

T/S

महाराष्ट्र राज्य मानवी हक्क आयोग



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

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

DOCKET SHEET

SVO MOTU CASE NO: 5053/13/16/2022

News item appeared in Marathi News Paper "Mid Day"

On 14.12.2022, in respect of 'Bar, eateries thriving on illegal structures in
Nahur along GMLR?

SUMMARY

INWARD 11669/CR/2022
RECEIVED DT 15/12/2022
CITY
REGULAR
B. S. S.

Bar, eateries thriving on illegal structures in Nahur along GMLR?

EXCLUSIVE » Activist says several shops have illegally added a floor claiming that they were affected by road widening, accuses BMC of inaction despite an order about 8 months ago

ANURAG KAMBLE
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ABOUT 50 commercial establishments along the Goregaon-Mulund Link Road have illegally added additional floors under the pretext of being affected by road-widening work, an activist has alleged. The shops now include an illegal pub and food outlets that are unsafe and overcrowded during weekends, he said. The BMC had ordered action against 27 of these units in Nahur in April but nothing has been done yet, said activist Gajendra Pipada.

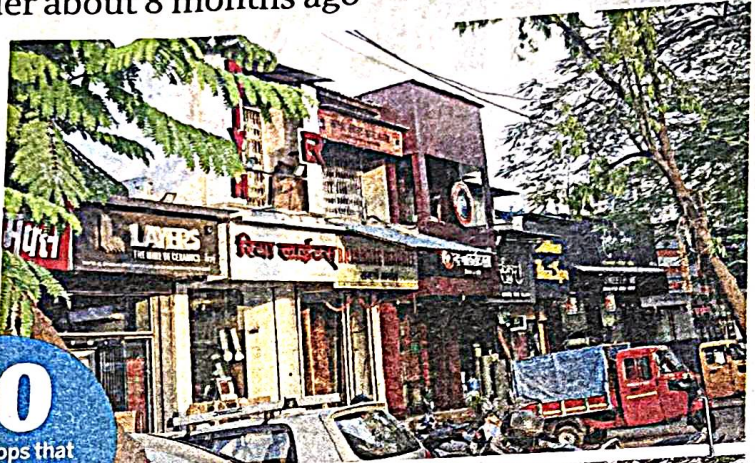
The activist said the Goregaon-Mulund Link Road (GMLR) was widened in 2020, affecting 111 shops in T-ward. Eleven shops were allowed to construct an additional floor as per the Kurar Pattern—under this arrangement, a shop that loses 50 per cent or more area during road widening can build another floor. Several commercial establishments on Shankar Rao Naram Path in Lower Parel and stalls on Bandra's Linking Road have been allowed benefits under the Kurar Pattern.

However, many shops along the GMLR that lost little area took advantage of the Kurar Pattern to illegally add one more floor, said the activist.

"I had asked for information under RTI about the shops and whether they had the permission to construct more floors under the Kurar Pattern. After getting the information, when I checked on the ground, I found that most of the shops that do not have permission had indulged in illegal construction," said Pipada, who lives in Mulund. "Many of these shops run eateries and a banquet hall that house hundreds of citizens at a time and the number multiplies on weekends."

Citing RTI data, Pipada said shop numbers 30, 36 and 46 to 51 were not

50
No. of shops that have allegedly violated rules



Shops that have allegedly illegally added one more floor, at Nahur along the GMLR. PICS/RAJESH GUPTA

given permission to construct any additional structures as they were not entitled to the benefit under the Kurar Pattern. Joints like MRP pub, Food Studio, Rajashri Marble and Sweet Home and Festa Banquets are operating from these illegal structures, said Pipada.

mid-day reached out to these establishments for their version but none responded.

A source from T-ward, which covers Mulund area, said authorities had called for action through what is called a "speaking order" in BMC lingo in April. "The orders were issued to the shops claiming the construction was illegal and needed to be taken down but nothing has happened after that," said the source. "After this, transfers happened in the BMC and new officials have arrived, who are yet to take any action," he added.

For two weeks, ward officials did not respond to mid-day's queries over

"The matter is very serious. I will instruct the officials concerned to look into it and take appropriate action. Also, we will inquire why action wasn't taken earlier despite clear orders from our own office"

Chakrapani Alle, assistant municipal commissioner, T-ward

the status of the action on the illegal structures.

Chakrapani Alle, assistant municipal commissioner of T-ward said, "The matter is very serious. I will instruct the officials concerned to look into it and take appropriate action. Also, we will inquire why action wasn't taken earlier despite clear orders from our own office."

Alle said, "Also, I will ask the health officer to inspect the food outlets that are operating. Necessary action will be taken against the violators."



mid-day sought versions from many shops over the alleged illegalities but none responded

RASHTRA STATE HUMAN RIGHTS COMMISSION

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

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

T/Suo Moto Case No. – /13/ /2022

Respondent : 1 The Addl. Chief Secretary
Home Department,
Mantralaya, Mumbai

2. The Municipal Commissioner
Municipal Corporation of Greater Mumbai
Mumbai

: 14th December 2022

: Justice K.K. Tated, Chairperson

PROCEEDING

Not on board. Taken on board.

We noticed article appeared in English News Paper Mid Day dated 14.12.2022 with heading "Bar eateries thriving on illegal structures in Nahur along GMLR?; Activities says several shops have illegally added a floor claiming that they were affected by road widening, accuses BMC of inaction despite an order about 8 months ago."

3. Bare reading of the article ^{appeared} prepared in Mid Day dated 14.12.2022 shows that Corporation failed and neglected to take action against unauthorized construction. It is stated in the said article that more than 50 shops have allegedly violated Rules and Regulations and carried out unauthorized construction. It is also stated in the said article that Mr. Chakrapani Alle, Assistant Municipal Commissioner, T- Ward admitted that the issue is very serious and he will instruct the officers to take action immediately.

4. It is to be noted that any time problem of Law can be occurred in the said area because of unauthorised construction.

5. Considering these facts the following order is passed
a) Office is directed to issue summons to the Addl. Secretary, Home Department, Mantralaya, Municipal Commissioner, Municipal Corporation Greater Mumbai, Mumbai directing them to file affidavit reply after holding inquiry in detail on or before 22.12.2022.

b) Matter to appear on board before Division Bench Justice K.K. Tated, Chairperson and Shri. Sayeed, Member in Court No.1 on 22nd Dec 2022 at 11.00 a.m.


(Justice K. K. Tated)
Chairperson



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
Suo Motu Case No.- 5053/13/16/2022 / 4195

Name of Respondent

: Additional Chief Secretary
Home Department,
Mantralaya, Mumbai

Municipal Commissioner
Municipal Corporation of Greater
Mumbai, Mumbai

Commissioner of Police,
Mumbai

Date

: 04th August, 2023

Coram

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

ORDER

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

The present suo motu complaint initiated on the basis of news appeared in English news paper dated 14.12.2022 with heading "Bar eateries thriving on illegal structures in Nahur along GMLR ?; Activities says several shops have illegally added a floor claiming that they were affected by road widening, accuses BMC of inaction despite an order about 8 months ago."

2. After issuing summons, respondent Corporation filed affidavit in reply from time to time. Advocate Dubey-

Intervener filed application. Today, advocate for corporation filed additional affidavit dated 04.08.2023. Same is taken on record and marked Ex. 'I'

3. Advocate for Corporation pointed out that some occupants have approached Civil Court and Civil Court granted stay. She further submits that they already demolished unauthorized construed in which stay was not granted in Civil Court. In support of her contention, she relies on para 3 & 4 which reads thus:

"3. I say that with reference to above subject, and reference and earlier report of this office, this office is thankful of the Hon'ble State Human Rights Commission for the time granted for pursuing the said demolition. It is to mention that barring the shops of which matter is pending in the court, this office has demolished the 13 structures out of the 22, one structure is being removed by the party, 2 structures are pending to be demolished and for remaining 6 notice structures the notice has approached Hon'ble City Civil Court and matter is subjudiced in the court. This office regrets the delay caused for taking the action, but the said delay has been caused due to discharging day to day duties of the office, and also since the demolition of these structures were tedious and had to be carried out taking precaution in order to protect the adjoining structures, the speed of demolition was regrettably slow. And as there are notably high number of C-1 category buildings in T ward (currently 19) and a number of buildings which are old and more than 30 years of age, this office had to take cognizance of the same and take necessary steps in order to prevent any untoward incident happening during the monsoon season. It is also to be noted that in such matters of dilapidated and unauthorized constructions, most of the concerned parties gets aggrieved by the notices issued and pull

the corporation in court for seeking reliefs. Accordingly, this parties gets aggrieved by the notices issued and pull the corporation in court for seeking reliefs. Accordingly, this office staff is ought to remain present in court for assisting the concerned law officer in the case from time to time, thereby consuming a lot of time.

4. Also considering the ongoing rainy season, a circular has been issued restricting the demolition action during the monsoon period, issued by the planning department of Brihanmumbai Municipal Corporation u/n. Director/planning/OD/dtd. 28.06.2023 (copy attached) directing not to pursue the demolition of unauthorized structures on govt, semi govt and private lands from 1 June to 30 September. Due to which this office could not persue the demolition of the 02 Nos. of pending shops. I Say that this office assures that strict vigil would be kept at the said locations and would demolish the pending notice structures immediately after the end of ongoing monsoon and simultaneously make an endeavor to vacate the pending court matters as soon as possible so as to take necessary demolition action. The list of the subjected shops with respective remarks (i.e. demolished/pending in court/pending to be demolished/removed by party) and the photographs of demolition attached herewith as an Annexure I."

4. Advocate for corporation further submits that as per circular dated 28.06.2023, issued by the Planning Department of MCGM, it is not possible for them to demolish remaining some unauthorized construction because of rainy season but decided to demolish after rainy season. Statement is accepted.

5. In view of the above statements, nothing survives in the matter for consideration. Hence following order:

✓

"ORDER"

- a) The present suo motu and intervention application stands disposed off in view of statement made by Gajanan Tukaram Dhotre, Asst. Engineer, Building & Factory, "T", Ward, MCGM in affidavit dated 04.08.2023


(M.A. Sayeed)
Member


(Justice K. K. Tated)
Chairperson