



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4457 OF 2016

WITH
CIVIL APPLICATION NO. 2844 OF 2026
IN WP/4457/2016

VISHWAKARMA VIKAS MANDAL THROUGH ITS
PRESIDENT SUBHASH SANTOBA PANCHAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Shri M.R. Andhale, Advocate for the Petitioner.
Smt. Jaishri P. Reddy, AGP for the Respondents/ State.
Ms. Rani Bharuka Bora h/f Shri Bora Satyajit S., advocate for
respondent No.4.

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CORAM : KISHORE C. SANT
&
SUSHIL M. GHODESWAR, JJ.

DATE : 09 March 2026

P. C. :-

1. Heard the learned advocates for the respective parties.

2. The petitioner is aggrieved by notice dated 21.11.2015. It is stated in the notice that 10% open land from Survey No.628 was given to the petitioner for construction of cultural hall on 27.03.2008 subject to certain conditions

including obtaining approval from the Municipal Corporation and if no sanction/ approval is received, possession letter would be cancelled. When the land was allotted, the present Municipal Corporation was the Municipal Council. In 2011, same was converted into the Municipal Corporation. It is after that the said notice was given. The petitioner had replied the said notice on 05.01.2016 stating that already the proposal is sent for permission to construct, however, same is not yet considered by the Commissioner. Therefore, no construction activity was started.

3. The learned advocate Shri Andhale appearing for the petitioner vehemently argued that the impugned notice dated 21.11.2015 deserves to be quashed and set aside and no action needs to be taken against the petitioner. Allotment cannot be cancelled merely because there is no construction carried out. It was necessary for the Municipal Corporation to first issue notice and to make an enquiry as to why construction permission is not yet granted. He thus, prays for quashing of the impugned notice.

4. The learned advocate Ms. Bharuka-Bora appearing for the respondent Municipal Corporation vehemently opposed

the petition. She submits that it is only a notice. This notice is under Section 81-B of the Maharashtra Municipal Corporation Act. There is appeal provided under Section 81-F of the said Act to the District Court. Since there is alternative remedy provided, this petition is not maintainable.

5. Ms. Bharuka-Bora further submits that allotment of land was on certain conditions. Since the petitioner has not fulfilled those conditions, the Municipal Corporation has rightly initiated the action. She, therefore, submits that no interference is called for in the present petition and it be dismissed.

6. The learned AGP has fairly stated that appropriate orders be passed.

7. This Court has perused the impugned notice. The wording shows that the petitioner has failed to carry out construction. Since the petitioner has not complied with conditions, it was asked as to why allotment should not be cancelled. This Court finds that Section 81-B requires that prior to issuance of notice, the Commissioner has to hear the concerned person and to determine possession is unauthorized. In the present case, wording of notice shows that only action under

Section 81-B is contemplated subject to non satisfaction of the Commissioner.

8. In view of above factual aspects, this Court finds that the petition is premature. The petitioner has already submitted representation on 05.01.2016 to the Commissioner. It is for the Commissioner to consider the said representation and thereafter, to take action as per law. If any decision is taken by the Commissioner, same be communicated to the petitioner within two weeks from the date of such decision. The Writ Petition is, accordingly, disposed of.

9. In view of disposal of the Writ Petition, nothing survives in the Civil Application and same is also disposed of.

kps

(SUSHIL M. GHODESWAR, J.)

(KISHORE C. SANT, J.)