

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

PIL NO.49/2015

17 PUBLIC INTEREST LITIGATION NO. 49 OF 2015

PANDURANG VITHAL GAIKWAD
VERSUS
STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr.Bajaj Anil S.
AGP for Respondent State: Mr.N.B.Patil
Advocate for respondent no.5: Mr.Shelke Shivaji T.
Mr.Sawant Amol S., Adv., for R/8.

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CORAM : R. M. BORDE & P.R. BORA, JJ.
Dated: October 19, 2015

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PER COURT :-

1. The petitioner is praying for issuance of directions to the respondents to maintain following roads:

(a) Kanhur Pathar - Pimpalgaon Rotha Nandur Pathar - Khandoba Devasthan i.e. ODR -326 and 2. Belhe Kalas-Garkhindi-Korthan Khandoba i.e. VR 105, at the earliest.

2. The petitioner submits that the roads are being utilized for Wind Power project and as a result of transportation of heavy machinery by the Wind Project Developer, the condition of the roads has deteriorated. The State Government, on 14th July, 2010, has framed a policy in respect of the wind energy project which includes the component of maintenance of the roads. As per the Policy framed by the State Government, which is incorporated in Schedule A to the aforesaid Government Resolution, the expenses for maintenance of the road will have to be borne out of the Green

agp/-

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Energy Fund set up under the State Policy. It would be the obligation of the B & C (PWD - State Sector) Department to perform the maintenance work of the roads. It is pointed out that in accordance with the policy formulated by the State, the Project Developer has deposited requisite funds with respondent no.7. The funds lying with respondent no.7 can be utilized for maintaining and repairing the roads.

3. In the affidavit in reply presented on behalf of the B & C Department (PWD - State Sector), it is stated that it is the responsibility of the Zilla Parishad to furnish plans and estimate and on receipt of the plans and estimate, the work can be undertaken by the concerned B & C Department (PWD - State Sector). Our attention has been invited to Government Resolution dated 21st August, 2013, which prescribes that it is for the B & C Department (PWD - State Sector) to prepare the cost estimates for undertaking the repair works. It is the contention raised on behalf of the B & C Department (PWD - State Sector) that since the concerned roads are assigned to Zilla Parishad, it is the responsibility of the Zilla Parishad to prepare plans and estimates and furnish the same to B & C Department. However, the contention raised by the B & C Department is not in consonance with the policy framed by the State Government declared in the resolution dated 21st August, 2013.

agp/-

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4. In view of the facts stated as above, we direct the respondent B & C Department (PWD - State Sector) to undertake the work of maintenance of the roads after preparing plans and estimates in consonance with the Government Policy declared on 21st August, 2013. There is no impediment on behalf of respondent no.7 to transfer the funds required for maintenance and repairing the roads.

We direct respondent no.4 to execute the work of repairs / maintenance of the roads. It shall be the obligation of respondent no.7 to provide necessary funds to B & C Department. We expect respondent no.4 to complete the works as expeditiously as possible, preferably within a period of four months from today.

With the directions as above, the Public Interest Litigation stands disposed of.

(P.R. BORA, J.)

(R. M. BORDE, J.)

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