IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10317 OF 2016

Bhanudas S/o Kashinath Murkute .. Petitioner

VS.

The State of Maharashtra and another .. Respondents

WITH
WRIT PETITION NO. 10318 OF 2016

Nanasaheb S/o Govindrao Mandhare .. Petitioner

VS.

The State of Maharashtra and another .. Respondents

Mr. P.R. Patil, Advocate for the petitioner in both WPs
Mr. S.G. Karlekar and Mr. A.R. Kale, A.G.Ps. for the respondent/State
Mr. V.S. Bedre, Advocate for respondent no.2 in both matters

CORAM : S.C. DHARMADHIKARI & MANGESH S. PATIL, JJ.
DATE : 03-07-2017

ORAL ORDER :

1. We have heard Shri Patil, learned counsel appearing for the petitioners.

2. The petitioners have approached this Court, complaining that the second respondent – Municipal Council, Shrirampur entered into an agreement with a private company and has delegated the function of Tax Assessment in Shrirampur City, which according to the petitioners, is contrary to the provisions of Section 105 of the Maharashtra Municipal Councils, Nagar Panchayats & Industrial Townships Act, 1965 (for short "The Municipalities Act"). On 29/12/2015, the Assistant Director of Town Planning and Authorised Tax Valuation Officer passed an order and after which a public notice was issued by the Chief Officer of the second respondent – Council, inviting objections on the assessment made by the Private Agencies.

3. The petitioners are very much residing within the limits of Municipal Council, Shrirampur. They claim that they own house properties in ward no.1 and ward no.7, respectively, within the limits of this Council. In the event the Municipal Council visits the petitioners with any tax liability and which liability is finalized, determined and crystallized by the process known to the

Municipalities Act, then, the petitioners, if aggrieved thereby, can challenge that assessment in appropriate proceedings.

4. We have no doubt in our mind that if the assessment and made allegedly through a Private Agency is not in accordance with law, then, the demand based thereon, can always be questioned. The assessment has to be done in accordance with law. In the event the assessment confirms any demand for taxes, and that if forwarded in a bill presented to the petitioners, then, that process can be challenged by filing an Appeal under Section 169 of the Municipalities Act. The petitioners can in that Appeal, raise the issue of assessment being illegally inflated and contrary to law. In the sense that it is not being done by the Municipal Council or its officials, duly authorized by law but by a third party Private Agency. All other issues of legality, validity of the assessment and the tax, can be raised in such proceedings.

5. Presently, the petitioners have been unable to show from the pleadings any such demand of taxes being raised. Though the petitioners are questioning the general power and authority of the

Municipal Council, in none of the prayers of these Petitions, we have found any assessment orders passed and by which they are aggrieved.

6. In the circumstances, the whole challenge is premature. It is kept open for being raised at an appropriate stage, initially before an appropriate forum. In the event the petitioners are still aggrieved, then, they can bring the proceedings even to this Court. All aggrieved residents can also adopt this course. The Petitions are disposed of as premature.

[MANGESH S. PATIL]
JUDGE

[S.C. DHARMADHIKARI]
JUDGE

arp/