

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 4823 OF 2024**

Micron Housing LLP

...Petitioner

Versus

Union of India & Ors

...Respondents

Mr. Shekhar Jagtap a/w Ms Sairuchita Chowdhary for Petitioners.
Mr. Niraj Prajapati i/b Mr. Mahesh Shukla for Union of India.
Ms Meena Dhuri i/b Ms Komal Punjabi for Respondent No.2-BMC.

**CORAM : G.S. KULKARNI &
ARIF S. DOCTOR, JJ.**

DATE : 18th JUNE, 2025.

P.C:

1 We have heard Mr. Jagtap, learned counsel for the petitioner. Mr. Prajapati, learned counsel for respondent no.1 and Ms Dhuri, learned counsel for respondent no.2.

2 This petition under Article 226 of the Constitution of India, praying for the following substantive reliefs :

“b) issue a writ of certiorari or any other appropriate writ, order or direction in the nature of writ of certiorari inter alia calling for the records of the Impugned Notification dated 19th June, 1976 (being Exhibit A hereto) and after considering its legality, validity and propriety to quash and set aside the said Impugned Notification as being unconstitutional, null and void and unenforceable;

c) issue a writ of certiorari or any other appropriate writ, order or direction in the nature of writ of certiorari inter alia calling for the records of Impugned Clarification dated 14th November, 2012 and after considering its legality, validity and propriety thereof to quash and set aside the said Impugned Clarification as being as being contrary to clause (c) of Section 7 of the Defence of Works Act, 1903 and definition of the term "parapet" under the D.C. Regulations and National Building Code and for a declaration that the expression "outer

parapet wall of the work" as used in clause (c) of Section 7 of the Defence of Works Act, 1903 means outer parapet wall of the building/structure of the work and not the outer boundary built along the entire plot on which the work is situated;"

3 Although the aforesaid prayers are made, Mr. Jagtap fairly states that the petitioner would confine the reliefs prayed for in the petition only to the petitioner's contention that its proposal / application dated 5th September 2020, as addressed to the Additional Secretary, Ministry of Defence for issuance of a no objection certificate for undertaking development on the land in question namely; CTS No.12 of Village Juhu, at Vile Parle (K-West), Mumbai, be decided by the Ministry of Defence. It is submitted that all the relevant documents in regard to the proposal for development were submitted to the Municipal Corporation. Mr. Jagtap submits that despite the period of almost of about 5 years, the petitioner's application has not been decided and/or no communication in that regard has been received by the petitioner from either the Municipal Corporation or the Ministry of Defence. We are also informed by Mr. Jagtap that Municipal Corporation has also forwarded its proposal / request for grant of no objection certificate on the petitioner's application on 14th May 2018, which has also not been responded by the Ministry of Defence.

4 In this view of the matter and without delving on any other issues which are pressed in the petition, we are of the opinion that unless the ministry of Defence grants its no objection certificate, the role of the Municipal Corporation as the planning authority will not be attracted. Thus, in the aforesaid circumstances, we are inclined to dispose of this petition in terms of

the following directions:-

ORDER

- (i) The application of the petitioner dated 5th September 2020 (at page 36 of the paper book) as made to the Additional Secretary of Ministry of Defence for issuance of the no objection certificate, be decided as expeditiously as possible and in any event within a period of 6 weeks from the date of the copy of the order is submitted to the Additional Secretary of Ministry of Defence.
 - (ii) The Ministry of Defence is free to call upon the petitioner to submit any other appropriate documents as may be desired in deciding such proposal.
 - (iii) All contentions of the parties in that regard as expressly kept open.
- 5 Petition stand disposed of in the aforesaid terms. No costs.

[ARIF S. DOCTOR, J.]

[G.S. KULKARNI, J.]