

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Writ Petition No. 3481 of 1998

District : Latur

1. Prakash Kamalakarrao Pathak,
Age : 45 years,
Occupation : Business,
R/o. Koyananagar, Latur,
Taluka & Dist. Latur.
 2. Nilesh s/o. Hemraj Thakkar,
Age : 35 years,
Occupation : Business,
R/o. Latur,
Taluka & Dist. Latur.
- .. Petitioners.

versus

1. The State of Maharashtra.
2. The Secretary for the
Urban Development Department,
State of Maharashtra,
Mantralaya, Bombay.
3. The Collector, Latur,
Taluka & District Latur.
4. The Municipal Council, Latur,
through its Chief Officer. .. Respondents.

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Mr. P.R. Tandale, Advocate, for the petitioners.

Mr. A.R. Kale, Asst. Government Pleader, for
respondent nos.01 to 03

Mr. V.D. Hon, Senior Advocate, for
respondent no.04

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With

Writ Petition No. 1116 of 2000

District : Latur

1. Prakash Kamlakar Pathak,
Age : 50 years,
Occupation : Business,
R/o. Latur,
Councillor,
Municipal Council,
Latur.
2. Nitin s/o. Vijaykumar Shete,
Age : 32 years,
Occupation : Business,
Sitting Councillor of
Municipal Council, Latur. .. Petitioners.

versus

1. The Chief Officer,
Municipal Council, Latur.
2. The President,
Municipal Council,
Latur.
3. The Collector,
Latur.
4. The State of Maharashtra. .. Respondents.

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Mr. S.V. Natu, Advocate, for the petitioners.

*Mr. V.D. Hon, Senior Advocate, for
respondent nos.01 and 02.*

*Mr. A.R. Kale, Asst. Government Pleader, for
respondent nos.03 and 04.*

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**CORAM : V.M. KANADE &
SANGITRAO S. PATIL, JJ.**

DATE : 04TH JANUARY 2017

ORAL JUDGMENT (Per V.M. Kanade, J.) :

Heard the learned Counsel appearing for respective parties.

02. The grievance of the petitioners, who were Councillors at the relevant time, is that the provisions of Section 101 of the Maharashtra Municipal Councils, Nagar Panchayats & Industrial Townships Act, 1965 [For short, "Act of 1965"], have not been followed. The learned Counsel for the petitioners submitted that though an undertaking has been given by the Council to the concerned authority that they would follow the said provision and rectify defects, if any, in the budget, that has not been done so far.

03. Mr. Hon, the learned Senior Counsel appearing on behalf of the respondent - Corporation submits that the issue has now become essentially an academic one; firstly because the Municipal Council has now become Municipal Corporation and secondly, the issue raised by the petitioners was in respect of the year 2000-2001.

04. On the other hand, Mr. Natu, the learned Counsel appearing on behalf of the petitioners, submits that this has been happening every year and the same illegal practice is being followed in all other Municipal Councils.

05. In our view, there would be some substance in the submission made by the learned Counsel appearing on behalf of the petitioners. However, at the same time, it cannot be overlooked that the prayer made in the petitions pertain to the year 2000-2001 and secondly, the Municipal Council has now become a Municipal Corporation. Moreover, the reliefs which are now orally claimed before us are in the nature of reliefs which can be claimed in a Public Interest Litigation. We are, therefore, not inclined to interfere and pass any order as claimed by the petitioners in these petitions.

06. We, however, direct the State Government to look into the matter and correct the illegality, if any, committed in presentation of the budget. Municipal Councils are expected to follow the procedure laid down under Section 101 of the Act of 1965. It cannot be forgotten that the Municipal Councils are dealing with public money and they are accountable. The Municipal Councils should ensure that auditory objections are removed and deficiencies in the budget are corrected.

(5)

W.P. No. 3481 of 1998 &
W.P. No. 1116 of 2000

07. Subject to above directions, the Writ Petitions are dismissed. Rule discharged. There shall be no order as to costs.

(Sangitrao S. Patil)
JUDGE

(V.M. Kanade)
JUDGE

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