

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

**PUBLIC INTEREST LITIGATION NO.89 OF 2013**

Sheikh Khalek s/o. Sheikh  
Ahmed Qureshi, Age : 51 years,  
Occ. Trade and Social Work,  
r/o. Qureshi Galli, Partur,  
Tq. Partur, Dist. Jalna ..Petitioner

Vs.

The State of Maharashtra,  
through it's Principal Secretary,  
Urban Development, Public Health  
and Housing Department,  
Mantralaya, Mumbai – 32  
and ors. ..Respondents

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Mr.R.D.Biradar, Advocate for petitioner  
Mr.S.B.Yawalkar, AGP for respondent nos.1 to 5  
Mr.A.S.Gandhi, Advocate for respondent no.6  
Mr.A.B.Tele, Advocate for respondent no.7  
Mr.V.A.Bagal, Advocate for respondent no.10

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**CORAM : V.M. KANADE AND  
SANGITRAO S. PATIL, JJ.  
DATE : JANUARY 06, 2017**

**PER COURT :**

Heard the learned Counsel for the  
petitioner.

2. The petitioner, who claims to be a social  
worker, has approached this Court by filing the

Public Interest Litigation under the writ jurisdiction of this Court.

3. The grievance of the petitioner is that some encroachments are made on the Wakf lands in the jurisdiction of Partur Municipal Council, without seeking sanction from the Wakf Board. It is submitted that the Mutawalli of the said Wakf has sold the properties of Wakf without seeking permission from the Wakf Board. It is submitted that the encroachers have constructed houses on the encroached lands. It is, therefore, prayed that directions may be given to respondent no.6 – Municipal Council to demolish the illegal constructions carried out on such lands. It is submitted that the Municipal Council, Partur has informed the petitioner under the Right to Information Act that no permission was obtained by the encroachers while carrying out constructions on the above lands.

4. Perusal of the Wakf Act, 1995 (for short, "the Act") reveals that the jurisdiction of Civil Courts is barred under Section 85 of the Act. Moreover, Sections 51, 52 and 53 in terms state that if any structure is constructed without seeking sanction from the appropriate authority, such structure is void. The procedure for removal of such structure is mentioned in Sections 52 and 53 of the Act.

5. In our view, therefore, the appropriate remedy available to the petitioner is to approach the Wakf Board. The learned Counsel for the petitioner submits that he has already made an application to that effect to the Wakf Board, however, no action has been taken.

6. Since alternate remedy is available to the petitioner, we are unable to entertain this Public Interest Litigation at this stage. The Public Interest Litigation, therefore, stands

disposed of reserving the right of the petitioner to move the Wakf Board. If such application is already made, the Wakf Board shall decide the same after giving personal hearing to all the parties. This process shall be completed within a period of twelve weeks from today.

**[SANGITRAO S. PATIL, J.]**

**[V.M. KANADE, J.]**

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