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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11247 OF 2025

Tapi Valley Agro Food Products Company
Dondaicha,
Through Power of Attorney Holder
Mr. Aftab Alam Jane Alam Rizvi,
Age: 50 years, Occu.: Service,
R/o. 640/2 Hussaini Compound,
Match Factory Lane, Kurla (West),
Mumbai 400 070.

.... Petitioner

VERSUS

1. Dondaicha Warwade Nagar Parishad,
Dondaicha,
Taluka – Shinkheda,
District – Dhule.
2. The Chief Officer,
Dondaicha Warwade Nagar Parishad,
Dondaicha, Taluka – Shinkheda,
District – Dhule.
3. The President,
Through
The Chief Executive Officer,
Dondaicha Warwade Nagar Parishad,
Dondaicha, Taluka – Shinkheda,
District – Dhule.
4. The Deputy Commissioner,
Animal Husbandry Department,
Office of District Deputy Commissioner
of Animal Husbandry, Parola Road,
Dhule, District Dhule – 424 004.
5. Agricultural & Processed Food Products
Export Development Authority,
Ministry of Commerce & Industry,
Government of India
4th Floor, Unit No.3 & 4, Building No.2,

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Banking Complex, Sector-19A,
Vashi, Navi Mumbai,
Maharashtra – 400 704.

6. Ministry of Commerce,
Government of India
WRPH-P77, Vitthaladas Thackersey Marg,
Marine Line (Ease),
Mumbai – 400 020.

7. Union of India
Through the Ministry of Commerce,
Government of India.

.... Respondents

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Mr. Nitin Pradhan, Senior Advocate a/w Ms. Shubhada Khot, Advocate
i/b Mr. Hemantkumar E. Pawar, Advocate for Petitioner

Mr. V.D. Hon, Senior Advocate i/b Mr. Manish V. Bhamre, Advocate for
Respondents No.1 to 3

Mr. Abhijeet M. Phule, AGP for Respondent No.4

Mr. Krushna Solanke, Central Government Counsel for Respondents
No.6 and 7

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CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

RESERVED ON : 04 FEBRUARY, 2026

PRONOUNCED ON : 09 MARCH, 2026

JUDGMENT [Per Hiten S. Venegavkar, J.] :-

1. Rule. Rule is made returnable forthwith. With the consent of the parties, the petition is taken up for final disposal at admission stage.

2. This petition under Article 226 of the Constitution is instituted by a partnership firm claiming to be an agro-based enterprise operating from Dondaicha, District Dhule, Maharashtra. The reliefs are directed

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substantially against respondent nos.1 to 3 (the Nagar Parishad and its authorities) and seek (i) a direction to issue forthwith a No Objection Certificate (NOC) to enable respondent no.4 to appoint veterinary doctors for *ante-mortem* examination for running the slaughterhouse, and for consequential inspection/approval processes of respondent no.5 (APEDA), and (ii) a direction to respondent nos.1 to 3 to reinstate and renew the licences, permissions and NOCs which, according to the petitioner, were in existence prior to the events surrounding Regular Civil Suit No.3 of 2017. The cause action trigger pleaded is the communication dated 17.02.2025 by which the Animal Husbandry department informed the petitioner that the Nagar Parishad has refused to grant NOC on the ground of pendency of civil appeal and alleged cancellation of earlier permissions.

3. The factual background, as emerges from the pleadings and documents placed on the record is that Gut No.123 at Dondaicha was originally owned by one Baburao Banjara who donated the land on 8 August 2008 to the municipal body-respondent No.1 for a public purpose. A Government Resolution dated 19.01.2009 is stated to have contemplated implementation of an integrated housing/slum development programme, and the State, through the Collector's supervision, constructed a slaughterhouse on the donated land in 2010.

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The slaughterhouse was placed under the municipal council. As the municipal body was allegedly unable to run and manage the slaughterhouse for want of funds and manpower, therefore, it resolved to lease it out through public auction. Pursuant to a public tender/auction notice, the petitioner emerged as the highest bidder, and after completing the process, was handed possession on 03.01.2011, and a lease agreement for five years was executed on 17.01.2011. The petitioner states that, given the nature of investment required, it applied for extension of the tenure, and by resolution of the Standing Committee dated 15.04.2011 the tenure was extended to 30 years with effect from April 2011, culminating in a fresh agreement dated 24.05.2012. The petitioner asserts that it invested substantial amounts, employed personnel, and obtained regulatory approvals including pollution control consents, factory licence, food safety licence, ETP NOC, APEDA-related documents, GST registration, MSME/Udyam registration and ISO/HACCP certifications. The municipal council passed Resolution No.12 dated 27.04.2012 approving commencement and issued an NOC on 04.10.2012.

4. The dispute thereafter arose between the petitioner and respondent No.1 due to slaughter house. Political opposition and complaints that led to passing of Resolution to close the proceedings

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before the Collector by petitioner; and by order dated 16.05.2013 Collector stayed Resolution No.12, but the Divisional Commissioner, Nashik by order dated 30.07.2013 set aside the Collector's order, which, on the materials shown, was not challenged further and thus attained finality. In 2017, the petitioner instituted Regular Civil Suit No.3 of 2017 seeking permanent injunction against respondents No.1 to 3 along with the Exhibit-5 application. When the interim application (Exh.5) was pending, the municipal General Body passed Resolution No.61 dated 01.03.2017 cancelling the 30-year agreement and purportedly withdrawing NOCs/permissions issued in favour of petitioner for constructing slaughter house. The trial court initially directed status quo on 02.03.2017; later the interim order was vacated on 13.11.2017, followed by sealing and taking possession of slaughter house on 15.11.2017, and also made communications to Animal Husbandry Department that the slaughterhouse was sealed and the NOC stood cancelled. The petitioner preferred appeal (Civil Appeal No.67 of 2017) which led to directions for restoring status quo ante; subsequent writ proceedings between the parties culminated in an order in Writ Petition No.5580 of 2018 dated 12 September 2018 by which this Court directed restoration of status quo ante as on 13.02.2017 in respect of possession, directed de-sealing and protected the petitioner from dispossession pending the suit, with directions for expeditious disposal of Civil Suit by

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Trial Court. Ultimately, the suit is stated to have been decreed on 31.01.2022 in favour of the petitioner granting perpetual injunction protecting its peaceful possession, and Civil Appeal No.82 of 2022 filed by the municipal council is stated to be pending without any stay. The petitioner claims that despite the decree and absence of stay, respondent nos.1 to 3 are refusing to facilitate the statutory/regulatory requirements to restart operations, particularly the NOC required by Animal Husbandry Department for appointment of veterinary doctors, which is also needed for APEDA inspection/approval processes.

5. On the legal framework, the petitioner places reliance on Section 49(2) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (“the 1965 Act”), which casts obligatory duties on municipal councils, including making reasonable provisions for matters such as markets and slaughterhouses; this obligation is pleaded to be coupled with a duty to maintain hygienic and regulated slaughtering infrastructure, and not to permit an unregulated vacuum. The petitioner also refers to the municipal body’s long-standing conduct of permitting operations and issuing permissions, and submits that refusal of NOC on the bare ground that an appeal is pending, without stay, is arbitrary and defeats court orders and the decree. The petitioner further relies on the prior order of this Court in

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Writ Petition No.5580 of 2018 as a binding inter-parties determination at least to the extent that the municipal action of sealing and dispossessing was interdicted and possession/occupation restored pending adjudication, which adjudication has now resulted in a decree in its favour.

6. Respondent nos.1 to 3 oppose the petition contending that the general body resolution dated 01.03.2017 cancelling the agreement and closing the slaughterhouse has not been challenged under the remedy available under Section 308 of the 1965 Act, which empowers supervisory authorities to suspend execution of municipal resolutions on certain grounds; hence, according to them, the resolution remains operative. It is also contended that the suit decree protects only possession and does not, by itself, confer a right to conduct slaughtering operations, especially when the 30-year agreement is unregistered and allegedly contrary to Section 92 of the 1965 Act which restricts transfer/lease of municipal immovable property without State sanction and, in any event, permits leasing beyond certain periods only within statutory limits. Public opposition, complaints, alleged illegal activities, pollution concerns, and subsequent resolutions by neighbouring village bodies are also relied upon to justify non-issuance of NOC.

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7. We have heard the respective Counsel for both the parties and have also perused the documents annexed to the petition.

8. The first issue is maintainability. The petition seeks enforcement of a public law duty such as issuance of an NOC and renewal/reinstatement of municipal permissions in the face of a subsisting decree which has not been stayed by the Appellate Court. Availability of an alternate statutory route does not by itself bar a writ when the impugned action is alleged to be arbitrary, in disregard of binding judicial orders, and where the relief sought is essentially to compel performance of a statutory/public duty and to quash an administrative refusal founded on irrelevant considerations. The Supreme Court has consistently held that the rule of alternate remedy is a rule of discretion and not a rule of jurisdiction; writ jurisdiction may be exercised, *inter alia*, where fundamental rights are affected, where there is violation of principles of natural justice, where proceedings are wholly without jurisdiction, or where the action is palpably arbitrary/illegal. Reliance can be placed upon *Whirlpool Corporation v. Registrar of Trade Marks*, (1998) 8 SCC 1; *Harbanslal Sahnia v. Indian Oil Corporation Ltd.*, (2003) 2 SCC 107. The Hon'ble Supreme Court in *Harbanslal Sahnia* (supra) held as under:

"7. So far as the view taken by the High Court that the remedy by way of recourse to arbitration clause was available to the appellants and

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therefore the writ petition filed by the appellants was liable to be dismissed is concerned, suffice it to observe that the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies: (i) where the writ petition seeks enforcement of any of the fundamental rights; (ii) where there is failure of principles of natural justice; or (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act is challenged. (See Whirlpool Corpn. v. Registrar of Trade Marks [(1998) 8 SCC 1] .) The present case attracts applicability of the first two contingencies. Moreover, as noted, the petitioners' dealership, which is their bread and butter, came to be terminated for an irrelevant and non-existent cause. In such circumstances, we feel that the appellants should have been allowed relief by the High Court itself instead of driving them to the need of initiating arbitration proceedings.”

9. In the present matter, the refusal is not an adjudication of private contractual rights alone; it is an administrative obstruction that directly impacts statutory and regulatory compliance and is asserted to be contrary to binding court orders and a subsisting decree. The writ petition is therefore maintainable.

10. The second issue is the effect of pendency of civil appeal without stay. It is a statutory norm under Order XLI Rule 5 of the Code of Civil Procedure, 1908 that an appeal does not operate as a stay of proceedings under a decree or order appealed from except so far as the appellate court may order. The Hon'ble Supreme Court in ***Atma Ram***

Properties (P) Ltd. v. Federal Motors (P) Ltd., (2005) 1 SCC 705 has reiterated the principles governing stay and the consequences of a decree pending appeal. The position therefore is that, until stayed, the decree remains operative and binds the parties. On the pleadings, it is not disputed before us that Civil Appeal No.82 of 2022 is pending and no stay has been granted. Respondent nos.1 to 3 cannot, in administrative exercise, treat the decree as non-existent or inoperative merely because they have filed an appeal. Their administrative decision must proceed on the legal reality that the decree stands and governs the parties' rights and obligations until stayed or reversed by higher courts.

11. The third issue concerns the respondents' reliance on alleged infirmities of the 30-year agreement due to non-registration and violation of Section 92 of Act of 1965. These contentions may well be part of the appellate adjudication in the pending civil appeal, but they cannot be used as a short route to defeat the operative decree and the binding inter-parties judicial orders by unilateral administrative refusal. Even on the legal plane, an unregistered lease deed, though inadmissible to prove the lease as a transaction requiring registration, can be looked into for collateral purposes such as nature and character of possession and other limited purposes, depending on the issue involved the Supreme Court has recently revisited this doctrine in *M/s*

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Paul Rubber Industries Pvt. Ltd. v. Amit Chand Mitra & Anr., 2023 INSC 854 (Judgment dated 25.09.2023), with reference to earlier authority including *Rai Chand Jain v. Miss Chandra Kanta Khosla*, (1991) 1 SCC 422. The trial court decree on the record, proceeds on lawful and peaceful possession in accordance with the agreement between the parties, and the Single Judge's order dated 12.09.2018 passed in Writ Petition No.5580 of 2018 protected and restored possession/occupation pending suit. Whether the municipal council could have executed a 30-year instrument without State sanction under Section 92 of the 1965 Act, and the ultimate consequences in law, are issues for the appellate court will decide; however, until the decree is stayed or reversed, municipal authorities cannot, by administrative action, nullify its effect. Further, Section 92 itself, as it stands in the statute, imposes restrictions on transfer of municipal immovable property without State sanction and regulates leasing powers; that regime is not a licence for arbitrary administrative obstruction but a framework requiring the municipal body to act lawfully, transparently and consistently.

12. The fourth issue is the legality of the reasons recorded in the impugned refusal and the manner in which public opposition is pressed into service. The communication dated 17.02.2025, as summarised in the pleadings, rests principally on pendency of proceedings and alleged

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cancellation of NOCs/permissions. Public orders must be judged on the reasons contained in them, and cannot be later supplemented by fresh grounds in affidavits; the Supreme Court in *Mohinder Singh Gill v. Chief Election Commissioner*, (1978) 1 SCC 405 has settled that an order must stand or fall on its own reasons. Likewise, public orders publicly made cannot be construed in the light of subsequent explanations; *Commissioner of Police, Bombay v. Gordhandas Bhanji*, AIR 1952 SC 16. Even otherwise, complaints and public opposition, without a legally sustainable and procedurally fair determination of statutory violations, cannot justify withholding in NOC that is required for regulated operation, particularly where the petitioner is seeking to appoint veterinary doctors and undertake compliance steps. If there are objective statutory grounds to refuse or condition an NOC, the authority must identify them, follow due process, and pass a reasoned order consistent with law. Administrative action guided by extraneous considerations, including political pressure or amorphous “resentment” unconnected to a legal standard, is impermissible. Judicial review does not substitute the decision, but it does examine the decision-making process for legality, relevance of considerations, and absence of arbitrariness, reliance can be placed for this position on *Tata Cellular v. Union of India*, (1994) 6 SCC 651.

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13. The fifth issue is the character of the duty sought to be enforced by authority. The petitioner is not praying this Court to run the slaughter house on the basis of judicial orders. The petitioner asks for issuance of an NOC and renewal/reinstatement of municipal permissions so that the regulated framework for slaughtering, including mandatory veterinary oversight and pollution control compliance, can be operationalized. Section 49(2) of the 1965 Act enumerates obligatory municipal functions and includes, *inter alia*, making reasonable provision for civic amenities and facilities, including slaughterhouses, as part of hygienic municipal administration. When a municipal council has established/accepted a municipal slaughterhouse, placed it under its supervision, and itself chosen to discharge its management through a lease/tender arrangement, the council's subsequent conduct must conform to law and cannot be arbitrary or self-contradictory. Mandamus can issue to compel performance of a public duty and to prevent public authorities from acting contrary to law; the Supreme Court has explained the width of mandamus under Article 226 where public duty exists in judgment of ***Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust v. V.R. Rudani***, (1989) 2 SCC 691. In the said judgment, the Hon'ble Supreme Court has held as under:

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“22. Here again we may point out that mandamus cannot be denied on the ground that the duty to be enforced is not imposed by the statute. Commenting on the development of this law, Professor de Smith states: “To be enforceable by mandamus a public duty does not necessarily have to be one imposed by statute. It may be sufficient for the duty to have been imposed by charter, common law, custom or even contract.” We share this view. The judicial control over the fast expanding maze of bodies affecting the rights of the people should not be put into watertight compartment. It should remain flexible to meet the requirements of variable circumstances. Mandamus is a very wide remedy which must be easily available “to reach injustice wherever it is found”. Technicalities should not come in the way of granting that relief under Article 226. We, therefore, reject the contention urged for the appellants on the maintainability of the writ petition.”

14. Issuance of an NOC in accordance with said Act is not a matter of private benevolence; it is part of the statutory-regulatory chain by which slaughterhouses are run under veterinary supervision and public health safeguards. A refusal that is founded on irrelevant considerations, and which effectively frustrates compliance, cannot be sustained.

15. The sixth issue is the respondents’ reliance on Section 308 of the 1965 Act as a bar because the petitioner did not separately challenge the resolution of 01.03.2017 before the Collector. Section 308, as it appears in the statute, is a supervisory mechanism for suspension of execution of unlawful or improper municipal resolutions, initiated in the statute by the Chief Officer sending a resolution to the Collector in certain circumstances, and provides for decision-making by the Collector/Director with further recourse. This provision does not

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operate as an ouster of writ jurisdiction, nor does it create a legal bar that a municipal resolution, especially one whose implementation and consequences have been the subject of multiple judicial orders and a Courts decree can be deployed to defeat the operative decree by administrative decision. More importantly, respondent nos.1 to 3, having suffered a decree protecting possession and being in appeal without stay, cannot insist that the petitioner must pursue multiple parallel remedies as a precondition to receiving basic administrative sanctions necessary to comply with veterinary and regulatory requirements. The municipal body remains free to press all legal contentions in the pending civil appeal until then, it must act consistently with the decree and judicial directions binding between the parties.

16. The seventh issue is the scope of relief. Respondent nos.1 to 3 argue that the decree protects only possession and not the right to conduct slaughtering operations. This submission, in the present writ, is beside the point to the extent the petitioner seeks an NOC for appointment of veterinary doctors and renewal/reinstatement of licences and permissions which are regulatory prerequisites for lawful operation. If respondent nos.1 to 3 assert that the petitioner cannot lawfully operate, the lawful course is to obtain appropriate judicial orders and to proceed under statutory provisions with due process, not

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to prevent compliance steps by withholding an NOC on untenable grounds. In this connection, it is relevant that the petitioner has placed on record that certain licences/consents from competent authorities issued by pollution control board, factory and food safety department etc. still exist and are valid for stated periods, and the respondents do not demonstrate any lawful order of competent statutory regulators cancelling those permissions on merits. The municipal authority's refusal, as pleaded, is based on pendency and past cancellation, not on a current statutory disqualification adjudicated after due process. The refusal therefore cannot sustain.

17. For all above reasons, we hold that the municipal council's refusal as communicated to the Animal Husbandry authorities and in turn to the petitioner founded merely on pendency of civil appeal and on an assertion that earlier NOCs were cancelled, without addressing the operative decree and without any stay in appeal/proceedings, is illegal and unsustainable. Hence, we proceed to pass the following order.

ORDER

- (i) The impugned communication dated 17.02.2025 for refusal/objection issued by respondent nos.1 to 3 to issuance of NOC for appointment of veterinary doctors for the petitioner's slaughterhouse, is quashed and set aside.

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- (ii) Respondent nos.1 to 3 are directed to issue, within two weeks from the date of this judgment, the requisite NOC to enable respondent no.4 to appoint veterinary doctor(s) for *ante-mortem* examination and allied statutory veterinary functions for the petitioner's slaughterhouse, subject to such standard conditions as are consistent with law.
- (iii) Upon receipt of such NOC, respondent no.4 shall process the petitioner's request for appointment of veterinary doctor(s) in accordance with the statutory framework, and do so expeditiously, preferably within two (02) weeks thereafter, since the matter concerns regulated public health compliance.
- (iv) As regards the prayer for reinstatement and renewal of licences/permissions/NOCs which were in existence prior to the events of 2017, respondent nos.1 to 3 cannot, by a blanket stand, obstruct renewal/restoration where the petitioner otherwise satisfies statutory requirements and where the competent authorities' approvals such as MPCB/FSSAI/factory licence are in force. Accordingly, respondent nos.1 to 3 shall, within two (02) weeks from the date of order process and issue municipal renewals/permissions/NOCs which are within their statutory domain and are required to operationalize the slaughterhouse in a regulated manner.
- (v) Respondent no.5 (APEDA) shall thereafter deal with the petitioner's request for inspection/approval in accordance with its statutory scheme and guidelines, and taking into account the present order and the operative civil court decree.

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19. It is expressly clarified that all contentions of parties overlapping the issues already raised in pending Civil Appeal are left open to be adjudicated in the pending Civil Appeal No.82 of 2022 on its own merits without influenced by the observation of this Court in the present judgment and order. Nothing in this judgment shall be read as a final pronouncement on title or ultimate contractual enforceability beyond what is necessary to decide the legality of the impugned administrative refusal and the performance of public duties in the present writ jurisdiction.

20. Rule is made absolute in the above terms. No order as to costs.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE