

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

PIL WRIT PETITION NO.904 OF 2005

Ehsanul Haque A. Nadvi

: Petitioner

V/s.

Union of India & Ors.

: Respondents

...

Mr.Akhilesh Upadhyay for the petitioner.

Mr.R. Raghuwanshi, Addl. Solicitor General, with Ms Bharati Mahant for respondent nos.1 & 7.

Mr.Pradeep Jadhav, Asstt. Govt. Pleader for respondent nos.2 & 5.

Mr.G.D.Utangale with Mr.J.G.Aradwad for respondent no.3.

Mr.K.K.Singhvi, Senior Advocate, with Ms Shobha Ajitkumar for respondent no.6.

Mr.Z.A.Jariwala i/b. Thakore Jariwala & Associates for respondent no.8.

...

CORAM : BILAL NAZKI & S.A.BOBDE,JJ.

DATE : FEBRUARY 20, 2008.

P.C.

1. This Writ Petition has been filed primarily for protection of an area known as "Gilbert Hill". According to the petitioner, there is a temple, viz., Gaondevi Durgamata Temple, and Massoomali Dargha which are near to

each other at the top of the hill. The hill was also a tourist place, but a number of multi-storeyed buildings are going to be constructed surrounding the hill by the respondent nos.8 and 9. It is densely populated by slum dwellers. The slum dwellers have occupied a part of the hill, especially the foot of the hill. The relief claimed was that no construction activity should be allowed on the hill and the respondents should be restrained from removing and/or cutting, damaging and/or clearing the stones from Gilber Hill and there should be an injunction restraining the respondents from erecting multi-storeyed buildings without valid permission from the Ministry of Environment and Tourism. It was also claimed that the respondents be directed to provide alternate accommodation for all occupants of the slums constructed prior to January 1995.

2. This case has been pending in this Court for a long time and many affidavits and counter-affidavits have been filed. The situation that emerges now is that the Government of Maharashtra has declared it as a heritage site under the Development Control Regulations, 1991 and as a consequence of this Notification, it is submitted by the learned counsel for the respondents that no building activity would be permissible there. Therefore, the main relief claimed by the petitioner has already been granted.

3. Now whatever has happened before the Notification was issued, that would be a separate question and if the petitioner has any grievance as to what has happened before 2.2.2008 when the Notification was issued, he may take remedies that may be available to him in law. The counsel for the petitioner further submits that he had also prayed that the slum dwellers be given alternate accommodation for the slums constructed prior to January 1995. This also can be agitated by the petitioner before the appropriate forum as this Court would find it difficult to pass any order with respect to slum dwellers in their absence.

4. The Writ Petition is, accordingly, dismissed.

(BILAL NAZKI, J.)

(S.A. BOBDE, J.)

State appoints heritage panel for Mumbai after a delay of one year

Bella Jaisinghani | TNN

Ending a yearlong wait, the state government has finally announced the appointment of a new heritage committee for Mumbai. Former chief secretary V Ranganathan will chair the 10-member panel for a tenure of three years.

The urban development department shared the list of panel members with TOI. The ex-officio members of the Mumbai Heritage Conservation Committee have been retained on the panel that also comprises structural engineers from IIT Mumbai and VJTI. Among them are the director of the Chhatrapati Shivaji Maharaj Vastu Sangrahalaya (Prince of Wales Museum) along with the chief architect of the PWD and a civic representative not below the rank of chief engineer. Environmentalist Cyrus Guzder, who figured on the

BUILDING DEFENCES

previous committee, will serve another term. City historian Arvind Jamsandekar has been nominated as has been conservation architect Abha Narain Lambah.

Ranganathan was informed of his appointment by civic chief Sitaram Kunte on Saturday. "I have earlier been heritage committee chairman of Mahabaleshwar and Panchgani and chaired the high-level monitoring committee declaring Matheran and the surrounding region as an eco-sensitive zone. India has such a variegated history that needs to be protected and preserved," he says. He has been on the other side of the fence too as the main organizer of a construction and infrastructure show in 2008.

The new chairman says his team has an onerous task ahead given the absence of a



India has such a variegated history that needs to be protected and preserved

V Ranganathan | CHAIRMAN, NEW COMMITTEE
CIRCUIT PHOTOGRAPHY COURTESY: MCGM

PROTECTIVE CIRCLE

► The previous heritage committee's three-year term ended on July 31, 2011
► The new committee was appointed late last week. This

is believed to be the longest gap between two committees since the Mumbai heritage regulations were formed in the year 1995

COMPOSITION OF THE NEW COMMITTEE

CHAIRMAN | **V RANGANATHAN** | FORMER CHIEF SECRETARY

MEMBERS

- Head of dept, structural engineering, IIT Mumbai
- Head of dept, structural engineering, VJTI
- Principal, Sir JJ College of Architecture
- Abha Narain Lambah, conservation architect
- Cyrus Guzder, environmentalist
- Dr Arvind Jamsandekar, city historian
- Director, Chhatrapati Shivaji Maharaj Vastu Sangrahalaya (Prince of Wales Museum)
- Chief architect, PWD, Govt of Maharashtra
- Official of MCGM not below the rank of chief engineer

The priority of the new panel will be to clear pending proposals, devise heritage regulations and peruse draft proposals prepared by the previous committee so that the civic body can forward these to the state government for approval. It may also suggest incentives—for instance, heritage TDR—for conservation of private heritage properties

Clearing backlog on top of to-do list

Bella Jaisinghani | TNN

Mumbai: Twelve months have elapsed since the term of the previous Mumbai Heritage Conservation Committee expired last July. The unprecedented delay has caused a small

Times View:

Heritage panel has task cut out

That Mumbai has gone without a heritage committee for a year indicates the

structures is not on the anvil.

The state has already said it would like the heritage committee to tread a balance between the city's need for conservation and development. "Most heritage buildings are located in south Mumbai and new infrastruc-











महाराष्ट्र शासन

अर्थीक: नमास-४३०८/१८/२०१६-१९
नगर विकास विभाग,
पंजाला, मुंबई-४०० ०३२
दिनांक: १४.०२.२०१६

प्रति,

श्री.इहसन हक अ.नदवी,

प्राधिकृत मन्डि, नुह लॅन,

मिन्बट हिल रोड, कोरी (पश्चिम),

मुंबई-४०० ०५८

विषय: माहितीचा अधिकार अधिनियम, २००५ अन्वये अर्ज.

महोदय,

दिनांक ३० एप्रिल, २००८ रोजीचा माहिती अधिकार अधिनियमातील निवेदनाखाले मिन्बट हिल इस्टेट इमारत घोषित करण्याबाबत घडिली भाषावल्ली आहे. निवेदनावधील मूळानुरूप माहिती खालील प्रमाणे:-

१) ते ३) "मिन्बट हिल" इस्टेट इमारत माधुन घोषित करण्यासंबंधातील सामन निर्णय क्र.एचसी-४३०८/३०४५/प.क्र.३३०/०७/नवि-१९, दिनांक २२.२००८ ची डा जोका जोडली आहे.

४) संदर्भाधीन इमारत इस्टेट घोषित केलेली असल्यामुळे, घोषित न करण्यासंबंधातील करणांचा प्रश्न उद्भवत नाही.

५) ते ७) ही माहिती महानगरपालिकेची संबंधित असल्याने त्याचेकडे पाठविण्यात येत आहे.

आपला,



अथवा सध्या मुद्रा-माहिती अधिकारी,
नगर विकास विभाग.

प्रति,

मुख्य अभियंता (विकास योजना), मुह-मुह महानगरपालिका, मुंबई याचे पुरे क्र.५ ते ७ बाबत कार्यवाहीसाठी.

बृहन्मुंबई विकास निबंधन नियमावली, १९९१

नियम ६७(३) अंतर्गत हेरिटेज धारिणीचे समावेश करणेबाबत

महाराष्ट्र शासन,

नगर विकास विभाग,

शासन निर्णय क्रमांक: दिपली-४३०७/२०४६/प.ऊ.३३०/०७/नवि-११

संज्ञासूचक, मुंबई : ४०० ०३२, दिनांक : २ फेब्रुवारी, २००६

शासन निर्णय:- मोबलची अधिसूचना राज्य शासनाच्या साधारण राजपत्रात प्रसिध्द करण्यात
आली.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार ये नांवाने,


(अभिराज गिंकर.)

अवर सचिव, महाराष्ट्र शासन

प्रति,

महापौरादिका आगुक्त, बृहन्मुंबई महानगरपालिका, मुंबई

अध्यक्ष, हेरिटेज कन्झर्वेशन कमिटी, बृहन्मुंबई महानगरपालिका, मुंबई

प्रमुख अधिकाऱ्या (वि.नि.), बृहन्मुंबई महानगरपालिका, मुंबई

संचालक, नगर रचना, महाराष्ट्र राज्य, पुणे

उपसंचालक, नगर रचना, बृहन्मुंबई, मुंबई

अध्यक्ष, शासकीय मध्यम मूल्यांकन, रानीपट, मुंबई

(स्थाना विनंती करण्यात येत की, राज्याची अधिसूचना महाराष्ट्र शासनाचे साधारण
राजपत्रात भाग-२ मध्ये प्रसिध्द करण्यात येवून त्याच्या प्रत्येकी ३५ प्रती नगर विकास विभाग,
(नवि-११), मजालय, मुंबई-३२ व उप संचालक, नगर रचना, बृहन्मुंबई, इन्फोटेकमेट, भांडार
मेरान, मुंबई-१ यांना पाठविण्यात येण्यात.)

वक्त अधिकारी (संगणक वक्त) : (नवि-११), नगर विकास विभाग, मजालय, मुंबई ४०० ०३२

(स्थाना विनंती करण्यात येत की, मोबलची अधिसूचना विभागाच्या वेबसाईटवर उपरि
करण्याबाबत आवश्यक ती कार्यवाही करावी)

निवडूनसली (नवि-११)

Development Control
Regulation for Gr.
Mumbai, 1971.

Sanction to
addition/supplementation
to the heritage list
under Regulation 67(7)
of ...

GOVERNMENT OF MAHARASHTRA
Urban Development Department,
Muntalaya, Mumbai 400 032.
Dated: 2nd February, 2004.

NOTIFICATION

No. TFS-4302/2096/CR-330/2007/UD-11

Whereas, the Development Control Regulations of Greater Mumbai (hereinafter referred to as "the said Regulations") have been sanctioned by the Government vide Urban Development Department Notification No. DCR 1090/RDP/UD-11 dated 21st February, 1991, under section 47(1) of Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as "the said Act") to come into force with effect from 22/2/1991;

And whereas, regulation No. 67 forming part of the said regulations regarding conservation of listed buildings, areas, precincts of historical and/or aesthetical, architectural & cultural value (hereinafter to referred as "the said heritage regulation") have been sanctioned by the Government vide Urban Development Department Regulation No. DCR 1090/2197/RDP/UD-11 dated 21/4/1993 under section 31 of the said Act to come into force with effect from 1/6/1993;

And whereas, Regulation No.67(3) of the sanctioned Heritage Regulations states that "the said list of buildings, artifacts, structures and precincts of historical and/or aesthetical, and/or architectural and/or cultural value in which this regulation applies shall not form part of this Regulation for the purpose of section 47 of the said Act. This list may be supplemented, altered, deleted or modified from time to time by Govt. on receipt of proposals from the Commissioner or from the said heritage conservation committee or by Govt. suo motu, provided that before the list is supplemented, altered, deleted or modified, objections and suggestions from the public be invited and duly considered by the Commissioner and/or by Govt.;

And whereas, Municipal Corporation of Gr. Mumbai (hereinafter referred to as "the said Corporation") under DCR 67 has proposed to add Gilbert Hill Structure and some area around it situated on plots bearing CTS No. 250A(pt), 250B, 250B, 251, 254C and 254A(pt) of village Andheri for heritage listing as Grade-II-A in the sanctioned and published Heritage list;

And whereas, in this respect the said Corporation published notice in the Government Gazette dated 3/7/2007 and in the news paper namely "Sakal" (Marathi) dated 3/7/2007 and "The Free Press General" (English) dated 3/7/2007 for inviting suggestions/ objections from the public;


And whereas, after granting hearing to the suggestions/objectives received on the published notice, the said Corporation was of the view that the main purpose behind the proposal to include the Gilbert Hill in heritage list is to safeguard the Gilbert Hill proper and immediate surrounding area and therefore by considering the future development in the area, in the context of Gilbert Hill being declared as a heritage site, the said Corporation decided to propose it for heritage listing as Grade-II-A. Accordingly, the said Corporation vide letter No. CHS/2007/DIW3/H&K dated 27th November, 2007, submitted to Govt. the proposal of inclusion of Gilbert Hill and surrounding area under Grade-II-A category for approval/final sanction and making necessary addition/supplementation to sanctioned heritage list of structure/precincts as per D.C.R 67(3);

And whereas, the Govt. has accepted the said proposal of the said Corporation;

Now therefore, in exercise of the powers vested under section 67(3) of the said Regulations, Government hereby

- A) Sanctions the Gilbert Hill structure and some area around it situated on plots bearing CTS No. 250A(pt), 250-B, 250-E, 251, 254-C & 254-A(pt) of village Andheri as Grade-II-A as shown on plan attached herewith as the supplementation to the sanctioned heritage list.
- B) Fixes the date of publication of this notification in the government gazette as the date of coming into force of this modification.
- C) Decides the said corporation that in the schedule of modification sanctioning the said modifications after the last entry, the schedule referred to as (A) shall be added.

By order and in the name of the Governor of Maharashtra,


Under Secretary to Government,