

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11789 OF 2021
(Narayan Somilal Bankar Vs. The Additional Divisional Commissioner and others)

.....
Mr. Ravindra V. Gore, Advocate for the petitioner
Mr. A.A. Jagatkar, A.G.P for the respondent/State

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CORAM : MANGESH S. PATIL, J.

DATE : 28.10.2021

PER COURT :

Heard.

2. The petitioner, who is one of the plot owners from land Survey No.68/1, is aggrieved by the order passed by the Divisional Commissioner whereby he has quashed and set aside the order of the Collector passed in exercise of the powers under Section 308 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 ("the Act", for short). The Collector had noticed that the Municipal Council had passed a resolution No.31 on 06.10.2016 thereby undertaking a measurement in respect of a land about which a layout was already approved in the year 1958, without there being any approval from the Town Planning Department.

3. Prima facie, there is no provision of any appeal or revision

against the order of the Collector passed under Section 308 maintainable before the Divisional Commissioner. As can be seen, it is vested only in the Director of Municipal Administration to examine such an order passed by the Collector under Section 308.

4. Though the appeal preferred by respondent No.4 was styled as revision petition under Section 318 of the Act, it is a general power of revision, which vests in the State Government and does not prima facie regulate a specific provision of Section 308 wherein the matter goes to the Director of Municipal Administration after the Collector passes an order under that provision.

5. Issue notice returnable on 09.12.2021. The learned A.G.P waives service of notice for respondent Nos.1 and 2.

6. Till the next date, the impugned order shall stand stayed.

[MANGESH S. PATIL]
JUDGE