

Illegal Conversion of Premises in Cantonment Area

Case Name: Hitendra Singh R. Chopra v. Cantonment Board Dehuroad

Citation: 2024:BHC-AS:41076-DB

Act: Cantonments Act, 2006

Case Brief & MCQs on this case is available in the eBook:

["Bombay High Court Cases in October 2024"](#)



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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14889 OF 2022

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Date: 2024.10.16
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HITENDRA SINGH R CHOPRA,
Age: 75 years, Ocu.: Retired.
469-A Elphinstone Road, Khadki
Pune-411 003.
through Power of Attorney Holder
Mahendra Singh Payal
Aged: 63 years, Occu.: Business,
K-8 Mangtri Aangan, Mundhwa
Road, Pune-411 036.

...PETITIONER

~ VERSUS ~

1. CANTONMENT BOARD DEHUROAD,
Near Dehuroad Railway Station,
Dehuroad, Pune-412 101.
2. THE CHIEF EXECUTIVE OFFICER,
Cantonment Board Dehuroad,
Near Dehuroad Railway Station,
Dehuroad, Pune-412 101
3. THE DEPUTY SUPERINTENDENT,
State Excise, Pune,
14-A, Sadhu Waswani Road,
Opp. Hotel Amir, Pune-411 001.
4. THE COMMISSIONER,
Pimpri-Chinchwad Municipal
Corporation,
Pimpri, Pune-411 018.
5. THE DEPUTY EXECUTIVE ENGINEER,

Maharashtra State Electricity
Distribution Co. Ltd,
Pradhikaran, Nigdi, Pune- 411 044.

6. SHOP INSPECTOR,
Under Shop & Est. Act
Shivajinagar, Pune.
7. POLICE INSPECTOR,
Dehuroad Police Station,
Dehuroad, Pune.
8. STATE OF MAHARASHTRA,
Having address at Nirman Arcade's
Building, Sy. No. 17/7/1, Nigdi
Village, Dehuroad Cantonment,
Pune.
9. RAJENDRA D MURKUTE,
Age : 52 Years, Occu.: Business.
Having address at Nirman Arcade's
Building, Sy. No. 17/7/1, Nigdi
Village, Dehuroad Cantonment,
Pune.
10. KISHOR V GATHADE,
Age : 54 Years, Occu.: Business.
Having address at Nirman Arcade's
Building, Sy. No. 17/7/1, Nigdi
Village, Dehuroad Cantonment,
Pune.
11. KADAR I SHAIKH,
Age : 58 Years, Occu.: Business.
Having address at Nirman Arcade's
Building, Sy. No. 17/7/1, Nigdi
Village, Dehuroad Cantonment,
Pune.
12. SHANKAR JODHWANT,
Age : 58 Years, Occu.: Business

...RESPONDENTS

APPEARANCES

FOR THE PETITIONER	Mr Nitin P Deshpande, <i>with Kanchan Pathak.</i>
FOR RESPONDENTS NO. 1 & 2	Mr Deepak Lad, <i>with Nikhil Davare.</i>
FOR RESPONDENT NO. 4	Mr Deepak More, <i>with Shivram A Gawade.</i>
FOR RESPONDENT-STATE	Ms Rupali Shinde, AGP.
FOR RESPONDENTS NOS. 9 TO 12.	Mr Sahil Tejawani, <i>with Aditya Naupute.</i>

**CORAM : M.S.Sonak &
Kamal Khata, JJ.**

Reserved On : 4 October 2024

Pronounced On : 16 October 2024

ORAL JUDGMENT (Per MS Sonak J):-

1. Heard learned Counsel for the parties.
2. Rule. The rule is made returnable immediately at the parties' request and with the consent of learned counsel.
3. This is a rather strange case where the two statutory authorities involved, i.e., the Cantonment Board, Dehu Road, Pune and the Pimpri Chinchwad Municipal Corporation ("PCMC") admit that Respondents No. 9 to 12 have illegally and unauthorisedly converted the godowns in the basement into a Bar and Restaurant, Permit Room, Country Liquor Shop, Beer Bar and Gambling Den, (as described by the Petitioner),

still both the statutory authorities plead almost helplessness in taking any action against the admitted illegalities.

4. The Cantonment Board states that the PCMC must act to stop the unauthorised conversion/user. The PCMC, in its turn, states that it is for the Cantonment Board to act and stop this unauthorised conversion and user. The Cantonment Board goes to the extent of submitting that apart from launching criminal prosecution, it is helpless to stop this patently unauthorised and illegal conversion and user. The PCMC suggests that any unauthorised constructions or users within the limits of the Cantonment area are of no concern to PCMC. The PCMC insists that the Cantonment Board should deal with unauthorised constructions and users within the Cantonment area without involving the PCMC.

5. The attitude and understanding of the Cantonment Board and PCMC officials are strange, apart from the same finding no support in the statutory provisions which govern the affairs of the Cantonment Board and the PCMC. Such attitude and understanding are being fully exploited by Respondents Nos. 9 to 12, who continue, each day, to rake in substantial commercial profits from the patently unauthorised conversions and user of the godowns in the basement into what the Petitioner alleges a Permit Room, Country Liquor Shop, Beer Bar, Bar and Restaurant and even Gambling Den.

6. The Petitioner, a Retired Colonel, filed detailed complaints to the Cantonment Board and PCMC about the illegalities and unauthorised users by Respondents Nos. 9 to

12. One such complaint, dated 18 February 2016, is enclosed with this Petition as Exhibit 'A' (pages 13 and 14). Based on the Petitioner's complaint, after a period of almost one year and five months, a notice under section 244 of the Cantonment Act 2006 was issued by Respondent Nos 1 and 2. Thereafter more than a year and seven months later, the Cantonment Board officials inspected the site premises and found '*that the occupants of the godowns at the basement have changed the purpose of the use building and are running Restaurant & Bar, Liquor Shop, etc. which is serious violation of provisions under Cantonments Act, 2006*'. Still, no action worth the name was taken by Respondents 1 and 2.

7. The learned counsel for the Petitioner argued that Respondents 1 & 2 thus aided the illegal activities of Respondents 9 to 12 by failing to take any action, though the complaint highlighted serious violations of the provisions of the Cantonments Act, 2006. He alleged that such inaction was not innocent but to enable unlawful activities to continue. He alleged that, in all probability, some influential board members were prevailed upon not to allow the Board to act and prevent the unlawful activities. He alleged that all this was for extraneous considerations.

8. The Cantonment Board, instead itself taking any action, chose to write to the Deputy Superintendent, State Excise, PCMC, Deputy Executive Engineer, Maharashtra State Electricity Distribution Co. Ltd, Shop Inspector, Shops and Establishments Act, Police Inspector, Dehu Road Police Station and other statutory authorities urging them to take action

against Respondents Nos. 9 to 12 for indulging illegal and unauthorised activities through the basement premises of Nirman Arcade Complex. All these communications have been placed on record by the Petitioner along with this Petition. However, despite all such communications, none of the authorities have bothered to initiate any action against Respondents Nos. 9 to 12, who continue their illegal and unauthorised use of the basement premises.

9. On 18 March 2019, the CEO of the Cantonment Board addressed a detailed communication to the President of the Cantonment Board about the large-scale violations by Respondents Nos. 9 to 12. Communication refers to the various letters written to the statutory authorities urging action. This detailed communication, dated 18 March 2019, is at Exhibit 'H', page 21 of the paper book of this Petition.

10. Since the Petitioner was pursuing the matter, the Director of the Cantonment Cell informed the Petitioner in April 2019 that the Cantonment Board had taken cognisance of the Petitioner's complaints and further had even written to the various statutory authorities about taking actions against Respondents Nos. 9 to 12. This communication assured the Petitioner that the Cantonment Board was following up with various statutory authorities who were urged to take action.

11. Despite the above assurances, Respondents Nos. 9 to 12 continue with their illegal and unauthorised use of the basement premises. Neither the Cantonment Board nor the various authorities that were apprised of the illegalities and

urged to initiate action did anything to prevent the continuance of the illegal and unauthorised user. As a result, Respondents Nos. 9 to 12 continue to exploit their illegal and unauthorised activities commercially. Left with no alternative, the Petitioner instituted this Petition seeking a Writ of Mandamus from the Cantonment Board and the PCMC to act against Respondents Nos. 9 to 12 and their illegal and unauthorised activities to the basement of Nirman Arcade Complex.

12. Mr Amitkumar Mane, Chief Executive Officer of the Cantonment Board, has filed an Affidavit in this Petition on 17 August 2023. He states that the basement premises of Nirman Arcade were inspected on 23 March 2016, 23 December 2016 and 11 January 2017 based on the Petitioner's complaint dated 18 February 2016. He admits that during the inspection, it was noticed that the godowns in the basement have been unauthorisedly converted into Shops, Restaurants, etc. He has stated that this matter was referred to the Cantonment Board, and the Board, vide CBR No. 23 dated 20 April 2017, resolved to issue notice under Section 244 of the Cantonments Act, 2006 to Respondents Nos. 9 to 12. The Affidavit states that such notice was issued on 27 July 2017. The Affidavit admits that no trade license has been issued to the Bar, Restaurant and other commercial activities undertaken through the Nirman Arcade Complex basement by Respondents Nos. 9 to 12 unauthorisedly.

13. The Cantonment Board Affidavit admits that yet another complaint was received from the Petitioner on 25 February

2019 alleging that the Cantonment Board had not followed-up the matter and Respondents Nos. 9 to 12 were continuing their unauthorised and illegal use of the basement premises. The Affidavit then proceeds to detail the letters written by the Cantonment Board to the various statutory authorities, including the following:-

- “a] Informed to Police authorities and PCMC Commissioner for taking relevant action under IPC.
- b] Letter sent to the State Excise authorities for immediate cancellation of permission/liquor license if any and to take relevant legal action against the defaulters.
- c] Letter sent to the Pimpri-Chinchwad Municipal Corporation to disconnect the water connection to the defaulters and to take relevant legal action.
- d] Letter sent to the Maharashtra State Electricity Distribution Company limited to disconnect the electricity connection to the defaulters and to take relevant legal action.
- e] Initiated action to cancel the assessment for the tax purpose and remove the name of the defaulters the name of defaulters from the assessment register.
- f] Initiated action for cancellation of the shop act issued to defaulters from the office of the inspector under The Bombay Shops and Establishments Act, 1948.
- g] Discontinued sanitation services to the defaulters and has initiated action for inspection of fire license from Fire Department.”

14. Despite all the above admissions of illegality, the Affidavit avers that the Petition is misconceived and seeks dismissal with costs. This is most unfortunate. Since the

unauthorised user by Respondents 9 to 12 continued despite the Board's communications to various authorities urging action, the petitioner had no option but to institute this petition. It is indeed surprising that the Board affidavit, after admitting the illegalities and pleading helplessness, should style this petition as misconceived and seek its dismissal with costs.

15. Mr Ajay Dinkar Suryvanshi, Joint City Engineer, Water Supply Department, PCMC, filed an Affidavit on 20 August 2024. This Affidavit comprises ten paragraphs. Upto paragraph 7, the affiant has pleaded on completely unnecessary matters. The affiant has admitted receiving communications from the Cantonment Board about the disconnection of the water supply and other matters.

16. In paragraphs 8 and 9 of the Affidavit, the affiant provides details of the water connection granted to Nirman Arcade in the name of Mr Vipul Potdar (developer). He states that this water connection was authorised and, therefore, explains the inability to disconnect the water supply. The affiant also states that consumers are paying their water bills regularly.

17. In short, the PCMC has, on Affidavit, expressed its reluctance to take any action against Respondents Nos. 9 to 12 based on the communications addressed by the Cantonment Board. The PCMC is neither prepared to disconnect the water supply to the unauthorised commercial establishments operating through the basement of the Nirman

Arcade nor to take any action against the unauthorised activity in the basement of Nirman Arcade pursuant to requisition from the Cantonment Board.

18. On behalf of Respondents Nos. 9 to 12, Shankar Hotchand Jodhwani has filed an Affidavit. He stated that the Nirman Arcade Commercial Premises Co-operative Society Ltd has given an NOC for converting the godown in the basement into a Bar, Restaurant, and other commercial establishments. He has further stated that NOCs have also been issued by the Cantonment Board authorities for undertaking like Bar and Restaurant etc. from the basement of Nirman Arcade. He has also referred to the excise licenses issued by the excise authorities for operating a Bar and Restaurant. Finally, he has made several allegations against the Petitioner by claiming that he is a stranger and, therefore, has no locus standi to institute this Petition.

19. Mr Nitin Deshpande, the learned Counsel for the Petitioner, submitted that the Cantonment Board, having admitted that Respondents Nos. 9 to 12 are undertaking unauthorised and illegal activities through the basement of Nirman Arcade, are avoiding taking any concrete action on the ground that they are helpless. He submitted that the Cantonments Act, 2006, confers ample powers upon the Cantonment Board to take action to stop the unauthorised user of the basement of Nirman Arcade by Respondents Nos. 9 to 12. He submitted that for reasons best known, no actions were taken.

20. Mr Nitin Deshpande referred to several provisions of the Cantonments Act to submit that the Cantonment Board has powers and is duty-bound to exercise those powers. He pointed out that the NOCs issued by the individual members of the Cantonment Board can never be regarded as permissions from the Cantonment Board. He submitted that the NOCs enclosed by Respondents Nos. 9 to 12, along with their Affidavit, amount to fraud on the Cantonments Act, 2006 provisions.

21. Mr Deshpande submitted that even the PCMC is reluctant to take any action against Respondents Nos. 9 to 12 for reasons best known to them. He submitted that despite letters from the Cantonment Board and the Affidavit of the Cantonment Board admitting the illegal and unauthorised activities undertaken by Respondents Nos.9 to 12, none of the statutory authorities are taking action. He, therefore, submitted that an appropriate writ must be issued to authorities to stop the large illegalities and commercial exploitation from the basement of Nirman Arcade.

22. Mr Deepak Lad, learned Counsel for the Cantonment Board, submitted that the use by Respondents Nos. 9 to 12 of the basement as a Bar and Restaurant and other activities was wholly unauthorised. However, he submitted that the Cantonment Board was powerless to take any action except for launching any prosecution. He submitted that PCMC should be directed to take action in this matter. He submitted that the Cantonment Board had already written to several authorities like Power Supply, Water Supply, Excise Authorities

Police, etc., and they could be directed to take action against Respondents Nos. 9 to 12 for unauthorisedly using the basement in Nirman Arcade for commercial purpose.

23. Mr Deepak More, the learned Counsel for the PCMC, submitted that the PCMC, if directed, was prepared to issue a show cause notice to Respondents Nos. 9 to 12 and take action in accordance with the law. However, he submitted that in a Cantonment area, it was for the Cantonment Board to take action against illegal activities since the Cantonment Board was the planning authority for the Cantonment area.

24. Mr Sahil Tejwani, the learned Counsel for Respondents Nos. 9 to 12 submitted that most of the members of the Cantonment Board had issued NOCs. He submitted that permissions were obtained from excise and FSSAI authorities. He submitted that even the society had issued its NOCs for converting the godowns in the basement into Bars and Restaurants. Accordingly, he submitted that there was nothing illegal in the activities undertaken by Respondents Nos. 9 to 12.

25. Mr Tejwani submitted that the Petitioner lacks the locus standi to institute the present Petition since he was not even a resident of Nirman Arcade. However, he may be a resident of the neighbourhood. He submitted that this Petition may be dismissed.

26. The rival contentions now fall for our determination.

27. As noted earlier, the Cantonment Board has, on Affidavit, stated that it had not issued any permissions to Respondents Nos. 9 to 12 for users of the godown space in the basement of Nirman Arcade as a Bar and Restaurant and other commercial establishments. The approved plans for Nirman Arcade also do not indicate the basement area being permitted to be used as a Bar and Restaurant or for other commercial activities. The Cantonment Board has written to several authorities, as detailed in paragraph 11, requesting such authorities to take action against Respondents Nos. 9 to 12. In such circumstances, there can be no factual dispute about the activities that Respondents Nos. 9 to 12 are undertaking through the basement of Nirman Arcade as being patently illegal and unauthorised.

28. The Respondents Nos. 9 to 12, along with their Affidavit, have relied on NOCs issued by the Vice President and some other members of the Cantonment Board on their personal letterheads. These NOCs state that Respondents Nos. 9 to 12 have obtained the basement premises on rent because they proposed to shift their country liquor shop into the basement. The NOC states that if permission is given to Respondents Nos. 9 to 12, public peace will not be disturbed, and there will be no social security problem. Accordingly, this NOC ends with the remark, *'the Vice President, Cantonment Board, Dehu Road, Pune has permitted this resolution and hence this NOC'*. Almost identical NOCs are issued by Shri Shaikh Ali Mehboob Shaikh and Lilawati Kalbhor, members of the Cantonment Board. Based upon such NOCs, it appears

that Respondents Nos. 9 to 12 have obtained excise or other licenses.

29. The Cantonments Board Act, 2006 is an act to consolidate and amend the law relating to the administration of Cantonments with the rule to impart greater democratisation and improvement of their financial base and to make provisions for developmental activities, and matters connected therewith or incidental thereto. Section 10 provides that for every Cantonment, there shall be a Cantonment Board. Such Board shall be deemed to be a municipality under Clause (e) of Article 243-E of the Constitution for the purpose of receiving grants and allocations; or implementing the central government schemes of social welfare, public health, hygiene, safety, water supply, sanitation, urban renewal and education.

30. Section 11 of the Cantonments Act, 2006 provided that every Cantonment Board shall, by the name of the place by reference to which the Cantonment is known, be a body corporate having perpetual succession and the common seal with the power to acquire and hold property both movable and immovable and to contract and shall by the said things sue and be sue.

31. Section 12 provides for the constitution of the Board. The constitution depends upon the population of the Cantonment area. However, the Board invariably includes the officer commanding, District Magistrate, Chief Executive

Officer, Health Officer, Executive Engineer, Military Officer and some members elected under the Cantonments Act.

32. The Cantonments Act contains detailed provisions inter alia for town planning, control over buildings, etc. Such provisions are found in Chapter X of the Cantonments Act. Most of the powers in this regard are vested in the Cantonment Board and some in the Chief Executive Officer of the Board. Considering the scheme of the Cantonments Act and the fact that the Cantonment Board is a corporate body, there is no question of the Vice President of the Board or some of its individual members issuing NOCs to Respondents Nos. 9 to 12. Such NOCs can never be regarded as NOCs of the Cantonment Board.

33. In fact, the Pune Cantonment Board should enquire into the circumstances in which such NOCs were issued by the Vice President and two or three individual members purporting to be NOCs on behalf of the Board. The Cantonment Board must consider strict action against the persons who issued/issue such NOCs. In any event, based on the NOC of the Vice President or two individual members, Respondents Nos. 9 to 12 can never claim that we are users of the godown in the basement of Nirman Arcade as a Bar and Restaurant or a Country Liquor Shop as an authorised user. The Cantonment Board has, quite correctly, stated on the Affidavit that such a user is illegal and unauthorised.

34. The Cantonment Board's contention about being helpless or powerless is unfortunate. The provisions of Section

224 and the communication issued by the Principal Director (DE) dated 15 September 2016 addressed to all CEOs under the jurisdiction of a southern command nowhere states that the Cantonment Board or its CEO can only initiate prosecution but not take any action to stop the patently unauthorised and illegal activities within a Cantonment area. Incidentally, the Cantonment Board has not even launched any prosecution against Respondents Nos. 9 to 12.

35. The Cantonment Board cannot rest content by merely writing to other statutory authorities or launching a prosecution. Otherwise, the Cantonments Act 2006 provisions would be breached with impunity, and those that breach such provisions would, if convicted, get away with some partial fines. Those who breach the requirements of the Cantonments Act would enjoy the benefits of their infringement. In the present case, Respondents 9 to 12 have breached the provisions of the Cantonments Act with impunity and now continue to rake in commercial profits from such breach due to this stance and inaction on the part of the Cantonment Board. The Board, which now hesitatingly contends that it can do nothing except launch a prosecution, has not yet bothered to launch such a prosecution.

36. Section 234 of the Cantonments Act 2006 provides that no person shall erect or re-erect any building on any land in a cantonment area other than civil areas, except with the previous sanctions of the Cantonment Board. In a civil area, no person shall erect or re-erect any building without the prior sanction of the Chief Executive Officer. It also states that

such erection or re-erection cannot be done otherwise than in accordance with the provisions of Chapter 10 of the Rules and Bye-laws made under the Cantonments Act 2006 concerning erections and re-erections of buildings.

37. Section 235 of the Cantonments Act provides that whoever intends to erect or re-erect any building in a Cantonment shall apply for sanction by giving them notice in writing with intention firstly, where such erection or re-erection is in an area other than a civil area, to the Cantonment Board, secondly, where such an erection is in several areas, to the Chief Executive Officer.

38. Section 235(2) provides that a person shall be deemed to erect or re-erect a building for the purposes of the Cantonments Act 2006 where such person -

- (a) Makes any material alteration or enlargement of any building; or
- (b) Converts into a place for human habitation any building not originally constructed for human habitation; or
- (c) Converts into more than one place for human habitation a building originally constructed as one such place; or
- (d) Converts two or more places of human habitation into a greater number of such places; or
- (e) Converts into a stable, cattle-shed or cow-house any building originally constructed for human habitation; or

(f) Converts into a dispensary, stall, shops, warehouse, godown, factory or garage any building originally constructed for human habitation; or

39. Section 244 of the Cantonments Act provides that no person shall, without the written permission of the Cantonment Board or otherwise than in conformity with the conditions, if any, of such permission use or permit be used for human habitation any part of the building not originally erected or authorised to be used for that purpose or not use for that purpose before any alteration has been made therein by any work executed in accordance with the provisions of Cantonments Act and the Bye-laws made thereunder. Further, no person shall, without permission of the Cantonment Board or otherwise, than in conformity with the conditions, if any, of such permission change or allow the change of use of any land or building or convert or allow the conversion of any tenement into another kind.

40. Section 244(2) provides that any person who contravenes Section 244(1) shall, on conviction, be punishable with a fine which may extend to Rs 1,00,000/- and in case of continuing contravention, an additional fine of Rs 10,000/- for every day during which the contravention continues after the date it comes to the notice.

41. Section 247 of the Cantonments Act also provides that, whoever begins, continues or completes the erection of the building without giving valid notice as required by Section 235 and 236, or before the building has been sanctioned or is

deemed to have been sanctioned, or without complying any direction made under sub-Section 1 of Section 238; or when sanction has been refused, or has ceased to be available or has been suspended by the General Officer Commanding in Chief, the command, under Clause (b) of sub-Section 1 of Section 58 shall be punishable to fine which may extend to Rs 50,000/- and the cost of sealing the illegal construction and its demolition.

42. Section 248 of the Cantonments Act confers powers on the Board to stop the erection or re-erection of buildings or to demolish illegal and unauthorised buildings. Section 248 provides that the Cantonment Board can give notice in writing directing the owner, lessee or occupier of any land in a Cantonment to stop the erection or re-erection of the building. The expression 'erection and re-erection of the building' must be construed in the context of Section 235 of the Cantonments Act. Thus, the unauthorised conversion of a godown into a bar and restaurant without any authority's permission under the Cantonments Act 2006 would be impermissible. In our view the same ought to have been sealed and/or dismantled by the Cantonment Board.

43. Despite all the above provisions, we are surprised that the Board should avoid action against the admitted illegalities by virtually pleading helplessness. Launching a prosecution against those who breach the requirements of the Cantonments Act is in addition to taking effective steps to undo or force the undoing of the illegalities. Otherwise, as observed above, the lawbreakers would have a field day. They

would continue to benefit from their illegalities because prosecutions are rarely launched and, if launched, seldom pursued by the Board. In this case, as is amply apparent, the lawbreakers merrily continued to carry on their business and benefit from it, though illegal. The standard of proof in a criminal prosecution differs from that of a civil action. Therefore, the Board cannot abdicate its duty of preventing illegal constructions or activities in a Cantonment area. Furthermore, The Board or its CEO, as the case may be, cannot refuse to take effective steps to remove the illegal constructions or prevent the continuance of unlawful activities in a cantonment area on the specious plea that it is helpless.

44. The object behind the provisions providing for criminal prosecution is to underscore the seriousness with which the breaches of the Cantonment Act must be dealt with. Cantonment areas are sensitive areas, and it is in the National Interest that, at least in such areas, no lawlessness is tolerated. Here, there must be zero tolerance for infringements of construction or user regulations. Therefore, the provisions for criminal prosecution must not be interpreted as weakening the Board or its CEO or disabling the Board or its CEO from effectively demolishing unlawful constructions or stopping the continuance of illegal activities in a Cantonment area. Such an interpretation would run contrary to the legislative intent or even go on to frustrate the legislative intent.

45. The role of PCMC in this matter is also equally unfortunate. The PCMC must initiate action against

Respondents Nos. 9 to 12 by issuing them an appropriate show cause notice. To begin with, the PCMC must inspect the premises of Respondents Nos. 9 to 12 and determine whether the basement is being utilised by Respondents Nos. 9 to 12 for activities permitted in the approved plans. If not, the PCMC must issue a show cause notice to Respondents Nos. 9 to 12 or to the basement owners and initiate action per law as soon as possible.

46. The Cantonment Board has already written to several authorities informing them that Respondents Nos. 9 to 12 are using the basement area as a Bar and Restaurant or a Country Liquor Shop. These authorities must act on the communications the Cantonment Board addressed to them.

47. Accordingly, we dispose of the Rule in this Petition by issuing the following directions.

ORDER

(a) The Cantonment Board must take immediate steps to stop the illegal and unauthorised change of users of the godowns in the basement of Nirman Arcade as Bar and Restaurant and Country Liquor Shop, etc. by sealing the premises forthwith, if necessary, by seeking the assistance of the concerned Police. The Police, if approached, must render aid to the Cantonment Board.

(b) The Cantonment Board must also take steps to prosecute all wrongdoers criminally and inquire into the issue

of NOCs by some Board members on their personal letterheads in accordance with law.

(c) The PCMC must inspect the basement of Nirman Arcade within 15 days from today. If they find that the godowns have been converted into a Bar, restaurant, country Liquor Shop, etc., contrary to the approved plans, the PCMC must act according to the law against the owners/occupiers. Such action must be completed within three months from today.

(c) The Cantonment Board and PCMC must file and serve a compliance report in this Court within three months, along with the photographs.

(d) The Respondents 9 to 12 must pay costs of Rs. 1,00,000/- to the Petitioner within four weeks from today and file proof of such payment in this Court.

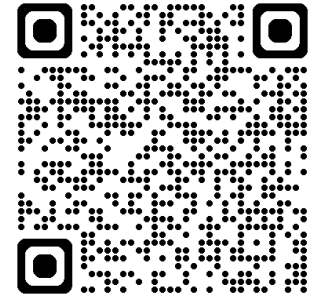
48. All concerned to act on an authenticated copy of this order.

(Kamal Khata, J)

(M. S. Sonak, J)

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