

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9535 OF 2017
WITH WP/9301/2017

MOHD JAKIR ALISHER QURESHI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Urgunde Suhas P.
AGP for Respondents 1 to 3 and 6 : Mr. P.N. Kutti
Advocate for Respondents 4 and 8 : Mr. K.U. More
Advocate for Respondent No.5 : Mr. R.S. Deshmukh

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CORAM : V. K. JADHAV, J.
DATED : 6th DECEMBER, 2017

PER COURT:-

1. One Sudhir Baburao Potdar, a Social worker and a news reporter, has filed a complaint in the office of Hon'ble Lokayukta, State of Maharashtra on 4.12.2015 stating therein that there is illegal construction and encroachment in entire Naldurga city. Consequent to the said complaint, the Hon'ble Lokayukta has directed the Collector, Osmanabad to make enquiry into the complaint filed by the said Sudhir Potdar. Accordingly, the learned Collector, has called upon the Chief Officer, Municipal Council, Naldurga and the complainant Shri Sudhir Potdar and on the basis of certain material placed before him during the course of enquiry, by order dated 30.6.2017, has directed the Chief Officer, Municipal Council, Naldurga to remove the encroachments made in Naldurga city in

front of Bus stand, National highway, Zilla Parishad Primary school, Nanima Darga to National Road, Wakf Board, Bus stand to Killa road and other public places.

2. Being aggrieved by the said order passed by the Collector, and of course the notification issued by the Chief Officer, Municipal Council, Naldurga pursuant to the directions given by the Collector, the petitioners approached this Court by filing present writ petitions. By order dated 26.7.2017 this Court has granted stay to the order passed by the Collector, as aforesaid.

3. It appears that the learned Collector has not given opportunity of being heard to the petitioners before passing the impugned order, which is general in nature. This position is also not disputed by the counsel appearing for the petitioners as well as the respondents, except the learned A.G.P.

4. Learned counsel appearing for the petitioners have even pointed out that the decree is passed in favour of some of the petitioners by the civil Court in respect of their properties situated in the area which is covered by order of the Collector and because of the order passed by the Collector, which is general in nature, they are likely to suffer.

5. In view of above, it would be appropriate on the part of the Collector to conduct enquiry afresh by giving an opportunity of hearing to all petitioners, approached to this Court in these writ petitions and also by inviting objections by paper publication. In view of this, I proceed to pass the following order:-

O R D E R

- I. The writ petitions are hereby partly allowed. No costs.
- II. The impugned order dated 30.6.2017 passed by the learned Collector, Osmanabad is hereby quashed and set aside.
- III. It is hereby directed that the Collector, Osmanabad shall conduct an enquiry afresh pursuant to the directions given by the Hon'ble Lokayukta, after giving opportunity of being heard to the original complainant, Sudhir Baburao Potdar, The Executive Engineer, P.W.D, Osmanabad, Chief Executive Officer, Zilla Parishad, Osmanabad, Chief Officer, Municipal Council, Naldurga and the petitioners herein and also inviting objections, if any, by making paper publication, in time bound manner, as expeditiously as possibly, preferably within a period of six months from today.
- IV. The petitioners shall appear before the Collector, Osmanabad on 20.12.2017 and thereafter the Collector, Osmanabad shall make paper publication inviting objections, if any, covering

entire area of Naldurga town, within 15 days thereafter.

- V. In terms of the interim order passed by this Court, each of the petitioners have deposited Rs.2000/- in this Court, to show their bonafides. The said amount shall be transferred to the Collector, Osmanabad, who will take appropriate decision about refund/retaining of the said amount in terms of the objections raised by those petitioners, considering the genuineness of said objections.
- VI. Writ petitions are accordingly disposed of.
- VII. Registry to issue authenticated copy of this order to the requesting party.

(V. K. JADHAV, J.)

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