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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

PUBLIC INTEREST LITIGATION NO. 113 OF 2018

Arya Samaj Jalna through its
Prathan

....Petitioner

Versus

The State of Maharashtra and others **....Respondents**

Mr. Aashish T. Jadhavar, Advocate for the petitioner.

Mr. S. B. Yawalkar, Addl.G.P. for the respondent nos. 1 to 4.

Mr. Ramesh S. Dhamangaonkar, Advocate for the respondent
no. 5.

Mr. Yunus B. Pathan, Advocate for the Respondent No. 6 –
absent.

**CORAM : DIPANKAR DATTA, C.J. &
RAVINDRA V. GHUGE, J.**

DATED : JULY 07, 2022.

PER COURT :

. The Supreme Court of India vide an order dated 29th
September, 2009 in Special Leave to Appeal (C) No. 8519 of
2006 Union of India vs. State of Gujarat), *inter alia*, ordered as
follows: -

“As an interim measure, we direct that henceforth no
unauthorized construction shall be carried out or
permitted in the name of Temple, Church, Mosque or
Gurudwara etc. on public streets, public parks or
other public places etc.

In respect of the unauthorized construction of

religious nature which has already taken place, the State Governments and the Union Territories shall review the same on case to case basis and take appropriate steps as expeditiously as possible.

In order to ensure compliance of our directions, we direct all the District Collectors and Magistrates/Deputy Commissioners in charge of the Districts to ensure that there is total compliance of the order passed by us. They are directed to submit a report within four weeks to the concerned Chief Secretaries or the Administrators of the Union Territories who in turn will send a report to this Court within eight weeks from today.

List this matter for further directions on 7th December, 2009."

2. Despite such order, it is alleged in the public interest litigation that there has been an unauthorized construction of a Mosque over CTS No. 5942 situated at Kadrabad area of Jalna Town within the municipal jurisdiction of the Municipal Council, Jalna at the instance of the respondent no. 7, i.e., the District Wakf Officer, Wakf Board Office, Jalna and also that the administration, both civil and municipal, have been lax in taking action to remove the same. A writ of mandamus is, accordingly, claimed to direct the administration, both civil and municipal, to remove such unauthorized construction.

3. Reply affidavit of the Municipal Council, Jalna is on record. It is averred therein that the council has not granted any kind

of construction permission over CTS No. 5942 and that the construction on such land has affected the proposed nine metre DP road.

4. None appears on behalf of the respondent no. 7 who, according to the petitioner, is the person responsible for construction of the mosque. No reply affidavit has also been filed by him.

5. It appears from the office note that the respondent no. 7 has duly been served with a copy of the writ petition.

6. Mr. Yawalkar, learned Addl. G. P. appearing for the State has brought to our notice that a District Committee has been constituted by the State Government in pursuance of the order of the Supreme Court in the above referred special leave petition and that a decision is required to be taken by such committee on the question of demolition or otherwise of such unauthorizedly constructed mosque.

7. It appears from the Government Resolution dated 05th May, 2011 issued by the Home Department, Government of Maharashtra that at the district level, the District Collector

would be the Chairman of the Committee which has, *inter alia*, as its members the Superintendent of Police of the district, the Chief Executive Officer of the Zilla Parishad, the Commissioner of the Municipal Corporation, the Chief Officer of the Municipal Council and the Resident Deputy Collector as the Member Secretary.

6. We require the committee to take an appropriate decision in terms of the order of the Supreme Court within a period of two (02) weeks from date. The decision of the committee shall be placed by Mr. Yawalkar before the Court on 26th July, 2022, when this public interest litigation shall be listed at 2.30 p.m. under the same caption.

8. Office is directed to issue notice of final disposal to the respondent no. 7 and the other non-appearing respondents, returnable on 26th July, 2022, informing them that if they are not represented on the next date, the Court would proceed against them *ex parte*.

[RAVINDRA V. GHUGE, J.]

[CHIEF JUSTICE]