

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**APPELLATE SIDE CIVIL JURISDICTION****WRIT PETITION NO. 9165 OF 2013**

Shri Ratan Soli Luth

....Petitioner.

Vs.

The Commissioner,
Nashik Municipal Corporation, Nashik & Ors.

....Respondents.

Mr. R.M. Haridas i/by Mr. Tushar Sonawane for the Petitioner.

Mr. Vikas Mali, AGP for the Respondent No.2-State.

Mr. Kunal Bhanghe i/by Mr. L.M. Acharya for the Respondent Nos. 1 and 3.

**CORAM : SMT. VASANTI A. NAIK AND
C.V. BHADANG, JJ.**

DATE : 21st JANUARY 2015.

P.C.:-

By this Petition, the Petitioner seeks a direction to the Respondent No.1-the Commissioner, Nashik Municipal Corporation to hear and decide the representation of the Petitioner dated 14.8.2013, in accordance with law and then refer the matter to the “Judge” under Section 12(1) of the Maharashtra Municipal Corporation Act.

According to the Petitioner, who is a resident of the area in which the alleged illegal construction was made by Corporator-Prakash Mogal Londhe, the Corporation is not taking any action on the representation filed by the Petitioner, dated 14.8.2013, for disqualification of the Corporator under the provisions of Section 10(1)(D) of the

Maharashtra Municipal Corporation Act. It is stated that the representation made by the Petitioner is not decided by the Commissioner of the Nashik Municipal Corporation and no action is taken against the concerned Corporator for making the illegal construction.

On hearing the learned counsel for the parties and on reading of the provisions of the Maharashtra Municipal Corporation Act, it appears that no duty is cast upon the Municipal Commissioner to consider the representation made by the Petitioner. Under the provisions of Section 12 of the Act, the matter could be referred to the Judge by the Commissioner at the request of the Corporation or a Councillor, if any doubt or dispute arises where a Councillor has ceased to hold the office under Section 11 of the Act. However, since the Petitioner has alleged that the Corporator had made the illegal construction that was demolished in terms of the order passed in the Writ Petition, it would be necessary for the Corporation to consider the representation of the Petitioner in its next meeting. The learned counsel for the Corporation agrees to place the representation of the Petitioner in the General Body Meeting of the Corporation, so that an appropriate decision could be taken by the Corporation on the same.

We, therefore, dispose of the Writ Petition with a direction to the Corporation to place the representation of the Petitioner in the General Body Meeting at the earliest, so that a decision on the same could be taken by the General Body at the earliest. It is stated on behalf of the Corporation

that the representation of the Petitioner would be placed before the General Body within a period of two months. The statement is accepted, and the same would be binding on the Corporation. We also direct the Corporation to take a decision on the representation of the Petitioner as early as possible. Order accordingly. No order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)