

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**PUBLIC INTEREST LITIGATION NO. 118 OF 2016**

Bapusaheb Namdeo Thete

.. Petitioner

VS.

The State of Maharashtra and others

.. Respondents

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Mrs. Vinaya Dharurkar (Muley), Advocate for the petitioner

Mr. P.S. Patil, A.G.P. for the respondent/State

Mr. K.G. Patil, Advocate for respondent no.6 to 16

Mr. V.P. Narwade, Advocate i/b. Mrs. Manjushri Shendage – Narwade,  
Advocate for respondent no.4 and 5

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**CORAM : S.C. DHARMADHIKARI &  
MANGESH S. PATIL, JJ.**

**DATE : 20-06-2017**

**ORAL ORDER :**

1. In the garb of a Public Interest Litigation, the petitioner, who is resident of village Nimgaon Jali, Tq. Sangamner, Dist. Ahmednagar, says that the Gram Panchayat of Nimgaon Jali has allowed taking over of the land / public property unauthorizedly and illegally, that is by allotting the land for construction of a shopping complex. That very land was sought by a Doctor, who wanted to render medical service. One Manohar Tulshiram Tilekar, the then Sarpanch and other members passed a resolution to allot this land which is next to the veterinary clinic, to 12

businessmen from the village for utilizing the same for commercial purpose.

2. The petitioner sets out all the details of the resolution dated 26/01/2014, copy is at Annexure 'A', in paragraph 4 of the Petition. On the own showing of the petitioner, he waited for 12 long years until he noticed some construction. He relies upon a representation of one villager. He then says that one Medical Officer of Primary Health Center, Nimgaon Jali wrote to the Gramsevak and prayed for grant of the very open space for the construction of Sub-Centre / Primary Health Centre. In spite of that, the construction work was allowed and carried out on such land which belongs to the whole village. Grant of such land by the Grampanchayat was impermissible.

3. We do not think that we can entertain such a Petition, particularly when the petitioner is aware that the allotment is as far back as on 26/01/2014. That there was no construction activity, does not mean no allotment. That the construction has started belatedly, is no ground therefore to question the allotment after such a long duration of 12 years. There is absolutely no explanation for this enormous delay. The petitioner is aware that construction of a shopping complex would be after the concerned persons apply to the Planning authority.

4. The word “Planning authority” as defined in section 2(19) of the Maharashtra Regional and Town Planning Act, 1966, (for short “M.R.T.P. Act”) means a local authority and includes rest of the entities. “Local Authority” as defined in section 2(15) of the M.R.T.P. Act means a Zilla Parishad that is in relation to the lands belonging to village and within the jurisdiction of village panchayat / gram panchayat. Therefore, belatedly some letter was addressed to the Chief Executive Officer of the Zilla Parishad. Pertinently, one adjacent land owner challenged all this by filing civil suit but was unsuccessful in obtaining any immediate relief. It is to get over that loss of the plaintiff, that such a Public Interest Litigation is brought, is the stand of the respondents 6 to 16. They claim that this is not a bonafide litigation.

5. From a perusal of the Petition and the annexures and the affidavit of respondents 6 to 16, we are of the opinion that this Public Interest Litigation cannot be entertained. To the knowledge of the petitioner, the allotment was finalized. To the knowledge of the petitioner, the construction activity was undertaken but at no stage did the petitioner bother to enquire from the Planning authority / Local authority about this construction.

6. It is in these circumstances, and when the affidavit which is filed by the private respondents is on record but there are no denials of any of the allegations therein, that we do not entertain this Public Interest Litigation. It is dismissed. There would be no order as to costs.

**[MANGESH S. PATIL]**  
**JUDGE**

**[S.C. DHARMADHIKARI]**  
**JUDGE**

arp/