concrete (“RMC”). The RMC plant of the Petitioner is situated at Survey No. 30/1m Kasigaon, Mira Road (E), Thane (“the subject premises”) within the limits of the Respondent No.1-Mira Bhayandar Municipal Corporation (“MBMC”).

3.2 On 22<sup>nd</sup> June 2023, the Maharashtra Pollution Control Board (“MPCB”) gave its consent to operate the RMC plant at the subject

premises. The consent to operate given by the MPCB is valid until 30<sup>th</sup> April 2026.

3.3 Pursuant to the aforesaid consent to operate, the Respondent No.1, MBMC granted the licence to operate the RMC plant at the subject premises. The said licence has been renewed for the period of 8<sup>th</sup> October 2024 to 7<sup>th</sup> October 2027. The Petitioner, in compliance with the conditions subject to which the consent and licence have been granted, is operating the said RMC plant at the subject premises.

3.4 The Petitioner asserts, in the wake of an unfortunate road accident in the locality where the RMC plant of the Petitioner is situated, involving a vehicle, not belonging to the Petitioner, and the death of a boy therein, a complaint was lodged with the Respondent No.1. Pursuant thereto , without verifying the facts, the Respondent No.1 issued a show-cause notice to the Petitioner on 11<sup>th</sup> September 2025, which was served on the Petitioner on 12<sup>th</sup> September 2025 at 11.30 am, contending that the RMC plant was being operated in breach of the guidelines contained in the Notification dated 7<sup>th</sup> November 2016 issued by the MPCB. It was *inter alia* alleged that a school, namely, Swami Dayanand High School, was situated within the radius of 200 mtrs of the RMC plant and, thus, there was breach of the sitting criteria, i.e., commercial RMC plant should not be located within the 200 mtrs from School, Colleges, Hospitals and Courts.

3.5 The Petitioner alleges, though the Petitioner was called upon to submit an explanation forthwith, without providing any effective opportunity of hearing, on 12<sup>th</sup> September 2025, under five hours of the service of the notice on the Petitioner, the Respondent No.1 MBMC, passed an order to revoke the licence to operate the RMC plant with immediate effect and sealed the plant.

3.6 On 15<sup>th</sup> September 2025, the Petitioner filed a Reply to the notice contending that the action of revocation of licence was wholly arbitrary, it was taken for extraneous considerations and on the basis of false allegations. In fact, Swami Dayanand High School was being run unauthorisedly. Even otherwise, RMC Plant was not situated within the radius of 200 mtrs of the said school. The applicability of the Notification dated 7<sup>th</sup> November 2016 to the subject RMC plant was also questioned.

3.7 As the Respondent No.1 did not revoke the order dated 12<sup>th</sup> September 2025 and restore the licence to operate the RMC plant, the Petitioner has invoked the writ jurisdiction.

4. On 26<sup>th</sup> September, 2025, as the Respondent No.1 expressed willingness to provide an opportunity of hearing to the Petitioner and pass an order, the Petitioner was given opportunity to file additional reply and/or documents before the Competent Authority and,

thereupon, the Competent Authority was directed to pass an appropriate order.

5. By an order dated 30<sup>th</sup> September 2025, the Respondent No.1 again passed the order to revoke the licence to operate the RMC plant and directed the Petitioner to immediately cease and desist the operations at the RMC plant.

6. The Petitioner has thus amended the Petition and assailed the legality and validity of the subsequent order dated 30<sup>th</sup> September 2025, as well.

7. I have heard Mr. Amogh Singh, the learned Counsel for the Petitioner, Mr. N. R. Bubna, the learned Counsel for Respondent No.1 and Mrs. Savita Prabhune, the learned AGP, for the Respondent No.2-State. With the assistance of the learned Counsel for the parties, I have also perused the material on record.

8. Mr. Amogh Singh, the learned Counsel for the Petitioner, took a slew of exceptions to the impugned order. First and foremost, Mr.Singh would urge the first order of revocation of licence dated 12<sup>th</sup> September 2025 was passed in gross violation of the fundamental principles of natural justice. The show-cause notice, dated 11<sup>th</sup> September 2025, was served on the Petitioner on 12<sup>th</sup> September 2025 at about 11.30 am and, under five hours thereof, the order to close the operations at subject premises was passed without providing any opportunity of hearing of

whatsoever nature. The haste with which the Respondent No.1 passed the said order on the very day on which the notice was served indicates the extraneous driving force behind the said high-handed action. On this count alone, according to Mr. Singh, the entire action stood vitiated.

**9.** Secondly, Mr. Singh would urge, the very premise of the action that the RMC plant was being operated in breach of the guidelines under the Notification dated 7<sup>th</sup> November 2016 is completely flawed. Mr. Singh would urge that, by the Notification issued on 27<sup>th</sup> November 2024, the MPCB has framed separate guidelines for the RMC plants for sitting criteria in Mumbai Metropolitan Region of Maharashtra. Therefore the said Notification dated 7<sup>th</sup> November 2016, does not at all apply to the subject RMC plant. Resultantly, the very foundation of the action is manifestly wrong.

**10.** Thirdly, the order dated 30<sup>th</sup> September 2025, also suffers from the same vice of revoking the licence by resorting to inapplicable provisions. In addition, the Respondent No.1 has taken into account the other alleged breaches of the conditions of licence, of which no notice was ever given to the Petitioner. The impugned order dated 30<sup>th</sup> September 2025 thus suffers from a patent illegality as it came to be passed on the basis of the grounds which did not form part of the show-cause notice.

**11.** An effort was made by Mr Singh to urge that on facts also the allegation that the RMC plant is located within the radius of 200 mtrs from the Swami Dayanand High School is not correct.

**12.** In opposition to this, Mr. Bubna, the learned Counsel for the Respondent No.1, forcefully refuted the submissions on behalf of the Petitioner. Mr. Bubna made a valiant effort to support the impugned orders. Mr. Bubna would urge, the Petition is required to be determined keeping in view the disastrous consequences the RMC plant has on the environment, if it is operated in a densely populated area. Viewed through this prism, according to Mr. Bubna, no fault can be found with the impugned orders.

**13.** Mr. Bubna would urge, if the submission on behalf of the Petitioner is accepted, a RMC plant within the limits of the Mumbai Metropolitan Region would not be subject to any restriction in the matter of sitting criteria. Neither the Notification dated 7<sup>th</sup> November 2016 would apply, nor the sitting criteria under the Notification dated 27<sup>th</sup> November 2024 would govern such RMC plant. Such a construction, which would lead to an absurd situation, cannot be adopted, was the thrust of the submission of Mr. Bubna.

**14.** Laying emphasis on the Notification dated 27<sup>th</sup> November 2024 as regards the sitting criteria, Mr. Bubna would urge under the said guidelines, the commercial plant should not be located within 500 mtrs

from school, colleges, hospitals and Courts. The Respondent No.1-MBMC, has, according to Mr. Bubna, correctly applied the guidelines contained in the Notification dated 7<sup>th</sup> November 2016.

**15.** Mr. Bubna would submit that the ground that the principles of natural justice were not followed is unworthy of countenance. Pursuant to the order passed by this Court, the Petitioner was provided an efficacious opportunity of hearing. The contention that the other grounds, which were taken into account by the Competent Authority, while passing the order dated 30<sup>th</sup> September 2025, were not informed to the Petitioner is of no consequence as the Petitioner was aware of all those breaches and was provided a fair opportunity of hearing. Therefore, viewed from any perspective, the challenge to the impugned orders does not warrant acceptance, submitted Mr. Bubna.

**16.** To begin with, it is necessary to note few uncontroverted facts. The grant of consent to establish the RMC plant by MPCB vide communication dated 12<sup>th</sup> January 2023 is not in dispute. Nor the fact that by a further communication dated 26<sup>th</sup> June 2023, the first consent to operate was granted subject to certain conditions, for the period upto 30<sup>th</sup> April 2026. There is material to indicate that in consonance with the consent given by MPCB, the Respondent No.1 initially granted a licence to operate the RMC plant on 31<sup>st</sup> March 2023 and the said licence seems to have been further renewed on 11<sup>th</sup> October 2024 for

the period of 8<sup>th</sup> October 2024 to 7<sup>th</sup> October 2027, albeit subject to certain terms and conditions.

**17.** Incontravertibly, the show-cause notice was issued on 11<sup>th</sup> September 2025. The Petitioner was called upon to submit his explanation along with the documents in regard to a grievance that the Petitioner was operating the RMC plant within a radius of 200 mtrs of Swami Dayanand High School. Even if the aspect of the date and time of service of the said notice on the Petitioner is kept aside, the fact remains that on 12<sup>th</sup> September 2025, the licence to operate the RMC plant was revoked.

**18.** The first question that thus wrenches to the fore is, whether an efficacious opportunity was given to the Petitioner. The answer to the aforesaid question hinges upon the nature and contents of the notice to be given by an authority who is invested with the power to take administrative decisions which have civil and, at times, penal consequences.

**19.** Issuance of notice where there is a statutory mandate to provide an opportunity of hearing, presents not much difficulty. Where the statute mandates that the Authority shall provide an opportunity to make a representation, and also consider the representation so made, the obligation to give notice before taking action can only be construed

as peremptory. A notice to the person likely to be affected must also be such as to enable the noticee to make an effective representation.

**20.** Even where there is no statutory obligation to give notice, the Authority which takes the administrative decision is enjoined to give a notice to the affected person as the administrative decision would entail civil consequences. Such a notice must equip the noticee to not only clearly appreciate the grounds of noncompliance/default/breach complained of but also the action which would be taken in the event of failure to show the cause.

**21.** A profitable reference in this context can be made to the decision of the Supreme Court in the case of **Gorkha Security Services Vs Government (NCT of Delhi) and Ors,**<sup>1</sup> wherein the Supreme Court examined the adequacy of the contents of show-cause notice. In the said case, the question arose in the context of the form and content of the show-cause notice that was required to be served, before deciding as to whether the noticee was to be blacklisted or not. The observations of the Supreme Court in paragraphs 21 and 22 of the said judgment are instructive and, hence, extracted below

“21 The Central issue, however, pertains to the requirement of stating the action which is proposed to be taken. The fundamental purpose behind the serving of Show Cause Notice is to make the noticee understand the precise case set up against him which he has to meet. This would require the statement of imputations detailing out

---

**1** (2014) 9 SCC 105.

the alleged breaches and defaults he has committed, so that he gets an opportunity to rebut the same. Another requirement, according to us, is the nature of action which is proposed to be taken for such a breach. That should also be stated so that the noticee is able to point out that proposed action is not warranted in the given case, even if the defaults/ breaches complained of are not satisfactorily explained. When it comes to black listing, this requirement becomes all the more imperative, having regard to the fact that it is harshest possible action.

22. The High Court has simply stated that the purpose of show cause notice is primarily to enable the noticee to meet the grounds on which the action is proposed against him. No doubt, the High Court is justified to this extent. However, it is equally important to mention as to what would be the consequence if the noticee does not satisfactorily meet the grounds on which an action is proposed. To put it otherwise, we are of the opinion that in order to fulfil the requirements of principles of natural justice, a show cause notice should meet the following two requirements viz:

- i) The material/ grounds to be stated on which according to the Department necessitates an action;
- ii) Particular penalty/action which is proposed to be taken. It is this second requirement which the High Court has failed to omit.

we may hasten to add that even if it is not specifically mentioned in the show cause notice but it can be clearly and safely be discerned from the reading thereof, that would be sufficient to meet this requirement.”

(emphasis supplied)

**22.** The Supreme Court has, thus, enunciated that in order to fulfill the requirements of principles of natural justice, a show-cause notice was to satisfy two requirements; first, the alleged infirmities, breaches, or defaults, which constitute the material or ground necessitating the action. Second, the nature of the action which is proposed to be taken

so that the noticee is in a position to show that the proposed action is not warranted, even if it is assumed that there is no satisfactorily explanation regarding the alleged infirmities, breaches or defaults.

**23.** In the case of **UMC Technologies Private Limited Vs Food Corporation of India & Anr,**<sup>2</sup> the Supreme Court emphasised the necessity of reasonable opportunity of hearing before any action is taken. The observations in paragraph 13 read as under:

“13. At the outset, it must be noted that it is the first principle of civilised jurisprudence that a person against whom any action is sought to be taken or whose right or interests are being affected should be given a reasonable opportunity to defend himself. The basic principle of natural justice is that before adjudication starts, the authority concerned should give to the affected party a notice of the case against him so that he can defend himself. Such notice should be adequate and the grounds necessitating action and the penalty/action proposed should be mentioned specifically and unambiguously. An order travelling beyond the bounds of notice is impermissible and without jurisdiction to that extent. This Court in **Nasir Ahmad v. Assistant Custodian General, Evacuee Property (1980) 3 SCC 1**, has held that it is essential for the notice to specify the particular grounds on the basis of which an action is proposed to be taken so as to enable the noticee to answer the case against him. If these conditions are not satisfied, the person cannot be said to have been granted any reasonable opportunity of being heard.”

(emphasis supplied)

**24.** In the said case, after adverting to the previous precedents, including **Gorkha Security Service (Supra)**, the Supreme Court

---

<sup>2</sup> (2021) 2 SCC 551.

postulated, it is clear that a prior show-cause notice granting a reasonable opportunity of being heard is an essential element of all administrative decision-making and particularly so in the decisions pertaining to blacklisting which entail grave consequences for the entity being blacklisted.

**25.** If the show-cause notice dated 11<sup>th</sup> September 2025 is appraised on the aforesaid touchstone, it can be legitimately inferred that the said notice falls foul of reasonable opportunity test. The Petitioner was called upon to give an explanation along with the documents forthwith. No outer limit for showing cause or furnishing the explanation was provided. A show-cause of even less than 24 hours, even if the contention of the Petitioner that the show-cause notice was served on him on 12<sup>th</sup> September 2025 at 11.30 am is discounted, cannot be said to be reasonable by any standard.

**26.** Thus, the resultant action of revoking the licence and a direction to immediately close the operations on 12<sup>th</sup> September 2025 rendered it clearly high handed, arbitrary and in flagrant violation of fundamental principles of natural justice.

**27.** The justifiability of the action on the count that the RMC plant was being operated in breach of the conditions in the guidelines as to sitting criteria next warrants consideration. It is pertinent to note, the sole ground mentioned in the show cause notice was, the breach of the

condition not to have the RMC plant within the radius of 200 meters of a school. A reference was made to the guidelines issued by the Maharashtra Pollution Control Board vide notification dated 7<sup>th</sup> November, 2016. The sitting criteria in terms of the said notification read as under:

**“B. SITTING CRITERIA**

The following sitting criteria shall be considered for establishment of RMC Plant.

.....

3. Commercial RMC plant should not be located within 200 m from schools, colleges, hospitals and courts.”

**28.** The edifice of the challenge to the action was sought to be built on the premise that the aforesaid notification dated 7<sup>th</sup> November, 2016 no longer governed the RMC plants within the limits of Mumbai Metropolitan Region in view of the Circular dated 27<sup>th</sup> November, 2024 issued by MPCB and the separate guidelines for the RMC plants in respect of sitting criteria in Mumbai Metropolitan Region of Maharashtra dated 27<sup>th</sup> November, 2024.

**29.** The circular dated 27<sup>th</sup> November, 2024 explicitly records that the guidelines for RMC plants issued vide notification dated 7<sup>th</sup> November, 2016 for sitting criteria were applicable for the entire State of Maharashtra. The MPCB vide notification dated 27<sup>th</sup> November, 2024 has issued the guidelines for RMC plant for sitting criteria which would be applicable only for the Mumbai Metropolitan Region area in the

State of Maharashtra. And the notification dated 7<sup>th</sup> November, 2016 would be applicable for the rest of the Maharashtra.

**30.** The circular dated 27<sup>th</sup> November, 2024 is explicitly clear and unambiguous. The decision of MPCB to have two different sitting criteria; one for the RMC plants for Mumbai Metropolitan Region area and the other for the rest of the Maharashtra is unequivocal. The notification dated 27<sup>th</sup> November, 2016 would continue to govern the RMC plants situated in the State of Maharashtra, other than the Mumbai Metropolitan Region. Whereas the guidelines prescribed vide the notification dated 27<sup>th</sup> November, 2024 would apply to the RMC plants in Mumbai Metropolitan Region.

**31.** In the Notification dated 27<sup>th</sup> November, 2024, under Clause-C of the guidelines captioned 'Sitting Criteria' for commercial plants, the following provisions are made:

**"C. SITTING CRITERIA**

- 1) New commercial plants within the jurisdiction of Municipal Corporation/Municipal Councils areas of MMR shall be allowed only after getting approval of committee at HQ, MPCB.
- 2) New commercial plants (outside the corporation areas of MMR) shall maintain a buffer zone of approximately 500 mtr. Distance from human habitation having 1000 souls or more as per census population and 500 mtrs. from major road (National/State Highway, Major District Roads).
- 3) **Commercial plants (*outside the Municipal Corporation/Municipal Councils area*) should not be located within 500 mtr. From schools, colleges, hospitals and Courts.**
- 4) Land required for the new Commercial RMC plant (outside the Municipal Corporation/Municipal Councils area) shall be minimum 4000 sq. mtrs.

5) All existing/new plants shall be fully covered from all sides like a box structure by using tin/similar type of material within a period of 03 months from the date of issuance of this Notification and shall submit Bank Guarantee of Rs.25.0/- Lakh towards compliance of the same.”

**32.** A faint attempt was made by Mr. Bubna to submit that the commercial plants within the Mumbai Metropolitan Region *now* should not be located within 500 meters from School, Colleges, Hospitals and Courts. I am afraid, the submission is plainly against the express text of sub-clause (3) of the guidelines. The restriction of the RMC plant not being located within 500 meters from the Schools, Colleges, Hospitals and Courts does not apply to the commercial plants within the Municipal Corporation/Municipal Council areas, as the same appears to have been exempted by employing the expression, (outside the Municipal Corporation/Municipal Council area). This device of exclusion is further underscored by the fact that in clause (2) also the rule making authority has exempted the RMC plants within the corporation limits of MMR from maintaining the minimum buffer zone of approximately 500 meters distance from human habitation having 1000 souls or more as per census population and 500 meters from major road. Likewise, in clause (4) the requirement of minimum 4000 square meters land for new commercial RMC plant is not made applicable by exempting the commercial plants within the Municipal Corporation/Municipal Council area.

**33.** The rule making authority, it seems, took cognizance of the scarcity of land in the Municipal Corporation area, within the limits of MMR, and the possible impracticability of the implementation of those restrictions and thus exempted the RMC plants from the requirements of maintaining the buffer zone, distance and the minimum area of the land which houses the RMC plants. The guidelines made applicable for RMC plants for sitting criteria in MMR region by Notification dated 27<sup>th</sup> November, 2024, therefore cannot be read to mean that the commercial plants within MMR region now should not be located within 500 meters from Schools, Colleges, Hospitals and Courts. To achieve the balance, the rule making authority has taken care to provide additional conditions and restrictions than those found in the sitting criteria in the Notification dated 7<sup>th</sup> November, 2016.

**34.** It is imperative to note that the order dated 30<sup>th</sup> September, 2025 records that to ascertain which of the guidelines apply to the subject RMC plant, guidance was sought from MPCB. However, there was no response from MPCB. The Competent Authority thus recorded the view that the guidelines dated 7<sup>th</sup> November, 2016 apply to the subject RMC plant.

**35.** The said view of the respondent No.1 is clearly unsustainable. Suffice to note that the MPCB took care to again reiterate in the Notification dated 27<sup>th</sup> November, 2024 that the guidelines issued

thereunder are only for MMR area of Maharashtra and existing guidelines published vide notification dated 7<sup>th</sup> November, 2016 remain in force in the rest of the Maharashtra.

**36.** The aforesaid being the governing norm, the impugned action based on the sitting criteria prescribed under the notification dated 7<sup>th</sup> November, 2016 is wholly unsustainable.

**37.** Mr. Bubna made an endeavour to persuade the Court to sustain the impugned action for the reasons given in the order dated 30<sup>th</sup> September, 2025. In addition to the ground of the subject RMC plant being located within the radius of 200 meters of School, in the impugned order dated 30<sup>th</sup> September, 2025, the Competent Authority seems to have considered the purported breaches of the other conditions subject to which the licence to operate was granted, namely, deficiencies in tree plantation alongwith the periphery of the plot and water treatment and disposal facility for generated effluent in the RMC plant.

**38.** Indisputably, none of the above deficiencies and breaches were brought to the notice of the petitioner in the show cause notice dated 11<sup>th</sup> September, 2025. The petitioner was not given an opportunity to demonstrate that there were no deficiencies, as alleged, and that the petitioner has not committed breach of any of the conditions subject to which the consent has been granted by MPBC and the license issued by

the respondent No.1. As enunciated in the case of *UMC Technologies* (supra) an order travelling beyond the bounds of the notice is impermissible and without jurisdiction.

**39.** The conspectus of aforesaid consideration is that the endeavour of Mr. Bubna to sustain the impugned action on the basis of the grounds adverted to by the respondent No.1 in the order dated 30<sup>th</sup> May, 2025, in respect of which the petitioner was not given any opportunity to show cause, cannot be countenanced.

**40.** Resultantly, the impugned orders deserve to be quashed and set aside. However, it is required to be clarified that this determination would not preclude the respondent No.1 and MPCB from taking appropriate action in respect of the subject RMC plant if it is found that the RMC plant is being operated in breach of the conditions subject to which the consent to operate has been given by MPCB and licence has been issued by respondent No.1, after providing an effective opportunity of hearing and in accordance with law.

**41.** Hence the following order:

**: O R D E R:**

- (i) Petition stands allowed.
- (ii) The orders dated 12<sup>th</sup> September 2025 and 30<sup>th</sup> September 2025 stand quashed and set aside

(iii) The licence to operate RMC plant stands restored subject to the terms and conditions incorporated in the licence dated 11<sup>th</sup> October 2024 and the consent of the MPCB.

(iv) It is clarified that if MPCB or the Respondent No.1 find that there is breach of any of the conditions subject to which consent and licence to operate RMC plant have been granted, the MPCB and the Respondent No.1 are at liberty to take appropriate action in accordance with law after providing an opportunity of hearing to the Petitioner.

No costs.

[N. J. JAMADAR, J.]