

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2293/2015

(MEHBOOBIYA EDUCATION SOCIETY, BULDANA **VERSUS** DISTRICT COLLECTOR, BULDANA & ANOTHER)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.B. Patil, counsel for the petitioner.
Ms T.H. Udeshi, A.G.P. for the R-1.
Shri Abhay Sambre, counsel for the R-2.

CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.

DATE : NOVEMBER 20, 2015.

By this petition, the petitioner-Society seeks a direction to the respondent no.2-Municipal Council, Buldana to implement the General Body Resolution dated 11.08.2014 for granting the building of the Municipal Council to the petitioner-Society on lease, for running the school.

The petitioner-Society had applied to the respondent no.2-Municipal Council for grant of lease of the building of the Municipal Council that was vacant, for running the school. According to the petitioner-Society, the General Body of the Municipal Council has passed a resolution on 11.08.2014, resolving to grant the building on lease to the petitioner-Society. It is the case of the petitioner-Society that the Chief Officer is not taking any steps to implement the resolution of the General Body and, hence, a direction needs to be issued to the Chief Officer to implement the resolution.

It is stated on behalf of the respondent no.2-Municipal Council that the Chief Officer has challenged the resolution of the General Body of the Municipal Council in the proceedings under Section 308 of the Maharashtra Municipal Councils, Nagar

Panchayats and Industrial Township Act, 1965. It is stated that several grounds are raised by the Chief Officer for challenging the resolution including the ground that the subject of granting the building on lease to the petitioner was not on agenda.

Without going into the question whether the petition is tenable and the petitioner-Society has a right to seek a direction to the Chief Officer to implement the resolution of the General Body, in the circumstances of the case, we dispose of the writ petition as no direction could be issued to the Chief Officer to implement the resolution of the General Body when the same is under challenge under the provisions of Section 308 of the Act of 1965. Since the resolution, that is sought to be implemented, is under challenge, the relief cannot be granted. The reference made by the learned counsel for the petitioner to the judgment reported in **2004(2) Mh.L.J. 874** (*Sanjay Govind Sapkal & Others Versus Collector of Dhule & Others*) is ill-founded as the said judgment cannot be made applicable to the facts of this case.

In the result, the writ petition fails and is dismissed with no order as to costs.

JUDGE

JUDGE

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