

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION No.123 OF 2014

(Uttam Chandu Kolambe Vs. State of Maharashtra, through its Secretary,
Department of Village Development & Water Irrigation, Mumbai and others)

Office Notes, Office
Memoranda of appearances,
Court's orders or directions &
Registrar's orders.

Court's or Judge's orders

Mr. Harshad Inamdar, Advocate for the Petitioner.
Mr. Vikas Mali, AGP for the Respondent Nos.1 and 2.
Mr. C.G. Gavnakar, Advocate for the Respondent No.3
Mr. S.S. Deokar, Advocate for the Respondent No.5.

**CORAM : NARESH H. PATIL &
S. B. SHUKRE, JJ.**

DATED : 15th JULY, 2015.

P.C. :

Rule, made returnable forthwith.

The petitioner has questioned the decision taken by the Zilla Parishad Committee regarding repairing of 87 roads in its meeting dated 26th February, 2014. The funds for said work were released by the State under a policy decision communicated under resolution dated 1st February, 2014. A committee headed by Collector was constituted for the said purpose. The Committee was empowered to verify the respective cases and decide as to in what manner the funds disbursed by the State had to be utilized for repairing of roads which were damaged in rainy season. By an

ad-interim order dated 23rd July, 2014, this Court stayed the resolution passed by the Committee in the meeting held on 26th February, 2014. However, the ad-interim relief was not made applicable to work at Sr.No.32 and 39 as work orders relating to these works were already issued.

Learned counsel for the petitioner submits that the decision taken by the Committee was contrary to the Government Resolution dated 1st February, 2014. The record shows that the decision was taken by the Committee on the recommendations of the Guardian Minister and the Member of the Legislative Assembly. The recommendation letters were placed before the Committee and on that basis a decision was taken hurriedly in view of the likelihood of operation of Code of Conduct in respect of Lok Sabha Elections of 2014.

We have heard learned counsel appearing for the Zilla Parishad. The Zilla Parishad filed affidavit in reply.

By an order dated 17th June, 2015 we had directed Secretary, Rural Development and Water Resources Department, State of Maharashtra to take appropriate decision. Learned AGP states that the Department called report from the District Committee, but so far no such report was received, therefore, final decision could not be taken.

At this stage, the counsel appearing for

the Zilla Parishad has placed on record communications made by the Zilla Parishad Committee addressed to the Secretary, Rural Development on 9.7.2015. We have perused the same. Learned AGP has placed on record communication made by the State to the Chief Officer, Zilla Parishad Raigad on 9th July, 2015. We have perused the same.

In the facts of the case, we find that the funds were made available for repairing roads during the period 2013-14. In any case it is for the State to take a fresh decision in this regard. The decision taken by the Committee was based on the recommendations of the Minister and the Legislative Assembly Member which was contrary to Government Resolution dated 1st February, 2014.

In view of the fact that considerable time has elapsed since then we are of the view that the State, now, will have to take appropriate fresh decision after ongoing rainy season would be over.

During the course of hearing it was submitted that the funds of more than Rs.13/- crores disbursed by the State are lying with the Zilla Parishad.

Taking into consideration the facts and circumstances noted above, we pass following order :

ORDER

The impugned resolution dated 1st

February, 2014, Exh.-D is quashed and set aside.

The State shall take appropriate decision afresh after ongoing rainy season is over.

We direct the Zilla Parishad not to utilize the remaining amount of the funds disbursed by the State. The Zilla Parishad shall take appropriate decision in that regard under the directions issued by the State.

Rule made absolute in the above terms.
No costs.

(S. B. SHUKRE, J.)

(NARESH H. PATIL, J.)

Wadode