

PUBLIC INTEREST LITIGATION NO.14 OF 2016

Versus

The State of Maharashtra and others Respondents

Mr.D.P. Palodkar advocate for the petitioners
Mr.A.B. Girase, Government Pleader for Respondent Nos. 1 to 3
M/s J.P. Legal Associates through Mr. S.B. Joshi, advocate for
respondent No.4

CORAM : R.M. BORDE &
K.L.WADANE, JJ

(Date : 12th July, 2016.)

PER COURT :-

1 An affidavit in reply has been presented by the Collector. In
paragraph Nos.2 to 5, it is recorded thus:-

" 2. I say and submit that, this Hon'ble Court while hearing the above matter on 4.4.2016 was pleased to direct the respondent authorities to submit the information as to what action will be initiated by the respondents on the said issue. The District Administration Officer (Urban Development) Collector Office, Aurangabad had submitted the information on 5.3.2016 in the office of the Government Pleader of this Hon'ble Court by which certain action in accordance with the provisions of Section 308, 44(e) of The Maharashtra Municipal Council Nagar Panchayat & Industrial Township

act, 1965 along with the provisions of Section 52, 53, 54 of the Maharashtra Regional & Town Planning Act, 1966 was proposed to be initiated by the respondent No.2. The copy of the communication letter dt 5.4.2016 is annexed herewith and is marked as EXHIBIT-R-1.

3. I further say and submit that, in accordance with the information submitted on behalf of the respondent No.2 vide communication dtd 5.4.2016, the respondent No.2 has constituted an Enquiry Committee headed by the Sub Divisional Officer Paithan – Fulambri for conducting a detailed enquiry in respect of the unauthorized construction carried out by the respondent No.4 Municipal Council Patihan on the reservation site of Yatra Maidan at Paithan. The copy of the orders dtd. 12.4.2016 issued by the respondent No.2 regarding the constitution of the enquiry committee is annexed herewith and is marked as EXHIBIT-R-2.

4. I further say and submit that, the respondent No.2 by orders dtd. 12.4.2016 has also directed the respondent No.4 to initiate the action u/s 52, 53, 54 of the MRTP Act in respect of the unauthorized construction and to submit a proposal for the evaluation of the Resolution dated 2.2.2016 passed by the respondent No. 4 in accordance with the provisions of Section 308 of the Maharashtra Municipal Council Nagar Panchayat & Industrial Township Act, 1965. Further more, by way of the orders dtd 12.4.2016, the respondent No.2 has directed the respondent No.4 to submit a proposal for Departmental enquiry along with the charge sheet against the erring officer and employees of Municipal

Council Paithan and also to submit the proposal for the disqualification of the concerned Members of the Municipal Council Paithan who were involved in the passing of the resolution dtd. 2.2.2016, in accordance with the provisions of Section 44 (e) of the Maharashtra Municipal Council Nagar Panchayat & Industrial Township Act, 1965. The copy of the order dtd. 12.4.2016 issued by the respondent No.2 is annexed herewith and is marked as EXHIBIT-R-3.

5. I further say and submit that, for the completion of the preliminary enquiry, to adjudicate the proposal which would be submitted by the respondent No.4 in the office of the respondent No.2 under the provisions of section 308 and 44 (e) of the Maharashtra Municipal Council Nagar Panchayat & Industrial Township Act, 1965 and also for the completion of the departmental enquiry at least 6 months time period would be required.

Hence this additional affidavit in reply "

2 A further affidavit has been tendered on behalf of respondent No.2. In paragraphs Nos.3 to 6 of the affidavit in reply, it is stated thus:

" 3. I further say and submit that, the Chief Officer of Municipal Council Paithan has submitted a proposal for the suspension of the implementation of the resolution passed by the Municipal Council Patihan dtd 13.4.2015 in the office of the respondent No.2 for the necessary orders in accordance with the provisions of Section 308 of the Maharashtra Municipal Council Nagar Panchayat & Industrial Township Act, 1965. I further say and submit

that, in the like manner the Chief Officer of the Municipal Council Paithan has also submitted the proposal u/s 44 (e) of the Maharashtra Municipal Council Nagar Panchayat & Industrial Township Act, 1965 for the disqualification of the Councilor of the Municipal Council Paithan. Both the above proposals are under consideration of the respondent No.2 after due enquiry, and after giving sufficient opportunity of hearing to all the concerned parties including the Chief Officer, the office bearers and the Councilors of the Municipal Council Paithan. An application has been filed by the office bearers of the Municipal Council Paithan on 15.6.2016, thereby requesting for providing the copy of the enquiry report submitted by the enquiry committee headed by the Sub Divisional Officer Paithan-Phulambri. So also vide application dtd 15.6.2016, the office bearer of the Municipal Council have requested to grant an opportunity of hearing and to offer explanation on the points raised by the enquiry committee in its report. As such it is expedient to grant an opportunity to the office bearers, and the councilors to offer explanation on the issue raised by the enquiry committee. After conducting the necessary enquiry and hearing appropriate orders in accordance with the provisions of law would be passed in the said cases.

4. I further say and submit that, the respondent No.2 had also constituted an enquiry committee headed by the Sub Divisional Officer Paithan-Phylambri by orders dated 12.4.2016 for the purpose of conducting a preliminary enquiry in respect of the alleged unauthorized construction made by the Municipal Council

Paithan on the reservation site of Yatra Maidan. The copy of the order dtd. 12.4.2016 issued by the respondent No. 2 is annexed herewith and is marked as EXHIBIT-R-1.

5. I further say and submit that, subsequently the enquiry committee as referred above, has submitted the enquiry committee report dtd. 25.4.2016 in the office of the respondent No.2. The copy of the same is annexed herewith and is marked as EXHIBIT-R-2.

6. I further say and submit that, from the perusal of the preliminary enquiry report it is revealed that the subject land is included in the Gavthan area of Paithan city. Moreover a proposal for partial modification of the Development Plan of Paithan City in respect of the subject land has been submitted by the Municipal Council Paithan in the office of the Director, Town Planning, Pune and the said proposal is now under consideration of the Director, Town Planning Pune for partial modification of the Development Plan in accordance with the provisions of the Maharashtra Regional & Town Planning Act, 1966.

Hence this affidavit. "

3 Counsel appearing for the petitioners states that, he is satisfied with the stand taken by the Collector and the action initiated by respondent No.2. It is urged that the proceedings initiated shall culminate into the action and necessary directions in that regard be issued.

4 Learned Government Pleader appearing for the State informs on instructions that, appropriate steps would be taken in

accordance with provisions of law, as expeditiously as possible and preferably within a period of three months from today.

5 Learned counsel appearing for the petitioners states that, in view of affidavits tendered on record and the statement made by the learned Government Pleader, on instructions, the grievances raised by the petitioners in the instant petition stand redressed. Needless to record that, the action is expected to be taken after hearing all the parties concerned having interest in the issue.

6 Learned counsel appearing for the petitioner graciously states that, he is willing to denote Rs.25,000/- to the Library Committee of the Advocates Bar Association of High Court, Bench Aurangabad. The amount of Rs.25,000/- be transferred to the account of Library of Advocates Bar Association, High Court of Bombay, Bench at Aurangabad and the balance amount of Rs. 25,000/- be refunded to the petitioner.

7 Pending Civil applications do not survive and stand disposed of.

(K.L.WADANE, J)

(R.M.BORDE, J)