

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1606 OF 2015

1. Sau. Triveni Chiranjilal Gandhi,
Age – 50 years, Occ. Ex-President,
R/o Ward No. 11, Gandhi Fall,
Bharat Kala Road, Malkapur,
Tq. Malkapur, Distt. Buldhana,
2. Rajendra Bhomraj Jain,
Age – 53 years, Occ. Ex-Councillor,
R/o Ward No. 22, Gadegaon Ward,
Deshpande Galli, Malkapur,
Tq. Malkapur, Distt. Buldhana,
3. Rashid Kha Yusuf Kha Jamadar,
Age – 55 years, Occ. Councillor,
R/o Pilutakiya, Parpeth,
Ward No. 2, At Post Tah. Malkapur,
Distt. Buldhana,
4. Bashir Kha Farid Kha,
Age – 56 years, Occ. Ex-Councillor,
R/o Parpeth, Malkapur,
Tah. Malkapur, Distt. Buldhana,
5. Smt. Faridabee Asadullah Khan,
Age – 59 years, Occ. Ex-Councillor,
R/o Pilutakiya, Parpeth,
Ward No. 2, At Post Tah. Malkapur,
Distt. Buldhana,
6. Smt. Julekhabee Salamkha,
Age – 61 years, Occ. Ex-Councillor,
R/o Parpeth, Malkapur,
Tah. Malkapur, Distt. Buldhana,

7. Abdul Majid Abdul Kadir,
Age – 52 years, Occ. Ex-Councillor,
R/o Parpeth, Malkapur,
Tah. Malkapur, Distt. Buldhana,
8. Vijayrao Jaganathrao Jadhav,
Aged 54 years, Occ. Councillor,
R/o Jadhavwadi, Nandura Road,
Malkapur, Tah. Malkapur,
Distt. Buldhana,
9. Atul Vinubhai Patel,
Age – 57 years, Occ. Ex-Councillor,
R/o Radhakisan Chal, Ward No. 13,
Malkapur, Tah. Malkapur, Distt.
Buldhana,
10. Vijaya Anil Jaiswal,
Age – 59 years, Occ. Councillor,
R/o Shivaji Nagar, Ward No. 7,
Edalabad Road, Malkapur,
Tah. Malkapur, Distt. Buldhana,
11. Ejaj Kibrayakha Maksoodali Khan,
Age – 51 years, Occ. Ex-Councillor,
R/o Malipura, Ward No. 17, Malkapur,
Tah. Malkapur, Distt. Buldhana,
12. Tryambak Laxman Chopde,
Age – 54 years, Occ. Ex-Councillor,
R/o Kulamkhed, Ward No. 20, Malkapur,
Tah. Malkapur, Distt. Buldhana,
13. Mohammad Farukh Sheikh Amir,
Age – 58 years, Occ. Ex-Councillor,
R/o Parpeth, Malkapur,
Tah. Malkapur, Distt. Buldhana,
14. Sau. Chhaya Rajendrasingh Dixit,
Age – 59 years, Occ. Ex-Councillor,
R/o Dwarka Nagar, Behind Bus Stand,
Malkapur, Tah. Malkapur, Distt. Buldhana,

15. Namdeo Narayan Patil,
Age – 53 years, Occ. Ex-Councillor,
R/o Durga Nagar, Ward No. 24, Malkapur,
Tah. Malkapur, Distt. Buldhana,
16. Eknath Pralhad Dipake,
Age – 56 years, Occ. Ex-Councillor,
R/o Salipura, Ward No. 25, Malkapur,
Tah. Malkapur, Distt. Buldhana,
17. Gajanan Waman Soman,
Age – 60 years, Occ. Ex-Councillor,
R/o Anand Society, Malkapur,
Tah. Malkapur, Distt. Buldhana,
18. Nalini Prabhakar Thakare,
Age – 61 years, Occ. Ex-Councillor,
R/o Bharat Kala Road, Shashtri Nagar,
Ward No. 12, Malkapur,
Tah. Malkapur, Distt. Buldhana,
19. Varsha Vijay Satav,
Age – 55 years, Occ. Ex-Councillor,
R/o Satav Plot, Dnyaneshwar Nagar,
Ward No. 15, Malkapur,
Tah. Malkapur, Distt. Buldhana,
20. Pandurang Motiram Chim,
Age – 57 years, Occ. Ex-Councillor,
R/o Malkapur, Tah. Malkapur, Distt.
Buldhana.

PETITIONERS.

// VERSUS //

- 1) The State of Maharashtra,
through its Secretary, Municipal
Council Administration,
Mantralaya, Mumbai-32,
- 2] The Commissioner, Regional
Director, Municipal
Council Administration,

Amravati Division, Amravati,

- 3] The Collector, Buldhana,
District Buldhana.
- 4] The Chief Officer,
Municipal Council, Malkapur,
District Buldana.

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RESPONDENTS

Mr. P.S. Kshirsagar, Advocate for petitioners,
Mr. M.K. Pathan, A.G.P. for respondent nos.1 to 3.
Mr. N.R. Saboo, Advocate for respondent no. 4,
Mr. R.D. Karode, Advocate for intervenor.

CORAM : B.R. GAVAI & P.N. DESHMUKH, JJ.

DATED : FEBRUARY 18, 2016.

ORAL JUDGMENT (PER B.R. GAVAI, J.).

1] Rule. Rule made returnable forthwith. Heard the learned Counsel for the parties finally by consent.

2] The petitioners have approached this Court being aggrieved by the recovery notices issued to them by the Municipal Council. In the reply filed on behalf of the respondent Municipal Council, it is stated that the recovery notices are issued by the Municipal Council in pursuance of the directions issued by the Commissioner-cum-Regional Director, Municipal Administration,

Amravati. The communication of the Divisional Commissioner-cum-Regional Director, Municipal Administration, Amravati dated 6.3.2014 would further reveal that the same is issued on the basis of the report submitted by the Collector dated 15.2.2014.

3] It is not in dispute that the report dated 15.2.2014 holding that the petitioners are liable to pay certain amounts has been passed without giving an opportunity of hearing to the petitioners. By now, it is a settled principle of law that every order which invites adverse civil consequences must be preceded by compliance of principles of natural justice.

4] In that view of the matter, we allow the petition. The impugned recovery notices as well as the report dated 15.2.2014 of the Collector, so also the communication of the Divisional Commissioner dated 6.3.2014 are quashed and set aside.

5] The Collector is directed to conduct an enquiry afresh and after giving an opportunity of hearing to the petitioners, pass appropriate orders in accordance with the law. We expect the Collector to decide the matter on remand as expeditiously as possible

and preferably within a period of three months from today.

6] The petitioners are directed to appear before the Collector on 29.2.2016 and as such, the requirement of issuance of formal notice to the said petitioners shall stand waived.

7] Rule is made absolute in the above terms with no order as to costs.

C.A.W. No. 1349/15 stands disposed of.

J. **JUDGE**

JUDGE.