

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 5402 OF 2024

Earth, a Non-Governmental Organization in
Special Consultative Status with the United Nations
Economic and Social Council
Versus
The Principal Secretary & Ors.

...Petitioner
...Respondents

Mr. Sukand Kulkanri i/b Abhijit Devkhile for Petitioner.
Smt. Uma Palsuledesai, AGP for State – Respondent No.1.
Dr. Milind Sathe, Sr. Adv. a/w Ravleen Sabharwal, Aarushi Yadav, Mandar
Waidande for Respondent No.2 – SRA.
Ms. Rupali Adhate i/b Komal Punjabi for Respondent No.3 – BMC.

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

DATE: 17 JUNE 2025

P.C.

1. We have heard learned counsel for the parties.
2. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs:

- a. Rule be issued.
- b. This Hon'ble Court be pleased to issue a Writ of Mandamus or Writ in the nature of Mandamus or any other Writ, order, or direction thereby to direct the Respondents to take appropriate steps on Petitioner's representation dated 24/10/2024 (annexed at Exh. "A") and direct the respondents to strictly comply with the direction issued under GR dated 15/10/2024 (annexed at Exh. "C").
- c. That pending the hearing of this Writ Petition restrain the Respondents from withdrawing, rescinding, or amending the GR dated 15 October 2024 under any external influence, including but not limited to builder lobbies.
- d. Cost of this Writ Petition.
- e. That for such other and further reliefs as this Hon'ble Court may deem fit and proper."

3. The concern of the petitioner appears to be in regard to the compliance of the Government Resolution dated 15 October 2024 by the respondent Nos. 2 & 3, which pertains to the implementation of the Rules and Regulations under DCPR 2034 in regard to which the State Government, in exercise of its power under Section 154(1) of the Maharashtra Regional Town Planning Act, 1966 (for short “MRTP Act”) has issued the following directions:

“ORDER.

i] The development / redevelopment schemes are more fundamental than any authority being SPA, which is just a administrative matter. The effect and interpretation of the regulation shall be same, irrespective which planning authority is interpreting /using the regulation.

ii] Scheme under Regulation 33(11) cannot be combined with any other Regulation except Slum Rehabilitation Scheme under Regulation 33(10). Concessions about premium or otherwise for Regulation 33(11) shall be as per regulation 33(11) and these considerations shall not necessarily follow from Regulation 33(10) just because SPA and SRA.

iii] In case of development/redevelopment of slum area and contiguous non slum area in a slum scheme, SRA can approve the composite scheme, provided the slum area constitute more than 51 % in each single plot. A plot with less than 51 % slum area can be developed individually or as a part of larger slum scheme, either by applying, Regulation 33(11) on non slum area or by subdividing plot into slum and non slum plots and leaving non slum plot outside the scheme. Explicitly, for any plot to be a part of the Slum Scheme it must have more than 51 % of its area under slum.

iv] In case of development /redevelopment of slum and contiguous non slum area where slum are constitute more than 51 % in a plot, the developer can avail the provisions of DCPR on non slum portion only, subject to strict compliance of respective DCPR provisions.

v] Planning norms and premium for built up area in lieu of non slum plot area shall be considered as per corresponding provision in DCPR 2034 and relaxations or concessions available for the purpose of slum rehabilitation in S.R. Scheme cannot be applied to any regular scheme being undertaken on non slum part of any plot. Without prejudice to the generality of this directive, no way premium for non slum portion can be exempted at par with slum portion (ie. Reduced rate of premium at nil or 10% etc.

vi] SRA shall start issuing the building permissions online immediately in order to being transparency and efficiency.”

4. The petitioner in such context made a representation dated 24 October 2024 to the Principal Secretary, raising concerns in regard to the implementation of the said Government Resolution dated 15 October 2024 (supra) and in terms of what has been urged in paragraph No.6 (a) to (f). Such representation is pending consideration before the Principal Secretary, Urban Development Department.

5. Having heard learned counsel for the parties, we are of the opinion that as the representation is pending and as also the State Government has already taken a position and issued an order under Section 154(1) of the MRTP Act which is not disputed to be not binding on respondent No.2 & 3, an appropriate decision is required to be taken by the Principal Secretary, Urban Development Department on the said representation of the petitioner after hearing the petitioner on one hand and respondent Nos.2 & 3 on the other hand.

6. Let the petitioner appear before the said authority on 27 June 2025 at 3.00 p.m. Let representative of respondent No.2 & 3 also appear. Let the parties be accordingly heard on a convenient date by the Principal Secretary, Urban Development Department and a decision after hearing the parties be taken as expeditiously as possible and in any event on or before 31 July 2025. All contentions of the parties in that regard are expressly kept open.

7. Petition stand disposed of in the aforesaid terms. No cost.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)