

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

WRIT PETITION NO. 17392 OF 2025

Sunglory Co-operative Housing Society Limited,

A society registered under the provisions of
Maharashtra Co-op. Societies Act, through
its Chairman/Secretary, CTS No.213 (Old CTS No.177),
Lokmanya Nagar, Sadashiv Peth, Pune-411 030.

...Petitioner

versus

1. The State of Maharashtra

through Department of Housing, Mumbai.

2. The State of Maharashtra through
GAD, Mumbai.

3. The Hon'ble Chief Minister of Maharashtra,
Government of Maharashtra.

4. Maharashtra Housing and Area Development
Authority, Mumbai.

5. Pune Housing and Area Development Board,
Pune.

6. The Pune Municipal Corporation through
Municipal Commissioner, Pune.

7. Mr.Hemant Narayan Rasane,
Member of Legislative Assembly,
Ksaba Constituency, Pune.

...Respondents

WITH

WRIT PETITION NO.16044 of 2025

Nutan Co-op. Housing Society Limited,

through its Secretary, Building nos.5 and 6,
Lokmanya Nagar, Pune-411 030.

...Petitioner

versus

1. The State of Maharashtra

through Department of Housing, Mumbai.

2. The State of Maharashtra through
GAD, Mumbai.

3. The Hon'ble Chief Minister of Maharashtra,
Government of Maharashtra.

4. Maharashtra Housing and Area Development
Authority, Mumbai.

5. Pune Housing and Area Development Board,
Pune.

6. The Pune Municipal Corporation through

Municipal Commissioner, Pune.
 7. Mr.Hemant Narayan Rasane,
 Member of Legislative Assembly,
 Ksaba Constituency, Pune.

...Respondents

Mr.S.M.Gorwadkar, Senior Advocate, i/by Mr.Ritvik Joshi, with Mr.Niranjan Mogre, Mr.Sujay Gangal, Mr.Harshal N.Murel Mr.Varun Thanawala, Mr.Soham Lande for Petitioners.

Ms.Neha Bhide, Government Pleader, with Ms.M.P.Thakur, AGP for Respondent no.3

Mr.Lad with Ms.Sayali Apte for Respondent nos.4 and 5 MHADA

Mr.Abhijit P.Kulkarni with Mr.abhishek Roy, Mr.Shreyas Zarkar, Ms.Sweta Shah for Respondent no.6 PMC.

None for Respondent no.7. (although served not represented).

Mr.Sanket Bhalekar, Junior Assistant Architect present.

Mr.Shubham Gadekar, Tracer, Pune Board, MHADA, present.

**CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.**

DATE: 23rd December 2025

Oral Judgment (G.S.Kulkarni, J.) :-

1. These are the two petitions which pray for similar reliefs as also raise similar questions of law and facts and hence they are being disposed of by this common order.

2. The Respondents are served. Affidavit of service is placed on record. By consent of the learned counsel for the Petitioners and the contesting Respondents who are represented, heard finally.

3. In both these petitions, the Petitioners are co-operative housing societies, formed by the residents/allottees of tenements of the buildings constructed on the land belonging to and leased to the petitioners by the Maharashtra Housing and Area Development Authority (for short, 'MHADA').

The building(s) being old and dilapidated, hence the Petitioners societies namely the Sunglory Co-operative Housing Society Limited (for short, “**Sunglory CHS**”) in the first writ petition and Nutan Co-op. Housing Society Limited (for short, “**Nutan CHS**”) in the second writ petition have taken steps to redevelop their buildings i.e. the old building(s) would now be demolished, and by appointing a developer, new building(s) would be constructed, to house its members.

4. It is not in dispute that to undertake such redevelopment, a No Objection Certificate (‘NOC’) dated 09 April 2025 was applied for and granted by the MHADA to Sunglory CHS. Insofar as Nutan CHS is concerned, an application for grant of NOC is pending consideration.

5. It appears that in the layout there is a conglomerate of similar buildings which are constructed on the land belonging to the MHADA, as leased to the different co-operative societies. Insofar as Sunglory CHS is concerned, an NOC was granted by the MHADA on 09 April 2025. Thus, the redevelopment qua the building of Sunglory CHS, was to progress further. It is at this stage, the grievance of the Petitioner society is that a local Member of Legislative Assembly (‘MLA’) addressed a letter dated 14th May 2025 to the Hon’ble the Chief Minister, inter alia, stating that a cluster redevelopment needs to be undertaken, and in such context, the co-operative societies like the Petitioner-Sunglory, who was already granted NOC, are causing hurdles for such redevelopment. The local MLA hence requested that for such reason the proposals/NOC granted to the petitioner, needs to be cancelled. On such representation the Hon’ble Chief Minister on 15th May 2025 made the following remark :

(Original Translation from the documents in Marathi)

“V. P.
MHADA

व्ही. पी.
म्हाडा

Grant stay until further orders.

पुढील आदेशापर्यंत स्थगिती देण्यात यावी.

(Signature Illegible)
Hon'ble Chief Minister,
Government of Maharashtra,
Mantralaya, Mumbai.”

(स्वाक्षरी अस्पष्ट)
मा. मुख्यमंत्री,
महाराष्ट्र शासन,
मंत्रालय, मुंबई

6. It is not in dispute that the aforesaid remark is in the nature or in the form of a recommendation to the Vice President of MHADA to the effect, that the Vice President should pass an order i.e. stay be granted, and not, *per se*, any stay on the NOC. In pursuance thereto, the In-charge Architect and Planner of MHADA on 24th June 2025 addressed a letter to the Chief Officer of the MHADA, informing necessary action to be taken. The said letter is required to be noted, which reads thus :

“Page No. 285

Logo

**MAHARASHTRA HOUSING AND AREA
DEVELOPMENT AUTHORITY**
Office of the Chief Architect and Planner,
Room No. 501, 4th Floor, Kalanagar, Bandra (E), Mumbai
– 400 051.
Telephone No. 022-66405478.

(Logo)

[MHADA]

Date:- 24.06.2025.

To,
The Chief Officer,
Pune Board.

Subject:- Regarding redevelopment of the colony viz. Lokmanya Nagar,
Pune.

Reference:- Directions of the Hon'ble Chief Minister, Maharashtra State on
the Letter dated 14.05.2025 of the MLA Shri. Hemant Rasne.

Respected Sir,

In connection with the letter under reference on the aforesaid subject, Hon'ble MLA Shri Hemant Rasne has made a request to grant approval to the Cluster Redevelopment of MHADA Colony, Lokmanya Nagar, Pune and to grant a stay to the approval earlier given to the redevelopment process. **Accordingly, the Hon'ble Chief Minister, Maharashtra State has directed the Vice President/Authority "to grant stay until further orders."**

Therefore, it is requested that pursuant to the aforesaid directions, further appropriate steps should be taken.

Yours faithfully,
Signed by
Pravin Dattatreya Salunke
Chief Architect and Planner (illegible).

Copy to:- Respectfully submitted to the Personal Assistant to the Vice President/Authority, for information.

Copy of Information furnished pursuant to the application under the Central Right to Information Act, 2005."

(emphasis supplied)

7. However, things did not stop at this. The Chief Officer although, per se, having not issued any stay order as fairly accepted by Mr.Lad, learned counsel for MHADA, the Chief Officer instead addressed a communication dated 4th July 2025 to the Superintending Engineer, Buildings Redevelopment Department of Pune Municipal Corporation i.e. "the planning authority" of there being a stay to the NOC granted by MHADA in the case of Sunglory CHS. The said communication is required to be noted :

(Original Translation from the documents in Marathi)

"Annexure – U

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Pune Housing and Area Development Board
(A Unit of MHADA)
Griha Nirman Bhavan, Aagarkar Nagar,
Pune – 411001.
Telephone No. 26128856, 26126681, 26128868, 26128082.
Fax – 26123694.

(LOGO)

O.No./C.O./M.B/Architect/(Illegible)2897/2025

Date – 4/7/25.

To,
The Superintending Engineer,
Works Development Department,
Main Building, Pune Municipal Corporation,
Shivaji Nagar, Pune-411005.

Subject : Regarding redevelopment of the MHADA Colonies at Lokmanya Nagar, Pune.

Reference : **1. Directions given by the Hon'ble Chief Minister, Government of Maharashtra on the letter dated 14.05.2025 of the M.L.A. Shri. Hemant Rasne.**

2) Letter dated 24.06.2025 of the Chief Architect and Planner/ Authority.

3) Your letter bearing No. G.R.L./L/Zone 6/ 2804, dated 26.06.2025.

Respected Sir,

In connection with the matter under subject, the M.L.A. Shri. Hemant Rasne, by his letter referred to hereinabove at Sr. No. 1, has requested to grant approval for carrying out Cluster Redevelopment of the MHADA Colonies, situated at Lokmanya Nagar, Pune **and to immediately grant stay to the permission granted earlier for carrying out redevelopment and on the said letter, the Hon'ble Chief Minister, Government of Maharashtra has given directions to the Vice President/ MHADA Authority "To Grant Stay until further Orders". Moreover, the Chief Architect and Planner/ Authority, by the Letter dated 24.06.2025 referred to at Sr. No. 2, has informed this Office to take appropriate action in respect thereof.**

In the present matter, by your letter referred to at Sr. No. 3, you have **requested to give opinion about granting stay to the proposal of construction work to which approval has been granted and which is underway at present and about granting approval to the proposal for new construction work – redevelopment.**

In view thereof, as per the directions referred to at Sr. No. 1 and as per the directions given under letter referred to at Sr. No. 2, appropriate action should be taken. Moreover, the photocopies of the above-referred letters are enclosed with this letter for your information and for taking further appropriate steps. (Copies enclosed.)

Encl. - As aforesaid.

Yours faithfully,
(Signature Illegible)
(Rahul Sakore)

Chief Officer,
Pune Housing and Area Development Board,
Pune.

Copy to,

1. Respectfully submitted to the Commissioner, Pune Municipal Corporation, 4th floor, Pune Municipal Corporation Bhavan, Main Building, Opp. Mangla Theater, Shivaji Nagar, Pune – 411005, for information.

2. Respectfully submitted to the Chief Architect and Planner/ Authority, for information.
3. Respectfully submitted to the Personal Assistant to the Vice President/ MHADA Authority, for information.

Copy of Information furnished pursuant to the application under the Central Right to Information Act, 2005.”

(emphasis supplied)

8. It is clear from the aforesaid letter, that despite the fact that the Vice President although was merely recommended by the Hon’ble Chief Minister, to pass an appropriate order, the Vice President however, did not pass any order of a stay to the NOC issued by the MHADA, in favour of Sunglory CHS. The Chief Officer in the aforesaid letter nonetheless informed the Superintending Engineer, Pune Municipal Corporation of there being a stay to the NOC granted in view of the remark of the Hon’ble Chief Minister. This was factually an incorrect position. In the aforesaid circumstances, as the things were not moving forward and the condition of the building had become ruinous/dilapidated for which the redevelopment was required to be immediately taken forward, being brought to a stand still, in view of the aforesaid ex-parte communication(s), Sunglory CHS was constrained to file the present petition, praying for the following reliefs :

“14.In view of the above stated facts and grounds pleaded, the Petitioner humbly prays to this Hon’ble Court that by way of appropriate Writ, Order or Direction :

A. Ex parte order dt.15.5.2025 passed by the Hon’ble Chief Minister (Resp.no.3) herein thereby granting stay on the redevelopment of the buildings in MHADA layout in Lokmanyagar, Pune on the letter dated 14.5.2025 of Respondent no.7 be quashed and set aside and Respondents be directed to permit the redevelopment of the buildings of the Petitioner Society as per the GR dt.6.12.2022 (Annexure-R),

B. The Communication dt.24.6.2025 whereby Respondent no.4 communicated the decision of Respondent no.3 to grant stay on permissions on redevelopment in Pune Lokmanyagar, in till further orders to Respondent no.5 be quashed and set aside (Annexure-S),

C. The Communication dt.4.7.2025 whereby the Respondent no.5 communicated the decision of Respondent no.3 to grant stay on permission on redevelopment in Pune Lokmanyagar, in till further to Superintendent Engineer of PMC (Resp.no.6) be quashed and set aside (Annexure0U),

D. The Communication dt.19.9.2025 staying the redevelopment of the buildings of the Petitioner society issued by the Pune Municipal Corporation in view of the decision of Respondent no.3 to grant stay was communicated to the Petitioner-Society be quashed and set aside (Annexure-X),

E. The Pune Municipal Corporation (Respondent no.6 herein) be directed to process the building proposal submitted on behalf of the Petitioner Society and to grant sanction to the building proposal/permission/application submitted by the Petitioner Society through their developer vide no.____ bearing no.ADR/04045/25 in a time bound manner as per GR dt.6.12.2022 and as per the relevant provisions UDCTPR and other relevant municipal laws (Annexure-N),

F. Till the pendency and final disposal of the present writ petition, this Hon'ble Court be pleased to stay the effect, execution, operation and implementation of the ex parte order dated 15.5.2025 issued by Respondent no.3 on the letter dated 14.5.2025 of the Respondent no.7 whereby unilateral stay has been imposed on redevelopment permissions at Lokmanya Nagar, Pune,

G. Till the final hearing and disposal of the present writ petition, this Hon'ble Court be pleased to stay the effect, execution, operation and implementation of the communication dated 24-6-2025 issued by the Respondent no.4 MHADA, the Respondent no.5 was informed that regarding the Hon'ble Chief Minister of Maharashtra has directed to stay the redevelopment permissions at Lokmanya Nagar, Pune, until further orders;

H. Till the final hearing and final disposal of the present writ petition, this Hon'ble Court may kindly stay the operation, implementation and effect of the Communication dated 4.7.2025 issued by Respondent no.5 whereby the decision of Respondent no.3 to impose a stay on redevelopment permissions in Lokmanyagar, Pune was conveyed to the Superintendent Engineer of the Pune Municipal Corporation (Respondent no.6),

I. Till the final hearing and final disposal of the present writ petition, this Hon'ble Court may kindly be pleased to stay the operation, implementation and effect of the Communication dt.19.9.2025 issued by

the Pune Municipal Corporation whereby the decision of Respondent no.3 to grant stay was communicated to the Petitioner society;

J. This Hon'ble Court be pleased by way of Interim Relief be pleased further direct the Respondent no.6 Pune Municipal Corporation to process and consider the Petitioner's redevelopment proposal (Building Permission Application No.ADCR/0405/25 strictly in accordance with law, without reference to the said impugned communications dt.15.5.2025, 24.6.2025 and 4.7.2025)."

9. Insofar as Nutan CHS is concerned, a proposal for grant of NOC as made by Nutan CHS was pending, consideration of the MHADA. It appears that in this case a similar communication dated 24th June 2025 was addressed by the Chief Architect and Planner, to the Chief Officer of MHADA for further appropriate steps to be taken. However, what is peculiar is that instead of the Chief Officer passing any specific order, the In-charge Architect and Planner of MHADA, Mr.Maheshkumar Bankar addressed the following letter dated 7th October 2025 to the petitioner/Nutan CHS on a clear assumption and/or misconstruing the remark of the Hon'ble the Chief Minister, as also the position taken by the Vice President and Chief Officer of MHADA, to record that there was a stay in regard to the further steps to be taken in respect of redevelopment. The said letter is required to be noted :

“Pune Housing and Area Development Board
(A Unit of MHADA)
Griha Nirman Bhavan, Agarkar Nagar, Pune – 411 001.
Telephone Numbers – 26128856, 26126381, 26128868, 26128082
Fax Number – 26123614.

R P A D

O. No. / P. B. / Arch. / 4734 / 2025
Date : 07.10.25

To,
The Chairman / Secretary,
Nutan Co-operative Housing Society Ltd.,
Building Nos. 5 and 6, Lokmanya Nagar,

Pune – 411 030.

Subject : Regarding redevelopment of the Buildings Nos. 5 and 6 of the Society viz. Nutan Co-operative Housing Society Ltd., Lokmanya Nagar, Pune.

Reference : 1. Your Proposal for redevelopment dated 18.02.2025.

2. Noting dated 13.03.2025 of this Office.
3. Noting dated 18.06.2025 of the Office of the Chief Architect and Planner / Authority (Note#24).
4. Your Letter dated 24.09.2025 received by this office on the date 25.09.2025.

By the Letter referred to herein above at Sr. No. 1, you had submitted a Proposal for carrying out redevelopment of the Society viz. Nutan Co-operative Housing Society Ltd. (Building Nos. 5 and 6) and by the Noting referred to herein above at Sr. No. 2., the said proposal was submitted to the Authority for granting approval thereto.

By the Noting referred to herein above at Sr. No. 3, the Chief Architect and Planner / Authority has informed to this office that the Hon'ble Member of Legislative Assembly Shri. Hemant Rasne has requested the Hon'ble Chief Minister, Maharashtra State in respect of the said proposal to grant permission to carry out Cluster Redevelopment of the MHADA Colony, situated at Lokmanya Nagar, Pune and further requested to immediately grant stay to the permission granted earlier for carrying out the redevelopment work and that the Hon'ble Chief Minister, Maharashtra State has directed the Vice President / MHADA Authority "to grant stay untill further orders" and therefore, the process in respect of the redevelopment work at Lokmanya Nagar, Pune, is stayed temporarily.

Once further orders are received from the Government, necessary steps will be taken in respect of the redevelopment proposal which may please be noted.

(Signature Illegible)

I/C Architect and Planner,
Pune Housing and Area Development Board,
Pune.

Copy to:

1. Architect, Shri Mangesh Ulhas Bhandekar, 602 and 603, Muktanand Society, Kothrud, Pune – 411038, for information.
2. Developer, M/S. Icon Infratech, 2nd Floor, Padle Palace, C. T. S. No. 11/ B /2 , Erandvane, Pune – 411004, for information."

(emphasis supplied)

10. The aforesaid letter addressed by the In-charge Architect and Planner is quite shocking to say the least, as the same was factually incorrect, as also misconstruing the remarks of the Hon'ble Chief Minister.

11. It is in these circumstances, Nutan CHS has approached this Court in the present proceedings praying for similar reliefs. The reliefs are required to be noted, which read thus :

“12. In the light of the above facts pleaded, the Petitioner humbly prays that:

A. This Hon'ble Court by way of appropriate writ, order or direction be pleased call for the records pertaining to the decision/remark dated 15.5.2025 passed by the Hon'ble Chief Minister of Maharashtra (Respondent no.3 herein) thereby imposing stay on the redevelopment of the buildings in MHADA layout in Lokmanyagar, Pune on the letter dated 14.5.2025 of the Hon'ble Member of Legislative Assembly, Mr.Hemant Rasane and after examining the legality, validity and propriety thereof, be pleased to quash and set aside the said decision/remark (Annexure-H),

B. That this Hon'ble Court be pleased to issue any appropriate writ, order or direction in the nature thereof, and be pleased to quash and set aside the communication dated 24.6.2025 issued by the Respondent no.3 MHADA whereby the Petitioner society has been informed that the Hon'ble Chief Minister of Maharashtra has directed to stay the redevelopment permissions at Lokmanya Nagar, Pune, until further order (Annexure-N),

C. That this Hon'ble Court be pleased to issue any appropriate writ, order or direction in the nature thereof, and be pleased to quash and set aside the communication dated 7.10.2025 issued by the Respondent no.4 Chief Officer, Pune Circle, MHADA whereby the Petitioner society has been informed that the redevelopment process/permissions in respect of Lokmanya Nagar, Pune has been stayed pursuant to the directions of the Hon'ble Chief Minister (Annexure-R),

D. That this Hon'ble Court be pleased to issue appropriate directions, thereby directing the Respondent nos.4 and 5 MHADA and its Pune Board, to forthwith accept, process and grant approval to the Petitioner society's redevelopment proposal dated 18.2.2025, in accordance with the DCRs, the MHADA Act, 1976 and the Government Resolution dated 6.12.2022, and to permit the Petitioner society to proceed with the redevelopment individually,

Interim Reliefs :

E. Till the pendency and final disposal of the present Writ Petition, this Hon'ble Court be pleased to stay the effect, execution, operation and implementation of the decision dated 15.5.2025 passed by the Hon'ble Chief Minister of Maharashtra on the letter dated 14.5.2025 of the Hon'ble Member of Legislative Assembly Mr.Hemant Rasane whereby stay has been imposed on redevelopment permission at Lokmanya Nagar, Pune;

F. Till the final hearing and disposal of the present petition, this Hon'ble Court be pleased to stay the effect, operation, implementation and execution of the communication dated 24.6.2025 issued by the Respondent no.3 – MHADA, whereby the Petitioner society has been informed that the Hon'ble Chief Minister of Maharashtra has directed to stay the redevelopment permissions at Lokmanya Nagar, Pune until further orders.

G. Till the final hearing and final disposal of the present petition, this Hon'ble Court be pleased to stay the effect, operation, implementation and execution of the communication dated 7.10.2025 issued by the Respondent no.4 Chief Officer, Pune Circle, MHADA whereby the Petitioner society has been informed that the redevelopment process/permissions in respect of Lokmanya Nagar, Pune has been stayed pursuant to the directions of the Hon'ble Chief minister.”

12. At the outset Mr. Gorwadkar, learned Senior Advocate for the Petitioners would submit that this is a clear case wherein the concerned officers of MHADA have acted illegally by misconstruing the remark as made by the Hon'ble Chief Minister on the letter addressed to him by the local MLA (Respondent no.7). It is his submission that the Vice President of MHADA, who was recommended by the Hon'ble Chief Minister to grant a stay, has not passed any order granting stay. It is submitted that also the Chief Officer has not passed any order, much less in accordance with law granting a stay to the NOC issued in favour of Sunglory CHS in pursuance of the recommendation of the Hon'ble Chief Minister. It is submitted that the In-charge Architect and Planner of the MHADA had no authority to misconstrue the communication addressed by the local MLA, on which such remark (supra) was made by the Hon'ble the Chief Minister, as also in the said

context, the clear position taken by the Vice President, in not issuing any specific order. Mr. Gorwadkar would also submit that even assuming that the remark as made by the Hon'ble Chief Minister was in the nature of a stay to the NOC granted by MHADA in favour of Sunglory CHS, such a stay could not have been granted ex-parte against the petitioner, as such action would amount to an arbitrary and an unwarranted act, and in gross breach of the principles of natural justice. He submits that it would also constitute an action without authority of law, which tested on the anvil of the powers as conferred on the State Government under the MHAD Act. He submits that on this count, the impugned actions are illegal and invalid. Mr. Gorwadkar submits that insofar as grant of any NOC is concerned, it is a matter strictly between the Petitioner societies and the concerned officials, more particularly an NOC having already been granted by MHADA in favour of Sunglory CHS and, in similar manner insofar as Nutan CHS was concerned, the same was required to be granted on the pending application. It is submitted by Mr. Gorwadkar that this Court in **New Shree Krishna SRA CHS (through Chief Promotor) Vs. Slum Rehabilitation Authority, Mumbai and others¹**, has deprecated a third party and/or political interference in such matters when the MHADA and its officials are required to act as per the provisions of law. Mr. Gorwadkar has also placed reliance on the decision of this Court in **Subodh Kumar Singh Rathour Vs Chief Executive Officer and others²** and **Kanti Associates Private Limited and another Vs. Masood Ahmed Khan and others³**, to contend that looked from any

1 Writ Petition (O.S) No.5119 of 2024

2 (2024)15-SCC-461

3 (2010)9-SCC-496

angle the impugned actions on the part of the officials of MHADA would be required to be held to be arbitrary and unreasonable. In supporting submission that even assuming that the Hon'ble Chief Minister has powers to stay such orders, such powers are required to be exercised in accordance with law. In this context he relied on a decision in **Kalaskarwadi Vividh Karyakari Seva Sahakari Sansthan Maryadit Kalaskarwadi (through its Directors) and another Vs. State of Maharashtra (through Hon'ble Minister for Co-operation) and others**⁴, as also the decision of the Supreme Court in **MRF Limited Vs Manohar Parrikar and others**⁵. Mr.Gorwadkar accordingly submitted that applying the said clear position in law, in the facts of the present case, the impugned actions on the part of MHADA officials require interference of this Court in as much as the impugned communications are required to be quashed and set aside, and the redevelopment being resorted by the Petitioners ought not be stalled and needs to be proceeded further.

13. We have heard learned counsel for the parties and, with their assistance, we have perused the records of both proceedings. We may at the very inception observe that there appears to be much substance in the contentions urged on behalf of the petitioner. However, on behalf of MHADA, a clear position has been taken, as discussed hereunder.

14. Mr. Lad, learned counsel, has represented MHADA. At the outset he has fairly stated that the “remark/noting” made by Hon'ble the Chief Minister does not amount to any “stay” in the case of the Petitioner(s) societies i.e. either a stay to

4(2024)SCC OnLine-Bom-2830

5(2010)11-SCC-374

the NOC granted by MHADA in favour of Sunglory CHS on to the proceedings of the proposal for grant of a NOC in the case of Nutan CHS. Mr. Lad, further submits that this position is also taken by the Vice President of MHADA. Insofar as the communication dated 24th June 2025 of the Chief Architect/Planner addressed to the Chief Officer of MHADA. Mr.Lad has fairly stated that the Chief Officer has not taken recourse to any further procedure in any manner known to law i.e. by issuing a show cause notice to any of the Petitioner(s) societies calling upon them, as to why the NOC should not be cancelled or to hold on to the proposal as pending with the MHADA for grant of NOC respectively.

15. However, when questioned in regard to the position taken by the In-charge Chief Architect/ Planner in his letter dated 7th October 2025 (supra) addressed to Nutan CHS Ltd. as also the position taken in a prior letter of the Chief Officer dated 4th July 2025 (supra) addressed to the Pune Municipal Corporation, Mr.Lad submits that there is no authority with the In-charge Chief Architect/Planner for such communication to be issued. On instructions, Mr.Lad states that such impugned communications issued by the MHADA officials are being forthwith withdrawn. We accept the said statement as made by Mr.Lad on behalf of MHADA.

16. The aforesaid statement as made by Mr.Lad on behalf of MHADA would bring about a clear situation that insofar as Sunglory CHS is concerned, the NOC as granted by MHADA, is legal, valid and subsisting. Consequent thereto, Sunglory CHS is entitled to proceed further in relation to redevelopment of building with Pune Municipal Corporation as permitted under the NOC. Insofar

as Nutan CHS Ltd. is concerned, the position would be to the effect, that the proposal as made by Nutan CHS, would be required to be considered by MHADA and a decision in accordance with law would be required to be taken, as expeditiously as possible. Such decision shall be communicated to Nutan CHS within a period of fifteen days from the day a copy of this order is available.

17. Albeit what is discussed hereinabove, considering the issues which are brought before the Court in the present proceedings, we would be failing in our duty, if we do not delve on the issue leading to the MHADA officials and more particularly the Chief Officer addressing the letter to the Pune Municipal Corporation (supra), as also, the In-charge Architect and Planner Mr. Maheshkumar Bankar of the Pune Housing and Area Development Board addressing a letter dated 07 October 2025 without verifying the correct legal position from the higher officials i.e. the Vice President, before acting upon and/or considering the implications of the remarks of the Hon'ble Chief Minister.

18. The In-charge Architect and Planner has in fact over stepped his authority and jurisdiction, to misconstrue the order/remark as made by Hon'ble the Chief Minister on the communication of the local MLA dated 14th May 2025, on which the Vice President of MHADA himself had not issued any clear orders, as such remark was addressed to the Vice President and not to the Chief Officer. In our opinion, considering the clear remark as made by the Hon'ble the Chief Minister, if at all, it was the Vice President, who was required to take a decision, in a manner known to law. However, the Vice President has not passed any specific order, so as to act upon the remark of the Hon'ble Chief Minister. This being the

position, it was clearly an obligation of the Chief Officer to act strictly in accordance with law more particularly, in the absence of any specific sorders received by him from the Vice President of a stay, qua anything on the redevelopment proposed by the petitioners. Thus, these communications could not have been addressed to the Pune Municipal Corporation, as also, the In-charge Chief Architect and Planner also could not have issued the letter dated 7th October 2025 to the Petitioner society in the second petition. Considering the nature of controversy, what is plainly revealed is that the MHADA officials have gone a step ahead, from what was being remarked (supra) by the Hon'ble Chief Minister. We have, therefore, no hesitation to deprecate such actions of these public officials, when with impunity they had forgotten the statutory purport in exceeding their authority and jurisdiction when without applying their mind, such blanket actions were taken, more particularly, when a NOC was already issued to Sunglory CHS and in the case of Nutan CHS, the proposal for the same was pending, such letters could not have been issued. Also as rightly contended on behalf of the Petitioners, it could not have been overlooked that the valuable rights guaranteed to the Petitioners under Article 300A of the Constitution read with Article 14 (fundamental right) would directly stand breached by such actions.

19. Mr. Gorwadkar would hence be justified in submitting that such extra legal interference by the local MLA qua the redevelopment of the Petitioner Societies was not the correct approach, as there was no reason whatsoever which could be recognized in law, to interfere in the independent redevelopment which was taking place qua both the Petitioner societies. His submission is that more so,

such interference is not known to law when the same is resorted by approaching the Hon'ble the Chief Minister, the intent of which, according to him was nothing else but to pressurize the MHADA officials in such manner to which to the extent as impugned they succumbed. Mr. Gorwadkar, submitted that such methods do not find any place whatsoever in law, considering the clear provisions of MHADA Act.

20. On examining the provisions of MHADA Act and more particularly the powers of the State Government, we are not in a position to appreciate as to whether any direct order of stay of the approved proposal or to stay the proceedings of a proposal could have been granted even by the State Government, without following the due procedure in law. Even assuming that such powers were available with the Hon'ble Chief Minister, a stay of any nature could not have been granted without following the due procedure in law, i.e. in the absence of following the principles of natural justice. Although it is clearly seen that the noting as made by the Hon'ble the Chief Minister, it was not a stay but a mere remark, under which the Vice President was under an obligation to act in accordance with law, if any other action was to be resorted in respect of Petitioners case. There was also no scope for the Vice President or the Chief Officer to misconstrue the remark made by the Hon'ble Chief Minister. In fact, when such private rights are concerned, and when the proposals have been processed and NOCs are granted, for any of the authorities of the State, to cause interference not in any manner known to law, would not be an acceptable situation. This would not only affect the rights under the orders passed by MHADA whereby the NOC was granted, but also the other legal rights being breached and an arbitrary action being foisted on the Petitioners

and a prejudice being caused to them would be an imminent consequence. This would also bring about a situation that the MHADA officials are precluded to act as per the provisions of the MHAD Act.

21. The position in law in regard to any extra legal or extra judicial interference of the State authorities is well settled. In **New Shree Krishna SRA CHS (through Chief Promotor)** (supra), this Court made the following observations on the issue of such interference, although in the case of the Slum Rehabilitation Authority, which is not too differently placed than the MHADA Officials :

“11. Before we delve into rival contentions, we think it appropriate to not only remind but re-remind the SRA and the officers of SRA namely right from the CEO and all the officers below him, are required to discharge their duties strictly in accordance with law that is as per the provisions of the Slum Act, Rules and Regulations, Circulars and the Development Control Regulations (‘DCRs’) relevant to the implementation of slum rehabilitation schemes. This would imply that none of the officers of the SRA can resort to any action on extra judicial and/or extra legal interference, from those who are wholly unconnected with the slum schemes, and more particularly on any political and extraneous interference. The reason being that the Slums Act along with Rules, Regulations as also the DCRs forms a code by itself. Any person who is connected with the slum schemes namely the slum dwellers, the society of slum dwellers, the developers etc., have remedies available in law to ventilate any of their grievances, by first approaching the SRA in their independent capacity espousing the legal right as conferred on them.

12. It is not the case of any of the slum dwellers who are aggrieved, that they were in any manner incapacitated or in any manner prevented from approaching the authority with their grievances, and if such grievances were made, pursue the same in a manner known to law, or that it was so imperative for them in this case to approach, the local MLA. We deprecate such actions on the part of the slum dwellers, who without taking recourse to the appropriate legal remedy and methods have taken a different route, without approaching the authorities and the Court by seeking such extra legal and/or extra judicial interference, at the hands of those persons who are unconnected with the schemes. There are several orders passed by the Courts from time to time whereby such actions of the authorities acting on political pressure or such extraneous interference have been deprecated. In such context, we may refer to the decision of this Court in **Shree Gurukrupa Sra Co-op. Hsg.Society Vs. Minister of State, Home (Rural) Housing**

School Education Co-op. Mining Department and others⁶, wherein the Court was considering similar actions on the part of SRA on account of political pressure. It is in such context, although after the stand on behalf of the State Government was made clear, the Court recording the contentions as urged on behalf of the Petitioner of the extra judicial and entirely unjustified interference, observed that it is well settled that the Slums Act is a welfare legislation enacted to improve the living conditions of persons compelled to reside in slums, in poverty, filth and squalor. It was observed that the primary object of the Slums Act was to ensure that slum dwellers are protected from eviction, without rehabilitation and are provided with decent, secure and hygienic housing/living conditions. **The Court further observed that it would reflect a most sorry state of affairs, when any statutory authority abdicates its statutory duties on account of any extraneous or extrajudicial intervention and conducts itself in a manner which is contrary to the very Statute under which such Statutory Authority is required to discharge its duties.**

13. In similar context we may also refer to the orders passed by this Court in the case of **Bhimrao Shankar Kudale Vs. Maharashtra Housing and Area Development Authority and another⁷**, in which the Court made the following observations in regard to extra-legal interference, which ought not to be tolerated, although in the context of MHADA, however, the observations in paragraph 8 of the said decision certainly would apply to the SRA. The relevant observations in the said judgment read thus:

“7. If this be the position, we make it clear that no extra legal interference ought to be tolerated, in any manner whatsoever. The names of such persons who are illegally interfering in the MHADA officials (at any hierarchy) discharging their official duties, need to be dealt with strictly as per law. The names of such persons who are causing extra legal interference, in any of the MHADA officials discharging their official duties, be intimated to the Vice Chairman, MHADA by the concerned officials, whose office shall acknowledge any such complaint received from any official, for action to be taken in accordance with law, depending on the nature of the complaint. If the Vice Chairman himself is encountered with any such interference, he is free to submit names of such persons to the Chief Secretary and/or to this Court by moving an application in the proceedings, so that we can pass appropriate orders.

(emphasis supplied)

19. We cannot but imagine, that certainly there is bound to be lot of pressure on these officers in discharging their official duties, when interferences of this nature are exerted and the officers are constrained to be rendered helpless in such situations. This is what has happened in the present case, as in a given situation, it is not something unknown that the officers are likely to be victims for no fault of theirs, if they do not succumb to such interferences, and in which manner it would be difficult to

⁶Writ Petition (L) No.18500 of 2025 decided on 22-8-2025

⁷Writ Petition No.578 of 2025, decided on 10-6-2025

apprehend. This in fact amounts to a position that the SRA is being controlled by those who are completely alien to the statutory authority conferred on the officers of the SRA. It would also mean, not only complete abdication of their lawful duties but in this regard derailment of the rule of law in implementation of the slum scheme. None of the officers of the SRA ought to yield to such interference. In such context the orders passed by this Court in **Bhimrao Shankar Kudale (supra)** need to be applied.

20. We caution the officers of SRA that this needs to be the last case where such interference is tolerated and that for such reasons in the future no slum schemes are halted and that such issues do not reach the Courts.”

(emphasis supplied)

22. In the context of MHADA, the Court has already recorded a note of caution on such extra legal interference in the case of **Bhimrao Shankar Kudale Vs. MHADA** (supra). Hence, the aforesaid observations are aptly applicable insofar as present position of extra legal interference in the Petitioners’ redevelopment project at the hands of a third party namely the local MLA is concerned. If in any larger public interest the local MLA had any concern, it was necessary for him to resort to a lawful procedure, so that only in appropriate proceedings and only after granting an opportunity of a hearing to the Petitioners, such orders at any level of the State Government could have been passed avoiding any arbitrariness and unreasonableness. No order adversely affecting the civil rights of the petitioners would be passed without the petitioners being heard.

23. The entire project of the Petitioners is brought at a stand still on such misconceived approach on the part of MHADA officials who completely misread and misinterpreted the remark made by the Hon’ble Chief Minister. We may observe that there ought not be a second reminder to the officials of the MHADA in regard to what was observed by the Court in regard to the MHADA officials in

the case of **Bhimrao Shankar Kudale Vs. Maharashtra Housing and Area Development Authority and another**⁸, to the effect that none of the MHADA officials shall be influenced by any such extra legal or extra judicial interference by such third parties while dealing with the cases of lessees or members of co-operative societies in respect of land leased by MHADA to such societies. If we recognize such interference, it is something outside the provisions of the MHAD Act. By reiterating what was observed by this Court in the case of **New Shree Krishna SRA Chs** (supra) and **Bhimrao Shankar Kudale** (supra), we accept the statement as made by Mr.Lad recorded hereinabove.

24. We also accept the contention of Mr. Gorwadkar that in light of the decisions in **Kanti Associates Pvt.Ltd.** (supra) and **Subodh Kumar Singh Rathour** (supra), the action on the part of MHADA officials i.e. the In-charge Architect and Planner addressing letter to the Pune Municipal Corporation as also addressing such letter to the Petitioner, is a colourable exercise of power and excessively arbitrary. It has violated the Petitioners' legal rights guaranteed under Article 14 read with Article 300A of the Constitution of India. The officials become answerable to "We the People" and in a given case would be required to be dealt in accordance with law.

25. We also appreciate Mr. Gorwadkar's submission that any action which is required to be taken by the State Government, needs to be as per the rules of business, and over and above this, if there are clear provisions under the statutory enactment like the MHAD Act, strict adherence to the provisions of the legislation

⁸Writ Petition No.578 of 2025, dated 10-6-2025

would become imperative. In the present case, no procedure as recognized by law has been followed right from the inception and in this view of the matter, the course of action as fairly stated in the statement of Mr.Lad (supra) in the right and the only approach, which could be taken by the MHADA.

26. In the light of the above discussion, we are inclined to dispose of these petitions in terms of following order :

ORDER

(i) While accepting the statements as made on behalf of MHADA, it is declared that the NOC as issued to the Petitioner society in the first Writ Petition No.17392 of 2025 (Sunglory CHS Limited Vs. The State of Maharashtra & Ors.) is legal and valid. The Petitioner society would be entitled to proceed with redevelopment in accordance under such NOC;

(ii) Insofar as Petitioner society in the second Writ Petition No.16044 of 2025 (Nutan CHS Limited Vs. The State of Maharashtra and others) is concerned, the proposal of the Petitioner for NOC is legal and valid and the same needs to be taken to its logical conclusion on or before 15 January 2026.

(iii) All contentions of the parties in this regard are expressly kept open;

(iv) Consequent to the above orders, both the writ petitions stand allowed in terms of prayer clauses (a) to (d) of the respective petitions. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)