

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

24 WRIT PETITION NO. 10126 OF 2016

NANDURBAR MUNICIPAL COUNCIL THROUGH ITS CHIEF OFFICER AND
ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Bagul D.S.
AGP for Respondents: Mr. A.R. Kale
Advocate for Respondents : Mr. V.D. Salunke for R/7.

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**CORAM : S.C. DHARMADHIKARI &
MANGESH S. PATIL, JJ.
DATE : 31.07.2017**

P.C. :-

. This petition under Article 226 of the Constitution of India is directed against an order passed by the Minister of Revenue and Forest, that order dated 04.08.2016 is challenged by the Nandurbar Municipal Council through its Chief Officer and one Councilor.

2. During the course of the arguments and bearing in mind the political over tones and the allegations, we called upon Mr. Bagul appearing for the petitioner no.1-Chief Officer to take instructions whether the Chief Officer desires to continue as a petitioner no.1 in these state of affairs as that would unnecessarily cause embarrassment to him and if the matter is reported to the State Government, he may have to

unnecessarily face departmental/disciplinary proceedings. In the circumstances, we delete the name of the Chief Officer as petitioner no.1 and we also delete the name of the council also as petitioner no.1. The writ petition can be prosecuted by the second petitioner who is interested in ensuring that a piece of land which was earlier allotted to the Municipal Council should continue to be allotted to it, for that is required for construction of its administrative building.

3. We do not think that, such petition/s should be filed and which is virtually by one democratic set up against the State. It is not as if there is any vested right to a particular piece of land. The land has not been allotted to any specific department but is with the government.

4. Let therefore the petitioners present petition be construed as an application by the Municipal Council and if it is possible, the Government can take decision afresh in accordance with law. The Government should sympathetically consider if the Nandurbar Municipal Council wants to move out from its existing premises and to a new building. If that is really assisting the Council in its affairs and in the interest of the residents of Nandurbar as well, we do not think that the Secretary in the Department of Revenue and Forest should be so unreasonable as to deny the legitimate request of the Council.

5. We, therefore, direct that the petition be treated as a representation by the Nandurbar Municipal Council and the Principal Secretary in the Department of Revenue and Forest should consider this request un-influenced by any intervention by the Government earlier. Let a decision be taken after considering the request of the Council and equally the opposition of the respondent no.7.

6. For the Principal Secretary to take a decision, we direct that the ad interim order passed by this Court shall continue for three months and not beyond the same.

7. The writ petition is disposed of with these directions. Needless to clarify that the Government should also consider whether the lands earlier allotted to the Municipal Council and presently in its possession are adequate or otherwise.

[MANGESH S. PATIL, J.]

[S.C. DHARMADHIKARI, J.]