

महाराष्ट्र राज्य मानवी हक्क आयोग



**Maharashtra State Human Rights Commission
(MSHRC)
Mumbai**

Allotted to Court No. : 1/ 2/ 3
DOCKET SHEET

SVO MOTU CASE NO. 3871/13/30/2022

News item appeared in Marathi Newspaper (Samna) on 3rd October, 2022

“बदलापुरात बेकायदा दुमजली गाळ्यांचा 'पूर'” Thane.

Case to :- Hon'ble, Justice K.K. Tated, (Retd.).

Date of allotment :- 04.10.2022

SUMMARY

REGISTRAR

६ ठाणे-रायगड

सोमवार, दि. ३ ऑक्टोबर २०२२

पनवेल : शिवसेनेच्या दसरा मेळाव्यासाठी बांडवकरून शिवसैनिकांनी काढलेल्या निष्ठा यात्रेचे आज पनवेलमध्ये भव्य स्वागत करण्यात आले. या यात्रेचे स्वागत शिवसेना पनवेल शहरप्रमुख प्रवीण जाधव यांच्या नेतृत्वाखाली करण्यात आले. यात्रेत माजी तालुका प्रमुख उल्हास गिरम यांच्यासह शंभरहून अधिक शिवसैनिक उपस्थित होते. या प्रसंगी युवासेना विधानसभा अधिकारी पराग मोहिते, उपशहर प्रमुख सनी टेमघरे, विभागप्रमुख नंदू प्रत, उपविभागप्रमुख अमोल गोवारी, अल्फ्रेड जाधव, वाहतूक सेनेचे नितीन कसाबे, उपशहर अधिकारी साईमुरज पवार, संकेत बुटाला, राकेश टेमघरे, अमर पटवर्धन, ज्येष्ठ शिवसैनिक अरुण ठाकूर आदी उपस्थित होते.

सीमित

३२ अनधिकृत दुकानांच्या नावावर गोरखधंदा

बदलापुरात बेकायदा दुमजली गाळ्यांचा 'पूर'

मिंधे गटासह भाजप पदाधिकाऱ्याचा कारनामा

बदलापूर, दि. २ (सा.वा.)- बदलापूरच्या बाजारपेठेत रेल्वे स्थानकाबाहेर तब्बल ३२ दुमजली बेकायदा गाळे महिनाभरात बांधण्यात आले. एकीकडे आपल्या गटात सामील न होणाऱ्या निष्ठावंतांची 'मिंधे' गटाकडून छळवणूक सुरू असताना बदलापुरातील 'मिंधे' गटासह भाजपच्या बड्या पदाधिकाऱ्याच्या आशीर्वादानेच हे बेकायदा गाळे उभारल्याची चर्चा पालिका वर्तुळात सुरू आहे. इतक्या मोठ्या पद्धतीने भर बाजारपेठेत अनधिकृत बांधकाम होऊनही पालिका प्रशासनाने कोणतीही कारवाई न करता केवळ नोटीस देण्याचे सोपस्कार पूर्ण केल्याने बदलापूरमध्ये आता बेकायदा गाळांच्या गोरखधंद्याचा 'पूर' आला आहे.

बदलापूर परिषदेला रेल्वे स्थानकाबाहेर असलेल्या स्कायवॉकला लागून महिनाभरात ३२ दुमजली गाळे उभारण्यात आले. रेल्वेने बदलापुरात होम फ्लॅटफॉर्म उभारणीसाठी जागेची मागणी केल्यानंतर नगर परिषदेने स्थानकालगत असलेले गाळे तोडून ही जागा उपलब्ध करून दिली होती. मात्र आता बदलापूर नगरपालिकेची

कोणतीही परवानगी न घेता याच ठिकाणी दुमजली गाळे बांधण्याचे काम सुरू आहे. बहुतांश गाळांचे बांधकाम पूर्ण झाले असून काही गाळांचे प्लास्टर व रंगरंगोटीचे काम अंतिम टप्प्यात आहे. भरबाजारपेठेत मोठ्या प्रमाणात सुरू असलेल्या या बेकायदा गाळांना बदलापुरातील मिंधे गटाच्या एका बड्या नेत्याचा



राष्ट्रवादीचा आंदोलनाचा इशारा

दिवसाढवळ्या अनधिकृतरीत्या थाटलेल्या या गाळांवर कारवाई करण्याची मागणी राष्ट्रवादी काँग्रेसचे शहराध्यक्ष आशीष दामले यांनी कुळगाव-बदलापूर नगर परिषदेचे मुख्याधिकारी योगेश गोडसे यांच्याकडे केली आहे. बांधकामांवर त्वरित कारवाई न केल्यास आंदोलनाचा इशाराही दामले यांनी निवेदनाद्वारे दिला आहे.

बांधकाम अनधिकृतच

नगर परिषदेची कोणतीही परवानगी न घेता हे बांधकाम करण्यात आले असून ते अनधिकृतच आहे. याबाबत संबंधितांना नोटीस बजावल्या असून नोटीसीचा कालावधी पूर्ण होताच अनधिकृत गाळे जमिनदोस्त केले जातील, असे मुख्याधिकारी योगेश गोडसे यांनी सांगितले.

तसेच भाजपमधील वरिष्ठ नेतेमंडळींचा आशीर्वाद असल्यानेच त्यावर कोणतीही कारवाई होत नसल्याच्या चर्चांना उधाण आले आहे. ठाण्यात महिला आघाडीच्या पदाधिकाऱ्यांची झुणका-भाकर केंद्रे सोल केली जात असतानाच बदलापुरात मात्र मिंधे गटाने भाजपच्या साथीने बेकायदा इमले रचल्याने आता प्रशासन याबाबत काय कारवाई करणार, असा प्रश्न उपस्थित करण्यात येत आहे.



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Maharaj Terminus, Mumbai – 400 001

Tel : 22092857 Email:- court1-mshrc@mah.gov.in

DIVISION BENCH

KKT/Suo Moto Case No.– 3871/13/30/2022

Name of Respondent : The Addl. Chief Secretary
(Panchayat Raj & Rural Development)
Mantralaya, Mumbai

The Chief Officer
Kulgaon Badlapur Nagar Parishad
Badlapur, Thane

Name of the Intervener : Bajarpeth Vyapari Jansevak Mitra Mandal
Near Old Bangdi Galli, Bajarpeth,
Kulgaon, Badlapur (East)
Tal. Ambernath, Dist. Thane

Date : 16th November 2022

Coram : Justice K.K. Tated, Chairperson
M.A.Sayeed, Member

PROCEEDING

(Per: Justice K.K. Tated, Hon'ble Chairperson)

Mr. Karan Bhosale, Advocate for Intervener is present.

2. Advocate Mr. Bhosale submits that as per order dated 14.11.2022 copy of application is already served in the office of Addl Chief Secretary and Chief Officer, Kulgaon Badlapur Nagar Parishad. As no one appeared on behalf of them when the matter was called out.

3. Considering these facts the following order is passed:

- a) Intervener is directed to inform the Chief Executive Officer Shri. Pramod D. Kale, Zilla Parishad, Thane and Chief Officer Mr. Yogesh Godse, Kulgaon Badlapur Nagar

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Parishad in writing that the matter is kept for hearing tomorrow i.e. 17.11.2022 and they have to remain present.

- b) Notice to be given today before 5.00 p.m.
- c) **Matter to appear on board before Court No.1 on 17th November 2022 at 11.00 a.m.**


(M.A. Sayeed)
Member


(Justice K. K. Tated)
Chairperson



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION
9, Hajarimal Somani Marg, Chhatrapati Shivaji Maharaj Terminus (V.T.), Mumbai 400 001
Tel- 22050791, Email- court1-mshrc@mah.gov.in

Division Bench

Suo Motu Case No. – 3871/13/30/2022 | 3623

Name of Respondent : Additional Chief Secretary
(Panchayat Raj & Rural Development)
Mantralaya, Mumbai

Chief Officer,
Kulgaon Badlapur Nagar Parishad
Badlapur, Thane

Name of the Intervener : Bajarpeth Vyapari Jansevak Mitra Mandal
Near Old Bangdi
Bagarpeth, Kulgaon, Badlapur (E)

Date : 30th November, 2022

Coram : Justice K.K. Tated, Chairperson
Shri M. A. Sayeed, Member

ORDER

(Per Hon'ble Member Shri M. A. Sayeed)

PI Shri Ankush Mhaske, Badlapur West Police Station, Shri Vishal Sawant, Rachna Assistant, Kulgaon Badlapur Nagar Parishad, Smt. Samina Shaikh, Asst. Block Development Officer, Gram Panchayat Division, Shri S. G. Rathod, Officer, Zilla Parishad, Thane present.

2. The present suo motu matter came to be initiated on the strength of news reporting in Marathi newspaper '6 Thane – Raigad' dated 03.10.2022 reporting about the alleged lapse on the part of the Badlapur Municipal Council in initiating demolishing steps against illegal shops numbering 32. Notices to the supervisory authorities of stakeholder departments were

issued, pursuant to which reports came to be submitted on record vide Ex. 'A' filed by Shri Kale, Dy. Chief Engineer, Zilla Parishad, Thane dated 25.11.2022. During the course of enquiry and after having heard Dy. Executive Officer Shri Kale, following direction came to be passed by us on 28.10.2022:

"Chief Executive Officer, Shri Pramod B Kale, Zilla Parishad, Thane & Chief Officer, Shri Yogesh Godse, Present.

2. Mr Yoghesh Borse, Chief Officer, Badlapur Nagar Parishad, Badlapur submits that the unauthorized construction involved in the present matter comes under his jurisdiction. He submits that some occupants already filed Writ Petition in High Court for compensation. He submits that the unauthorized construction carried out by occupants in this year. He submits that they already issued notices to the occupants and also given them personal hearing & passed final order rejecting their stand. He submits that they already approached Dy. Commissioner of Police, Zone-4 Ulhasnagar for providing police protection. He submits that as soon as they get police protection, they will take appropriate steps immediately. He further submits that their advocate Mr Adsule is required some time to file the reply. Shri Pramod B Kale, Dy. Chief Executive Officer, village Panchayat, Zilla Parishad, Thane filed their affidavit dated 28.10.2022. Same is taken on record & marked as Ex. 'A'. He submits that they are not concerned with this construction involved in the present matter. This fact also confirmed by Chief Executive Officer, Mr Borse of Badlapur Nagar Parishad. In view of above mentioned facts following order is passed.

a. Office is directed to issue summons to the Commissioner of Police, Thane calling upon him to file his affidavit when he can provide police protection to the Chief Officer, Badlapur Nagar Palika for taking appropriate steps in respect of unauthorized construction as per news appeared in Marathi News paper Samna dated 03.10.2022. Reply to be file on or before 30.11.2022.

b. Chief Officer, Badlapur Nagar Palika to file their detail reply along with copies of Writ Petition if any filed by occupant on or before 30.11.22. C. Chief Officer is directed to informed personally to the Commissioner of Police, Thane & explain him the entire matter so that he can file his reply in time & also to provide papers to him.

d. It is not necessary to call Chief Executive Officer, Village Panchayat, in Zilla Parishad, Thane to remain present matter till further orders. Matter to be appear on board on 30.11.2022."

3. Pending enquiry, an interveners application on behalf of affected shop owners came to be moved by Adv. Bhosale which came to be urgently taken up on 14.11.2022 and inquiry was pre-poned to an early date – 17.11.2022, however, on this date, on the request of Adv. Bhosale for the intervener and again on this date matter came to be taken up on the next succeeding date – 18.11.2022. Detail affidavits alongwith documents and copy of the order of High Court in Writ Petition came to be placed on record by Chief Officer Shir Yogesh Godse, Kulgaon Badlapur Municipal Council, Badlapur. Directions passed on these two dates are relevant for our purpose and reproduced in verbatim as under:

"14.11.2022:

Not on board. Taken on board.

2. At the request of Advocate Roshan Hule mentioned this matter for urgent orders. He submits that applicant filed application for intervention and to recall order dated 06.10.2022. He submits that the said order is affecting their rights. He submits that Kulgaon Badlapur Nagar Parishad demolishing their structures on or before 18.11.2022. Hence, there is urgency. Therefore, following order is passed:

- a) Applicant is directed to serve by hand delivery the entire application (page 1 to 62) on the Addl. Chief Secretary (Panchayat Raj and Rural Development), Mantralaya, Mumbai and Chief Officer, Kulgaon Badlapur Nagar Parishad, Badlapur, Thane on or before 2.00 p.m. 15.11.2022 and file affidavit of service."
- b) Matter to appear on board before Court no. 1 on 16th November, 2022 at 11.00 a.m. subject o service on other side within time."

"17.11.2022
PROCEEDING

(Per: Shri. M.A. Sayed, Hon'ble Member)



(3)

2 Ld. Advocate Mr. K. Bhosale on behalf of the interveners is present and Chief Officer Shri. Yogesh Godse, Kulgaon Badlapur Municipal Council is present.

3. Heard the parties at length.

4. The controversy seems to be having checkered history. According to Shri. Godse the alleged structures in question were demolished in 2016 itself since the area was required for road widening and some part of it was required by the railway department for extension of Badlapur platform. According to him an affidavit to that effect was already filed before High Court of Judicature at Bombay in Writ Petition No. 9561/2017, 7558/2017 and 7349 of 2017. Admittedly in these petitions three owners of the tenements / structures Smt. Laxmi Narayan Banjan, Shri. Vishwanath G Shinde and Shri. Jagdish Gajanan Shinde succeeded in establishing their title and possession over the open parcel of land by submitting their documents of title, sale deed etc and therefore, the concerned Municipal Council and the Railway Department were directed to pay compensation and the compensation is not yet paid as the proceeding is still subjudice before the land acquisition officer, Ulhasnagar. A very assertive statement is made by Mr. Yogesh that the entire alleged illegal structure were demolished in the year 2016 itself as mentioned above and the affidavit to that effect is submitted before High Court. He has undertaken to submit the copy of the affidavit, by tomorrow. Further Ld. Advocate Mr. Bhosale have moved the application on behalf of as many as 18 owners and Chief Officer Mr. Godse has made a submission at bar that all these owners were issued with notices in accordance with law, were called upon to submit legal documents in support of their respective claim and after due consideration their representation were rejected by him vide order dated 18.10.2022. In fact he also initiated the steps for demolition with the police aid, which he could not get because of Diwali vacation and inability of the police officials. It is submitted that pursuant to the directions passed by the Commission on previous date, he has personally approached the Commissioner of Police and apprised him of the present matter and the directions issued by us and could get the police protection, for today and tomorrow.

5 Considering the urgency expressed by the Ld. Advocate Mr. Bhosale we are adjourning the matter till tomorrow and call upon the Chief Officer Godse to submit his affidavit along with the copies of the affidavit filed in High Court in the writ mentioned above as well as the relevant record of the interveners before us and share the copies in advance.

6. Matter to appear on board before Court No.1 on 18th November 2022 at 11.00 a.m."

Accordingly, today an affidavit dated 29.11.2022 duly affirmed by CEO Yogesh Godse affirming in para 5 as under:

"5. I say that, I have attended hearing on 16/11/2022 before this Hon'ble Court. I further say that, we have carried out demolition work on 18/11/2022 with the help of police staff and entire illegal and unauthorized shops, galas, structures, are demolished. Since, the action has been taken by the Kulgaon-badlapur Nagar Parishad and entire illegal and unauthorized shops, galas, structures are demolished, therefore, nothing survives in the present Petition/ Suo Motu Cas No. 3871/13/30/2022, and hence, I pray that, the present petition Suo Motu Case/ Petition be disposed of as dismissed. Photo copies and news published in the local newspapers, of the above mentioned demolished shops, galas, structures are hereto annexed and marked as Exhibit "A"."

4. Thus bare reading of the above affirmed statement indicates that the issue raised in the news reporting came to be rectified by carrying out the demolition operation under police protection by the civic authority thereby resolving the subject matter for good.

5. In such backdrop, the plea and the prayer moved on behalf of the interveners - affected shop owners represented through Adv. Bhosale does not survive for consideration as having become infructuous in view of the concrete action taken by the Municipal Council. Be that as it may, these intervenors have liberty of exhausting remedy of redressing their grievances by approaching appropriate forum provided under the law.

Accordingly nothing survives in the present suo motu matter for further enquiry or intervention, hence closed and disposed off.

M. A. Sayeed
(M. A. Sayeed)
Member

30/11/22

K.K. Tated
(Justice K.K.Tated)
Chairperson

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