

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.160 OF 2014

Anil Gajanan Bhagat

Petitioner

versus

State of Maharashtra and others

Respondents

Mr.S.G.Deshmukh with Mr.J.S.Chandnani for Petitioner.

Mr.Shekhar Bhise, AGP for Respondents 1 and 2 State.

Mr.Dinesh Adsule for Respondents 3 and 4.

CORAM : MOHIT S. SHAH, C.J. AND
B.P.COLABAWALLA, J.

DATE : 26 February 2015

PC :

The petitioner, a councillor of respondent no.3 Kulgaon-Badlapur Municipal Council, has filed the present Public Interest Litigation for challenging the decision of the State Government in the Urban Development Department to get certain public works done within the limits of Kulgaon-Badlapur Municipal Council through Public Works Department.

2. By a government resolution dated 3 December 2013, the State Government in the Urban Development Department, sanctioned urgent public works within the areas of certain municipal councils upon grant of administrative approval by a committee comprising of the District Collector, Superintending

Engineer (PWD), Chief Officer of the concerned municipal council and the District Project Officer (urban administration). The urgent public works were entrusted to Public Works Department. The cost of the projects appears to be to the tune of Rs.173.62 crores. As far as urgent public works in Kulgaon-Badlapur municipal area is concerned, the administrative sanction is granted for the work of Rs.7.15 crores.

3. As regards the grievance of the petitioner that the said work should have been entrusted to the municipal council and not to the PWD, it is indicated in the reply affidavit filed by Mr.Rajesh R. Somvanshi, Sub Divisional Engineer, Ulhasnagar (Public Works) Sub Division, Ulhasnagar that the work carried on by PWD is done in a very professional manner and the work is supervised by two Assistant Civil Engineers, one Sectional Engineer, one Sub Divisional Engineer and one Executive Engineer. It is also stated that upon completion of the works, as per the government resolution dated 3 December 2013, the works will be handed over to Kulgaon-Badlapur Municipal Council and the said municipal council will then be responsible for maintaining the said works. It is also stated that out of 65 works to be executed by PWD, 30 works have been completed and remaining are in the process of being completed and thereafter will be handed over to Kulgaon-Badlapur Municipal Council.

4. Learned counsel for the petitioner submits that since the works are to be carried out, the Kulgaon-Badlapur Municipal Council should have been entrusted with the responsibility of carrying out and implementing all the works. It is submitted that if the municipal council is entrusted with such project, the municipal council would engage its own contractor and in case of any defect in the said works, it will take action against such contractor. But in case the work is completed by PWD and municipal council is required to maintain such works and if deficiencies appear in such works done by PWD in future, then the Kulgaon-Badlapur Municipal Council will have no control over the contractor and Kulgaon-Badlapur Municipal Council will not be in a position to take any action against the contractor.

5. Learned counsel for the petitioner further submits that the Chief Officer of Kulgaon-Badlapur Municipal Council had no authority to give no objection without referring the same to the councillors of Kulgaon-Badlapur Municipal Council.

6. In the first place, the petitioner who is the councillor of Kulgaon-Badlapur Municipal Council, has solely filed this petition. The Municipal Council in question as such has not passed any resolution raising any such objection. It was open to the petitioner in his capacity as a councillor to raise this issue at the general body meeting or the extraordinary general

meeting of the municipal council to discuss such issues. Secondly, the Government affidavit indicates that PWD has a large number of officers having technical expertise; such as Executive Engineer, Sub Divisional Engineer, Sectional Engineer and Assistant Civil Engineers. The petitioner has nowhere stated that Kulgaon-Badlapur Municipal Council has such a large number of technical man-power to supervise such works of urgent public importance being carried out.

7. Further, as pointed out in the affidavit of Sub Divisional Engineer, 65 urgent public works were undertaken pursuant to government resolution dated 3 December 2013 and as many as 30 works have already been completed and remaining are in process of being completed. Therefore, it is too late in the day to interfere in the matter at this stage and to stall the implementation of the works of such urgent public importance. Any interference by this Court with the implementation of the project of public importance which will benefit the residents of Kulgaon-Badlapur towns, will be counter productive and not in the public interest. The PIL is, therefore, not entertained.

8. As far as petitioner's contention that the Chief Officer of Kulgaon-Badlapur Municipal Council had no authority to give no objection without referring the same to the Municipal Council, it is necessary to note that the government resolution

dated 3 December 2013 itself contemplated no objection from the Chief Officer and not from the municipal council. Secondly, the objection is not raised by the municipal council as such but by a solitary municipal councillor. We further note that the government resolution dated 3 December 2013 under which the Chief Officer has granted the no objection and the PWD is carrying on the works, that government resolution itself has not been challenged by the petitioner.

9. For all these reasons, we do not find any merit in the Public Interest Litigation and the same is dismissed.

10. Needless to observe that in future, if the petitioner files any other PIL, which if found to be without merit, this Court will consider saddling costs on the petitioner.

(CHIEF JUSTICE)

(B.P.COLABAWALLA, J.)