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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1108 OF 2025**

Poonam and Patel Construction Limited & Anr. ...Petitioners

V/s

State of Maharashtra & Ors. ...Respondents

**WITH
INTERIM APPLICATION (L) NO.6231 OF 2025
IN
WRIT PETITION NO. 1108 OF 2025**

Shri Sai Markandeshwar Nagar Co-operative
Housing Society (prop.)Applicant

In the matter between:

Poonam and Patel Construction Limited & Anr. ...Petitioners

V/s

State of Maharashtra & Ors. ...Respondents

**WITH
INTERIM APPLICATION (L) NO.7192 OF 2025
IN
WRIT PETITION NO. 1108 OF 2025**

The Slum Rehabilitation Authority
Through its SecretaryApplicant/
Intervenor

In the matter between:

Poonam and Patel Construction Limited &
Anr. ...Petitioners

V/s

State of Maharashtra & Ors. ...Respondents

Mr. Subhash Jha with Mr. Shakeeb Shaikh, Mr. Aftab Diamondwala, Ms. Trushi Talekar, Mr. Siddharth Jha, Mr. Ashish Saxena, Mr. Sumeet Upadhaya, Mr. D. Rao i/by Diamondwala & Co., Advocates for the petitioners.

Mr. Aseem Naphade, 'B' Panel Counsel with Ms. Vaishali Choudhari, Additional Government Pleader for the respondent nos.1 to 4-State.

Mr. Janak Dwarkadas, Senior Advocate with Ms. Ravleen Sabharwal, Ms. Namrata Vinod, Ms. Aarushi Yadav, Advocates for the applicant in IAL No.7912/2025.

Mr. Shardul Singh with Mr. Smeet Savla i/by Ms. Sayali Sawant, Advocates for the applicant in IAL No.6231/2025.

Mr. Rubin Vakil with Mr. Jigar Shah i/by Markand Gandhi & Co., Advocates for the Intervener-Poonam Chambers Premises CHS Ltd.-'A' Wing.

Mr. Bhavin Gada, Advocate for the Intervener-Poonam Chambers Premises CHS Ltd.-'B' Wing.

**CORAM : A. S. CHANDURKAR &
M. M. SATHAYE, JJ.**

DATE : 03rd April, 2025.

P. C.: (Per A.S. Chandurkar, J.)

1] The challenge raised in this writ petition is to the communications dated 31/01/2024, 10/10/2024 and 28/01/2025. By the communication dated 10/10/2024 issued by the Collector, Mumbai to the Additional Chief Secretary (Revenue), the Office of the Collector after referring to various factual aspects has, prima facie, opined of a likelihood of breach of terms and conditions of sanction dated 08/08/1974 executed in favour of the petitioner and has thus proposed action for breach of such terms and conditions. By the communication

dated 10/10/2024 issued by the Department of Revenue and Forest addressed to the Collector, Mumbai City, it is stated that for failure to develop a garden and protect the subject land from encroachment as required by the terms of sanction, steps be taken for resuming the aforesaid land. The communication dated 28/01/2025 issued by the Office of the Collector proposes similar action of resuming the land granted in favour of the petitioner.

2] Facts in brief relevant for deciding the challenge as raised are that the petitioner no.1, Poonam and Patel Construction Limited – PPCL for short, is a Company incorporated under the Companies Act, 2013 undertaking the business of construction. By communication dated 08/08/1974 the Collector, Mumbai conveyed sanction of the State Government to lease out land admeasuring about 4000 square yards adjoining City Survey No.1/3 of Worli Division to PPCL. This was subject to various terms and conditions which included re-claiming a portion of land and maintaining a garden. Since PPCL accepted the terms and conditions, possession of land admeasuring 4000 square yards was handed over to it on 22/08/1974. It is the case of the petitioner that in accordance with the said terms and conditions, it has been occupying the said land and is undertaking its activities on that basis. PPCL thereafter initiated proceedings before the Collector

seeking mutation of its name in the property card with regard to foreshore land bearing City Survey No.995 of Worli Division coupled with a challenge to the slum Scheme that was submitted by proposed Shri Sai Markandeshwar Co-operative Housing Society - proposed Society, for short. The Collector by his order dated 24/05/2013 directed that an independent entry against City Survey No.995 in favour of the Revenue Department be taken. The slum Scheme was also directed to be excluded from City Survey No.995. The proposed Society being aggrieved by the aforesaid order approached the Maharashtra Revenue Tribunal, Mumbai by filing an appeal under Section 274 of the Maharashtra Land Revenue Code, 1966 - the Code, for short, for challenging the said order. The learned Member, Maharashtra Revenue Tribunal however dismissed the said appeal on 10/01/2017. The proposed Society being aggrieved by the said order approached this Court by filing Writ Petition No.1016 of 2017. On 08/11/2017, the writ petition was admitted for final hearing and by an interim order it was directed that the concerned authorities would not act upon the observations made in paragraph 8 of the order passed by the Collector on 24/05/2013. According to PPCL, notwithstanding aforesaid position the Revenue Authorities as well as Office of the Collector proceeded to issue the impugned communications on 31/01/2024, 10/10/2024 and 28/01/2025 with a view to re-open

issues that had been settled earlier. Since such steps were being taken to the prejudice of PPCL without granting it an opportunity of hearing, PPCL has preferred this writ petition.

3] Mr. Subhash Jha, learned counsel appearing for the petitioner referred to the documents on record and submitted that despite the fact that the Collector on 24/05/2013 had passed an order directing preparation of an independent property card with regard to City Survey No.995 and excluding the said area from the purview of the Slum Authorities, steps were now being taken by the Collector to resume the land that was sanctioned for grant to PPCL for ninety nine years. The contents of the impugned communications indicated that the authorities were proceeding on the basis that PPCL had breached terms and conditions of the sanction and hence it was necessary to resume the lands. It was not permissible for the Revenue Authorities as well as the Office of the Collector to undertake such exercise given the documents on record. He referred to the principle of constructive *res judicata* and submitted that earlier decisions taken ought not to be re-opened in such a manner. To substantiate his contentions, the learned counsel placed reliance on the decisions in *State of U.P vs. Nawab Hussain*, (1977) 2 SCC 806, *Jagir Singh vs. Ranbir Singh and Another*, (1979) 1 SCC 560, *Hope Plantations Ltd. vs. Taluk Land Board, Peermade and Another*,

(1999) 5 SCC 590, *Lankappa and Others vs. Karnataka Industrial Corporation and Others*, (2022) 17 SCC 708, *Gulf Oil Corporation Ltd. vs. State of Telangana and Others*, 2022 SCC OnLine SC 1209 and *Supertech Limited vs. Emerald Court Owner Resident Welfare Association and Others*, (2023) 10 SCC 817. It was submitted that this Court may interfere in exercise of jurisdiction under Article 226 of the Constitution of India and quash the impugned communications.

4] Mr. Aseem Naphade, learned Special Counsel appearing on behalf of the respondents opposed the prayers made in the writ petition. He submitted that sanction to lease of the aforesaid land was granted to PPCL on 08/08/1974 subject to various terms and conditions. While PPCL sought to derive various benefits from the grant, it had failed to carry out the obligations thereunder. It permitted encroachments to be undertaken on a portion of the said land which had subsequently increased with passage of time. Since it was found that PPCL did not comply with various terms and conditions of the lease, its name was not entered in the revenue record as a lessee which finding was recorded by the Collector in his order dated 24/05/2013. It was submitted that on 01/03/2019 a show cause notice had been issued to the petitioner by the Office of the Collector, stating therein that there was absence of any lease deed in its favour. By relying upon the provisions of Sections 53

and 54 of the Code, explanation of PPCL was sought. PPCL had given its reply to the aforesaid notice on 24/06/2019 and had denied any such breach of terms and conditions. The consideration of the show cause notice was still pending. The impugned communications were merely exchange of departmental views between the respondents and PPCL had no legal right to challenge the same. Referring to the decision of the Supreme Court in *Pimpri Chinchwad New Township Development Authority vs. Vishnudev Cooperating Housing Society and Others*, (2018) 8 SCC 215 it was submitted that merely on the basis of such internal communications, no cause of action accrued in favour of PPCL to challenge the same. If at all any action was taken against PPCL, it could challenge the same in accordance with law. It was thus submitted that the writ petition was liable to be dismissed.

5] Having heard the learned counsel for the parties and having perused the documents on record, in our view, the challenge as raised by PPCL to the communications dated 31/01/2024, 10/10/2024 and 28/01/2025 is not required to be adjudicated on merits for the reason that these communications are in the nature of inter-departmental exchange of views. On the basis of these internal communications, presently no adverse action has been initiated or taken against PPCL. This would be clear from the perusal of the impugned communications.

As regards the communication dated 31/01/2024, it has been stated therein that on 07/11/2023 information had been sought by the Revenue and Forest Department from the Office of the Collector as regards various factual aspects with regard to land bearing Survey No.995. The said communication merely furnishes requisite factual information to the Revenue and Forest Department and proposes action against PPCL for breach of terms and conditions of the grant of land. No further action has been taken against PPCL with the issuance of this communication which PPCL claims to have received under the provisions of the Right to Information Act, 2005 - the Act of 2005, for short.

As regards the communication dated 10/10/2024, the Revenue and Forest Department has directed steps to be taken with regard to grant of new survey number to Plot Nos. 1/3, 4, 995, 1000, 1005 and 1006. It further states that permission for re-development of lands bearing Survey Nos. 995, 1005, 1006 under the provisions of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 had been granted. Again, this communication is neither addressed to PPCL nor does it take any action against it.

The communication dated 28/01/2025 has been issued by the

Superintendent of Land Records in the context of the communication dated 23/01/2025 issued by the Revenue and Forest Department to the Office of the Collector. PPCL has obtained the same under the provisions of the Act of 2005. This communication also proposes steps to be taken in the matter of allotting the separate survey numbers 1/3, 4, 995, 1000, 1005 and 1006.

6] It is thus clear on perusal of the impugned communications that they are merely communications between the State Authorities. On the basis of these communications, we do not find that PPCL has any cause to be aggrieved as presently no action on that basis has been taken. Reference can be made to the observations in paragraphs 35 and 36 of the judgment of the Supreme Court in *Pimpri Chinchwad New Township Development Authorities* (supra) relied upon by the learned Special Counsel for the respondents. The same read as under:-

“35. The question is whether the order dated 10-6-2004 passed by the then Revenue Minister directing release of the acquired land in question has the attributes of an order within the meaning of Section 48 of the Act or, in other words, whether the order in question created any right in favour of the landowners so as to enable them to claim mandamus for enforcement of such order against the State.”

“36 Our answer to the question is “no”. It is for the reasons that: first, a mere noting in the official files of the Government while dealing with any matter pertaining to any person is essentially an internal matter of the Government and carries with it no legal sanctity; second, once the decision on such issue is taken and approved by the competent authority empowered by the Government in that behalf, it is required to be communicated to the person concerned by the State Government. In other words, so long as the decision based on such internal deliberation is not approved and communicated by the competent authority as per the procedure prescribed in that behalf to the person concerned, such noting does not create any right in favour of the person concerned nor it partake the nature of any legal order so as to enable the person concerned to claim any benefit of any such internal deliberation. Such noting(s) or/and deliberation(s) are always capable of being changed or/and amended or/and withdrawn by the competent authority.”

Since we find that the impugned communications presently do not give any cause of action to PPCL to assail the same, it is not necessary to go into the aspect of “constructive *res judicata*” as sought to be urged on behalf of PPCL. For this reason it is not necessary to enter into consideration of submissions made on behalf of PPCL on merits.

7] For the aforesaid reasons, we do not find that there is any cause of action for PPCL to challenge the internal communications exchanged between the respondents *inter se*, dated 31/01/2024, 10/10/2024 and 28/01/2025. If any adverse action against PPCL is proposed on that basis by issuing it any notice, it would be open for PPCL to defend such action/challenge the same in accordance with law. For sake of clarity, we may refer to paragraph 85 of the decision of the Supreme Court in *Subodh Kumar Singh Rathour Vs. Chief Executive Officer*, AIR 2024 SC 3784 which reads thus:-

“85. We are of the considered opinion that once a decision has been officially made through proper means and channel, any internal deliberations or file notings that formed a part of that decision-making process can certainly be looked into by the Court for the purposes of judicial review in order to satisfy itself of the impeccability of the said decision.”

Thus, all contentions based on the impugned communications can be raised for consideration at the appropriate stage in accordance with law. By clarifying that this Court has not examined the challenge as raised by PPCL on merits and by keeping all the issues open, the writ petition is disposed of as filed prematurely.

8] The Interim Applications preferred by the applicants seeking intervention are also not entertained for the aforesaid reasons. Interim Application (L) Nos. 10768 of 2025 and 10648 of 2025 are not on board. They are taken on board. All Interim Applications are also disposed of.

9] At this stage, the learned counsel for the petitioner prays that the parties be directed to maintain status quo until further orders. This request is opposed by the learned counsel for the respondents. Considering the reasons assigned for not entertaining the writ petition, this request cannot be accepted.

(M. M. SATHAYE, J.)

(A. S. CHANDURKAR, J.)