

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

BENCH AT AURANGABAD.

WRIT PETITION NO.909 OF 2016

Amol S/o Mohanrao Zodage
and another. ... Petitioners.

Versus

The State of Maharashtra
and others ... Respondents.

...

Mr.S.S.Thombre, advocate for the petitioners.
Ms.R.P.Gour, A.G.P. for the State.
Mr.P.D.Suryawanshi, advocate for Respondent No.2.
...

**CORAM : S.V.GANGAPURWALA AND
S.M.GAVHANE, JJ.**

Date : 27.11.2017.

PER COURT :

1. The petitioners claim the payment of the amount and so also challenge the letter dated 21.1.2015 bearing Outward Nos.134, 135 and 136 of 2014, by virtue of which the work order is cancelled.

2. Mr.Thombre, learned counsel submits that the petitioners pursuant to the work order had commenced the works and also completed the said works and thereafter the letter is issued cancelling the work order. The learned counsel further submits that the work orders issued to the petitioners were excluded from the said suspension of the work order by the Chief Executive Officer by order dated 12.9.2014. The petitioners having completed the work, the impugned orders are bad in law and could not have been issued. The Administrative sanction can not be cancelled after the work is completed nor the same work orders can be cancelled.

3. Mr.Suryawanshi, learned counsel for the Zilla Parishad submits that the work orders issued to the petitioners were improper. The work is not commenced nor completed by the petitioners. No question arises of making payment of the said work.

4. There are rival contentions. If the petitioners have completed the work, the record

would be available of the completion of the work. The Chief Executive Officer of the Zilla Parishad and the petitioners are not unanimous about the completion of the work.

5. The Divisional Commissioner is a superior authority. It would be appropriate to refer the dispute to the Divisional Commissioner. The Divisional Commissioner shall enquire about the work done by the petitioners pursuant to the work orders issued to it and take decision about the work as claimed by the petitioners being carried out. The said exercise shall be done by the Divisional Commissioner expeditiously, preferably within a period of three (3) months. The Divisional Commissioner after the inquiry shall conclude about the work being carried out by the petitioners or otherwise. If he comes to the conclusion that the petitioners have carried out the work then may pass further orders with regard to the admissibility of the amount payable to the petitioners.

6. The Writ Petition is disposed of. No costs.

(S.M.GAVHANE, J.)

(S.V.GANGAPURWALA, J.)

asp/office/wp909.16

