



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 1st OF MAY, 2025

WRIT PETITION No. 6351 of 2025

***JUPITER HOSPITAL PROJECTS PRIVATE LIMITED
REPRESENTED THROUGH ITS DIRECTOR DR. RAJESH
KASLIWAL***

Versus

INDORE MUNICIPAL CORPORATION AND OTHERS

Appearance:

*Shri Vishal Baheti- Senior Advocate with Shri Vikram
Malviya- Advocate for the petitioner.*

Shri Aniket Naik- Advocate for the respondents.

ORDER

Heard.

2] This petition has been filed by the petitioner Jupiter Hospital Projects Private Limited, under Article 226 of the Constitution of India, seeking the following reliefs:-

- “(i) to allow the present Writ Petition.
- (ii) to issue the writ of mandamus to the Respondents and direct them to open the online portal so that Petitioner can submit his application for building permission.
- (iii) to issue the writ of mandamus to Respondents and direct them to allow the Petitioner to make an application for building permission and grant the building permission to the Petitioner in accordance to the law.
- (iv) Any other orders or directions as deemed fit by this Hon’ble in the favour of the Petitioner and against the Respondents in the facts and circumstances of the case.”

3] The petitioner’s grievance is that its application for building permission has not been processed by the Municipal Corporation, Indore in the absence of property tax NOC, as admittedly, a litigation



is already going on between the petitioner and the respondent before the Appeal Committee, constituted under Section 403 of the Municipal Corporation Act, 1956 (hereinafter referred to as 'the Act of 1956'), wherein a demand of Rs.1,13,04,660/- has been challenged by the petitioner.

4] In brief, the facts of the case are that the petitioner is a Multispecialty hospital, and has its building at Scheme No.94, Sector-I, Ring Road, Indore. The case of the petitioner is that in the ledger issued by the Municipal Corporation dated 10.02.2023, the property tax was shown as 'nil', however, in an amended ledger dated 25.03.2023, the tax liability is shown to be Rs.1,01,61,371/- due to levy of additional property tax on open land. The petitioner has already deposited Rs.43 lakhs under protest and the remaining amount has been challenged in an appeal, and the matter is pending before the Appeal Committee as aforesaid. The petitioner's grievance is that they wanted to expand the hospital building to provide additional amenities to the patients, however, the application for building construction has not been accepted, as the portal of the Municipal Corporation does not allow them to file the application on account of pendency of the tax dues.

5] Shri Vishal Baheti, learned senior counsel for the petitioner has submitted that earlier also, the petitioner had sought modification of the building, and for which, the permission was granted on 31.05.2024, and at that time also, the same dispute of property tax was pending before the Municipal Commissioner. It is also submitted that the petitioner has already received all the development permission from TNCP, however, only on account of the inaction on the part of the IMC the entire development plan of the hospital has come to a halt.



Thus, it is submitted that the respondents may be directed to open the online portal, so that the petitioner can submit its application for building permission.

6] The prayer is vehemently opposed by Shri Aniket Naik, learned counsel for the respondent Municipal Corporation. A reply to the petition has also been filed and the Municipal Corporation's stand is that against the order of the Municipal Commissioner affirming the property tax, the petitioners appeal before the Appeal Committee, though filed, is not maintainable as they have not deposited the statutory amount of pre-deposit which is 100% of the property tax dues. It is also submitted that so far as the earlier acceptance of the petitioner's building permission on 31.05.2024 is concerned, admittedly, at that time there was some technical glitch in their website *mpe-nagarpalika.gov.in* because of which the pendency of the tax dues was not known to the Municipal Authorities, and thus, the building permission was granted, however, now as the Corporation is also aware of the pending property tax dues, unless the petitioner pays the entire amount as required under law, he cannot be issued a fresh permission for addition and alteration of the existing building.

7] A rejoinder to the reply has also been filed by the petitioner, wherein, the relevant building permissions have also been placed on record, and Shri Baheti, learned senior counsel has also drawn the attention of this Court to Rule 19 of the M.P. Bhoomi Vikas Rules, 2012 (hereinafter referred to as 'the Rules of 2012') which provides that at the time of submission of application for alteration of building, only such plans and statements, as may be necessary shall accompany the application. Thus, it is submitted that the application has been filed as prescribed under the Rules of 2012, and thus, the Municipal



Corporation could not have denied the petitioner to submit the application. Counsel has also relied upon the decision rendered by this Co-ordinate Bench of this Court in the case of ***Entertainment World Developers Ltd., Indore and another Vs. Indore Municipal Corporation and another***, passed in ***W.P. No.1816/2017*** dated ***12.05.2017***.

8] Whereas, Shri Naik, learned counsel for the Municipal Corporation has drawn the attention of this Court to the resolution dated 08.04.2022 (Annexure-R/4) wherein, it is resolved by the Corporation that to obtain the building permission for addition and alteration, it would be necessary to clear all the property tax dues. It is also submitted that the aforesaid resolution is also a form of delegated legislation under Section 50 and 52 of the Act of 1956, and thus, it is submitted that since the aforesaid resolution being binding on the Corporation as also on the petitioner, no illegality has been committed by the respondent.

9] Counsel for the respondent has also drawn the attention of this Court to Section 67(oo) of the Act of 1956 which refers to the matters which may be provided for by the Municipal Corporation at its discretion, which also include the land use and construction of building. Counsel has also drawn the attention of this Court to Section 293-A of the Act of 1956 which provides for the provisions of the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 to apply in respect of control of development and use of land. In support of his submissions, counsel has also relied upon the decisions rendered by the Supreme Court in the case of ***K.C. Ninan Vs. Kerala State Electricity Board and others*** reported as ***(2023) 14 SCC 431***; and in the case of ***Hinsa Virodhak Sangh Vs. Mirzapur Moti Kuresh Jamat***



and others reported as (2008) 5 SCC 33 as also the decision rendered by the Division Bench of this Court in the case of *Shri Krishna Pictures, Indore and others Vs. Administrator, Indore Municipal Corporation and another* reported as 1980 J LJ 530.

10] In rebuttal, counsel for the petitioner has also referred to Section 13(3) of *Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam*, 1973 (hereinafter referred to as ‘the Adhiniyam of 1973’) which is in respect of the application of the said Act in the planning area, wherein it has been provided that the provisions of this *Adhiniyam* of 1973 would override the provisions of the Act of 1956. Thus, it is submitted that for all the practical purposes, the application filed by the petitioner under Rule 19 of the Rules of 2012 ought to have been accepted. Counsel has also referred to Rule 27 of the Rules of 2012, in which the grounds for rejection of building permission do not include the dues of property tax or NOC.

11] Heard counsel for the parties and perused the record.

12] From the record, it is found that the application for building permissions was submitted sought to be filed through e-portal by the petitioner, to carry out the additional construction work, however, on their application, the portal of the Municipal Corporation has shown that the property tax validation is required, as admittedly, against the petitioner, the property tax to the tune of Rs.1,01,61,371/- was raised by the Municipal Corporation, regarding which, an appeal is already filed by the petitioner before the Appeal Committee, Municipal Corporation, Indore which is still pending, and admittedly, the petitioner has not paid the amount of pre-deposit as required under Section 184 of the Act of 1956.



13] It is also found that the application for building permission, though has to be filed through the Municipal Corporation's portal, through *mpe-nagarpalika.gov.in*, however, the provision of application itself is provided under Rule 19 of the Rules of 2012, which reads as under:-

“19. Application for alteration.- When the application is for making an alteration in the existing building, only such plans and statements, as may be necessary, shall accompany the application.”

Whereas, the application has to be submitted in the requisite format as provided under the Appendix A-1 to Rule 14, whereas, it can be rejected as provided under Rule 27 of the Rules of 2012, which reads as under:-

“27. Grant of permission or refusal.- (1) The Authority may either sanction or refuse the plans and specifications or may sanction them with such modifications or directions or conditions as it may deem appropriate and thereupon shall communicate its decisions to the applicant in Appendix-D. One set of Sanctioned Plan (ammonia prints/white print) shall be cloth mounted/laminated which shall be retained in the office of the Authority for record.

(2) xxxxxxxx.”

14] Whereas, under Rule 28 of the Rules of 2012, the limitation period for grant or refusal of permission has also been provided, and as per Rule 29, in case of refusal of permission, reasons are also required to be given, whereas, Rule 31 provides for the responsibilities and duties of the applicant/owner. Rule 31 reads as under:-

“31. Responsibilities and duties of the Applicant/owner.- (1) Neither the granting of the permission nor the approval of drawings and specifications nor inspections made by the Authority during erection of the building shall in any way relieve the applicant and owner of such building from full responsibility for carrying out the work in accordance with the requirements of these rules and the provisions of the applicable Development plan.

(2) Every Applicant or owner shall,-

(a) permit the Authority or person authorized by it or the Building Officer or person duly authorized by him to enter the building



- or premises for which the permit has been granted at any reasonable time for the purpose of ensuring the compliance of these rules;
- (b) submit a document of ownership or right or interest in relation to the site;
 - (c) obtain, where applicable, from the **respective Authorities**, permissions relating to building, zoning, grades, sewers, water-mains, plumbing, signs, blasting, street, occupancy, electricity, highways and all other permissions, required in connection with the proposed work;
 - (d) give notice to the Authority of the intention to start work on the building site in Appendix-E-1;
 - (e) give notice, in writing to the Building Officer to arrange inspection when the work reaches plinth level in Appendix-E-2;
 - (f) give written notice to the Authority regarding completion of work described in the permission in Appendix-E-3; and
 - (g) obtain permission for occupancy in Appendix-E-4 from the Authority prior to any :-
 - (i) occupancy of the building or part thereof after construction or alteration of that building or part thereof, or
 - (ii) change in the class of occupancy of any building or part thereof,
 - (h) upon the request of the owner, the authority will issue occupancy certificate of the building within 30 days from the receipt of such request. If such permission is not issued within 30 days from receipt of the application or suitable instructions for changes have not been issued by the authority within the said period the occupancy permission shall be deemed to have been issued.

(3) In case of applicant or owner failing in fulfilling the responsibilities and duties, the building officer will take action as per the relevant provisions of Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956), Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961) and Madhya Pradesh Pachayati Raj Evam Gram Swaraj Adhiniyam, 1993 (No. 1 of 1994), as the case may be.”

(Emphasis Supplied)

15] Whereas, the word ‘**authority**’ as referred to in Rule 31(2)(e) has been defined under Rule 2(5) of the Rules of 2012, which reads as under;-

“2. Definitions._

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(5) “**Authority having jurisdiction**” (hereinafter referred to in these rules as “Authority”) in relation to development and building activities means,-



- (a) the Director of Town & Country Planning or any other officer authorized by him in this behalf for granting permission for development of land in Planning areas and also in such non-planning areas where these rules are made applicable by notification. The development of land includes,-
- (i) making material change in land including its sub division and change in its use in terms of occupancy:
 - (ii) construction of any type of building.

(b) the Municipal Corporation or Municipal Council or Nagar Parishad, as the case may be, or an officer authorized by or under the relevant Municipal Law or the Gram Panchayat or such other authority or officer so authorized under the Madhya Pradesh Panchayati Raj Evam Gram Swaraj Adhiniyam, 1993 (No. 1 of 1994) for granting permission for construction/alteration, demolition of building in planning area and non-planning area falling within their respective jurisdictions.

Explanation- (1) The expressions "Municipal Corporation" or "Municipal Council" or Nagar Parishad whenever the context so requires shall include the Administrator referred under section 423 of the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956) or "the person or committee of persons" appointed by the State Government under section 328 or section 337 of the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961);

(2) The expressions "Gram Panchayat" whenever the context so requires shall include the "the person or committee of persons" appointed by the State Government or the prescribed authority under clause (b) of sub-section (3) of section 87 of The Madhya Pradesh Panchayati Raj Evam Gram Swaraj Adhiniyam, 1993 (No. 1 of 1994);"

(Emphasis Supplied)

16] It is also found that so far as the Adhiniyam of 1973 is concerned, Section 13 of the same provides for the planning area, and Sub-Section (3) of the same, reads as under:-

“13. Planning area. –

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[(3) Notwithstanding anything contained in the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956), the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961) or the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. I of 1994), the Municipal Corporation, Municipal Council or the Nagar Panchayat or a Panchayat, as the case may be, shall, in relation to the planning areas, from the date of the notification issued under subsection (1), ***cease to exercise the powers, perform the functions and discharge the duties which the State Government***



or the Director is competent to exercise, perform and discharge under this Act.]”

(Emphasis Supplied)

17] Although it is apparent that the Municipal Corporation has no jurisdiction in respect of the planning area, which falls within the jurisdiction of the Director, Town and Country Planning, however, as already noted, Rule 31 of the Rules of 2012 also provides for the responsibilities and duties of the applicant/owner, which provide that the applicant who intends to seek building permission is also required to obtain, whether applicable, from the respective authorities permissions relating to building etc., and only then, the application under the *Adhiniyam* of 1973 can be allowed.

18] In the considered opinion of this Court, there is no contradiction in the provisions of the Rules of 2012, and the *Adhiniyam* of 1973 as also the Act of 1956, and they are required to be read in harmony with each other, and in such circumstances, the authority of the Municipal Corporation to give NOC to the petitioner to obtain building permission from the Town and Country Planning Department cannot be faulted with, especially when the Municipal Corporation has already passed the resolution under Section 50 and 56 of the Act of 1956, and as per Section 67(oo), which relates to the matters which may be provided for by the Municipal Corporation at its discretion, relates to land use and construction of building. For ready reference, the aforesaid provisions are also being reproduced as hereunder:-

“50. Decision on questions by majority of votes.-

Except as otherwise provided by or under this Act all questions brought before any meeting held under this Act shall be decided by majority of the votes of the Mayor and elected councilors present and in the case of an equality of votes the presiding authority of the meeting shall have a second or casting vote: Provided that in the case of equality of votes in the election of the Speaker, or the



Chairman of any Committee, the presiding authority shall not exercise his casting vote, and the result shall be decided by lot.

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52. Proceeding of meeting to be deemed to be good and valid.-

Until the contrary is proved- (i) every meeting of the Corporation or any Committee shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified, when the minutes of the meeting have been signed in accordance with the provisions of this Act; and (ii) where the meeting is a meeting of any Committee, such Committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.”

Whereas Section 293 of the Act of 1956 provides as under:-

“293. Prohibition of Erection or re-erection of buildings.-

(1) No person shall-

- (i) erect or re-erect any building; or
- (ii) commence to erect or re-erect any building; or
- (iii) make any material external alteration to any building; or
- (iv) construct or re-construct any projecting portion of a building which the Chief Executive Officer is empowered by section---
- to require to be set back or is empowered to give permission to construct or reconstruct,-

(a) unless the Chief Executive Officer has either by an order in writing granted permission or has failed to intimate within the prescribed period his refusal of permission for the erection or re-erection of the building or for the construction or re-construction of the projecting part of the building; or

(b) after the expiry of one year from the date of the said permission or such longer period as the Chief Executive Officer may allow or from the end of the prescribed period, as the case may be: Provided that nothing in this section shall apply to any work, addition or alteration which the Municipality may by byelaw declare to be exempt.

(2) If a question arises whether a particular alteration in or addition to an existing building is or is not a material alteration the matter will be determined by the Commissioner.

(3) Any person aggrieved by the order of the Commissioner in this behalf may appeal to the district court within thirty days of such order in the manner prescribed therefore and the decision of the district court shall be final.”

Whereas, under Section 297 of the Act of 1956, the grounds on which the permission to erect or re-erect the building may be refused are provided, reads as under:-



“297. Grounds on which permission to erect or re-erect building may be refused.- (1) The Commissioner shall not grant permission to erect or re-erect any building unless and until he has approved of the site thereof on an application under sub-section 294.

(2) The Commissioner shall not grant permission to erect or re-erect any building.

(a) if the plans and specifications submitted with the application show that such building is not in accordance with a town-planning scheme sanctioned under section 291, or with any provision of this act, or any rule or byelaw made there under, or any provision of any law for the time being in force; or

(a-1) if in his opinion the erection or re-erection of such building would be a nuisance or injurious to the inhabitants of the neighbourhood or to the public, or

(b) unless and until any plans, specifications or particulars called for by him are supplied.”

(Emphasis Supplied)

19] Thus, a perusal of the aforesaid provisions of the *Adhiniyam* of 1973, Rules of 2012, as also the provisions of the Act of 1956 would reveal that it was not beyond the authority of the Municipal Corporation to demand the property tax from the petitioner to give NOC to obtain the permission for building construction, and in such circumstances, this Court sees no illegality in non-acceptance of the petitioner’s application by the Municipal Corporation on account of pending property tax.

20] So far as the decision in the case of *Entertainment World Developers Ltd.(Supra)* is concerned, the same is distinguishable, as in this case, the building permission was granted in the past from time to time, and the Corporation had sought NOC from the Housing Board, and it was held that there was no requirement of the same, as the petitioner had completed all the formalities required under law, whereas, in the present case, the earlier grant of building permission was on account of an error in the website of the Municipal Corporation, and they could not detect the pending property tax dues



against the petitioner, and which error stood removed at the time of subsequent application. In such circumstances, the aforesaid decision is no avail to the petitioner.

21] Accordingly, the petition being devoid of merits, is hereby *dismissed*.

22] However, if the petitioner clears the dues of the property tax as provided under law, or pay the same in the appeal before the Appeal Committee, the Municipal Corporation shall accept the application for building permission without any further delay and process the same expeditiously.

23] With the aforesaid directions, the petition stands *dismissed* and *disposed of*.

(SUBODH ABHYANKAR)
JUDGE