

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 1997 OF 2012

RADHESHAM KAKUMAL CHETWANI  
VERSUS  
THE STATE OF MAHARASHTRA AND ORS

...

Advocate for Petitioner : Mr. Pawar Rahul S.  
AGP for Respondents 1 to 4: Mrs. A.V. Gondhalekar  
Advocate for Respondent No.5 : Mr. Milind Patil  
Advocate for respondent No.6: Mr. A.B. Girase

.....

**CORAM : R. M. BORDE AND  
V. K. JADHAV, JJ.**

**DATED : 21<sup>st</sup> APRIL, 2015**

**P.C. :-**

1. The petitioner is praying for issuance of directions to the respondent Municipal Council to remove the encroachment on entire Dhule-Nandurbar road in view of directions issued by this Court in writ petition No. 3732 of 2004 dated 21.10.2011.

2. This Court during the continuance of proceedings issued directions to the Collector to verify the situation personally and file a report, as to whether the Municipal Council has removed the encroachment over the disputed road in accordance with the directions issued by this Court. An affidavit in reply has been presented by the Collector on 29.9.2013 wherein he has stated that he had personally visited the spot on 24.9.2013 alongwith the Deputy Engineer, P.W.D, Sub Divisional Officer, Shirpur and the Tahsildar, Shindkheda for inspecting the Nandurbar-Dhule road, which

passes through Dhondaicha town. The Collector has noticed that the encroachment over the road has already been removed. It is further stated that the road passing on southern side of the rest house, A.P.M.C., S.T. stand, Dondaicha Railway station on one hand and commercial zone on other hand is Dhule-Nandurbar road.

3. Counsel appearing for the petitioner makes a grievance that there is no connecting bridge constructed over Dhule Nandurbar road and as such the contentions raised by the respondents that encroachments have been removed is without any basis. It is contended that since there is no bridge constructed on the river, the traffic passing through Nandurbar Dhule highway proceeds through the road which connects office of Municipal Council and there are encroachments over the said internal road. It is needless to clarify that if that be so, it is the responsibility of the Municipal Council to ensure removal of encroachments on internal road also. Counsel appearing for the respondent Municipal Council contends that width of internal road is 30 ft and that there are no encroachment over the road passing through Rest house, A.P.M.C., S.T. Stand, Dondaicha Railway station.

4. Without going into the merits of the contentions as to whether there are encroachments over the said internal road, we make it clear that it is the statutory responsibility of the Municipal Council to remove the encroachments and keep the road free from encroachment. It is also noticed that in pursuance to certain directions issued by this Court on

9.12.2014, Assistant Regional Director, Municipal Administration, Divisional Commissioner Office, Nashik paid visit to the area and noticed that the encroachments over Dhule Nandurbar Road have been removed by the Municipal Council. The contentions raised by the petitioner that the Municipal Council has not complied with the directions issued by this Court earlier does not appear to be sound in view of affidavit in reply presented by the Regional Director, Municipal Administration and the Collector, Dhule.

5. It does appear that the petitioner was also one of the encroacher who had committed encroachment over certain area within the limits of Municipal Council and the Municipal Council after taking appropriate steps caused removal of encroachment committed by the petitioner. The petitioner thus appears to be a person having animus against the Municipal Council.

6. In view of the above, writ petition stands disposed of.

**( V. K. JADHAV, J.)**

**( R. M. BORDE, J. )**

rlj/