

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

WRIT PETITION NO. 559 OF 2017

**SANJAY TRIMBAKRAO GADHAVE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr.Undre Vikram S
AGP for Respondents : Smt.Vaishali Patil

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CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.

DATED : 6th MARCH, 2017

O R D E R :

Mr. Undre, learned counsel submits that the petitioner is a Group Leader in respondent no.2 Municipal Council, Bhoom. Learned counsel submits that as per the Government Resolution, dated 3.8.2015 and as per the 14th Finance Commission, the local bodies were allocated the amount for providing primary amenities. According to the learned counsel, an amount of Rs. 50 lakhs was given to the Municipal Council, Bhoom and substantial work of the auditorium has been carried out by the Municipal Council. The Municipal Council, Bhoom has submitted the proposal for funds.

2. Learned counsel submits that the Government has issued an order, by virtue of which an agency is being appointed and Vaishistypurn scheme is directed to be given to the Public Works Department. According to the learned counsel, same is not permissible. Learned counsel also submits that the priorities are to be determined by the Municipal Council.

3. Learned A.G.P. submits that clause 3 of the Government Resolution, dated 24.8.2016, and that of Government Resolution dated 19.9.2016 are abundantly clear. Learned counsel also relies on the order passed by the Division Bench of this Court dated 16.2.2017 in Writ Petition No. 6409 of 2016.

4. Once the amount is transferred to the Municipal Council, the same would partake the character of municipal funds as per the Government Resolution dated 19.9.2016. The Government has appointed the Public Works Department as an

implementing agency. In case the amount is transferred to the Municipal Council and it partakes the character of municipal funds, then the Municipal Council would be an implementing agency for work. In the present case, the amount is not yet transferred to the Municipal Council for which the work is to be done as per the Government Resolution dated 19.9.2016. In absence of funds being transferred it cannot be said that the municipal funds are created. In view of that, there would be no impediment to the State to appoint agency to implement the work. The priorities are laid down by the local bodies and the same has also to be considered while implementing the work. Needless to state the work would be implemented by the agency appointed by the State on receipt of the funds expeditiously.

5. Writ Petition disposed of. No costs.

(K.L.WADANE, J.) (S.V.GANGAPURWALA, J.)