

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

PUBLIC INTEREST LITIGATION NO.79 OF 2015

- 1) Sanjay Bhaskarrao Kale,
- 2) Sandip s/o Vijay Kulkarni

...PETITIONERS

VERSUS

The State of Maharashtra
and others.

...RESPONDENTS

...
Mr.S.B. Talekar Advocate for Petitioners.
Mr.M.M. Nerlikar, A.G.P. for Respondents.
...

**CORAM: A.B. CHAUDHARI AND
INDIRA K. JAIN, JJ.**

DATE : 10TH SEPTEMBER, 2015

PER COURT :

1. Following are the prayer clauses (B) and
(C) in the present Public Interest Litigation:-

"(B) To direct the respondents to stop
further release of water for the purpose

of Shahi "Snans" for Kumbha Mela at Nasik, by issuing writ of mandamus or any other appropriate writ or directions as the case may be,

(C) To direct the respondents to open the weirs at Kapila Sangam and let the water flow downstream without holding it to create back-water for bathing purpose during Kumbha Mela, by issuing writ of mandamus or any other appropriate writ or directions as the case may be."

. Following are the averments in Para 10 of the Petition:-

"10. The Sinhastha Kumbh Mela is being held at trimbakeshwar and Nasik from 14 July 2015 to 11 August 2016, and the main flow of the devotees is from mid-August to end of September. Three shahi "snans" are scheduled on 29 August, 18 September

and 25 September 2015 respectively."

2. In support of the Public Interest Litigation, Mr. Talekar, the learned counsel for the Petitioner was called upon to answer as to why the Petition should not be entertained for delay and laches in presenting the same in this Court. Mr. Talekar, the learned counsel for the Petitioner submitted that the Petitioner did not know about the action of the Respondents to release the water for Shahi Snan and therefore the Petitioner having acquired the knowledge a day before, this Petition was drafted on 9th September 2015 and filed as such and, therefore there is no delay.

3. We have perused the entire Petition and the documents along with the Petition. Upon perusal of the Petition, it appears that the conduct of Kumbha Mela at Trimbakeshwar is a pre-decided event and is known to everybody or at

least those who are concerned or diligent. The fact that Shahi Snan is organized in Kumbha Melas is also a matter of common knowledge and obviously that the water is released as per requirement. That apart, the Kumbha Mela commenced from 14th July 2015 and the present Petition has been presented in this Court on 9th September 2015. Not only that, one Shahi Snan has already taken place and the remaining two are to take place in the near future. Neither Mr. Talekar could point out to us from the averments in the Petition as to why the Petition was not filed immediately after the commencement of Kumbha Mela from 14th July 2015, nor could we find any such averments in the Petition to explain the delay and laches. On the contrary, we find that the Petition is blissfully silent on that aspect. The Petitioner, claiming to be a public interest litigant, must be attributed the diligence required, if he wants to file Public Interest Litigation in such a matter. Nay, we believe that such litigant like the Petitioner

must stand at a higher pedestal in the matter of alertness and diligence for filing the Public Interest Litigation. In fact, that is a rigour which is a *sine-qua-non* for entertaining the Public Interest Litigation.

4. We further find that Kumbha Mela which started from 14th July 2015, is likely to end by the end of fourth week of this month. In our opinion, the Petition, therefore, suffers hopelessly from delay and laches, which has not at all been explained anywhere. That being so, we are not inclined to entertain the present Public Interest Litigation. We therefore, make the following order:-

O R D E R

(I) Public Interest Litigation No.79 of 2015 is dismissed.

(II) No order as to the costs.

(III) After pronouncement of the order by us in the open Court, Mr. Talekar, the learned counsel for the Petitioner submits that he would like to present the application for amendment of the Petition on record, so also some authorities in support of his submissions. Since we have held that the Petition is not maintainable due to delay and laches, we do not find it necessary to accept the request made by Mr. Talekar, hence is rejected.

[INDIRA K. JAIN, J.]

[A.B. CHAUDHARI, J.]

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