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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO. 62 OF 2017**

Shri Balasaheb Raghunath Jadhav .... Petitioner.

V/s

Pradhanmantri Gram Sadak Yojana  
Executive Engineer (PMGSY) & Ors. ...Respondents.

Mr. Jayesh Gawde for the Petitioner.

Mr. P.P. Kakade, AGP for the State.

**CORAM: DR. MANJULA CHELLUR, C.J. &  
N.M. JAMDAR, J.**

**DATE: 11<sup>th</sup> August, 2017**

**P.C.:-**

**1]** The matter is at the stage of admission. On hearing the Counsel for admission, what we notice is as under:-

**2]** Petitioner is before this Court, seeking the following prayers:-

“10. **Relief/s prayed for:**

10.1 Rule be issued and call upon the entire record in respect of the Correspondence

between Respondent No.1 and Respondent No.2 in respect of said upgradation and maintenance of road project from Bondale to Shingorni.

10.2) This Hon'ble Court after going through the entire record may kindly direct the Respondents no. 1 & 3 to initiate action against Respondent no.2 for an illegal digging in private property of farmer and digging in ponds for taking soil and use the same to construct the road while special amount was allotted to purchase the soil and use the same for the purpose upgradation of road.

10.3) This Hon'ble Court may kindly direct the Respondent no. 1 to take back the contract given to Respondent No.2 and give the same to other contractor to do the same as per project.

10.4) Any other and further relief as in the nature and circumstances of the case deems fit may kindly be granted.

11. **Interim relief, if prayed for :-**

11.1) Pending the hearing and final disposal of this PIL, this Honourable Court may kindly stay the further completion of work undertaken by Respondent No.2.

11.2) Pending the hearing and final disposal of this PIL, this Hon'ble Court may kindly direct Respondent No. 1 & 3 to investigate the matter and file the detail report.

.....”

3] Petitioner claims to be an agriculturist and his habit is to do social work. In that direction, he seems to have come across the road in question, of which the tender was issued in favour of Respondent No.2 – Contractor. Respondent No.1 is an Executive Engineer of the Yojana in question at Solapur. Respondent No.3 is Gramin Vikas Mantralaya, Department of Rural Development.

4] When we go through the contents of the Petition, Petition in clear terms explains as to what was the total consideration of the project and what was the tender in respect of the said project. It pertains to maintenance of BT and WBM road from Bondale to

Shingorni at Kolegaon village. Para 4.2 of the Petition refers to process of tender, whether it was open or e-tendering. It also refers to the tender being granted in favour of Respondent No.2 on 8<sup>th</sup> August, 2016. Para 4.3 refers to knowledge of the Petitioner that the progress of the road construction was slow and, according to him, quality of the construction of the road is also very poor. Therefore, it would endanger the users of the said road. Petitioner does not refer to his educational qualification but he has a PAN Number which is disclosed in the Petition. He has the knowledge of seeking information under the Right to Information Act, which is indicated in para 4.3. He gets the project report under RTI and makes study of the report and then, according to him, following deficits are found in terms of para 4.4 which are indicated at (a) to (g) which read as under:-

“a.) There is no similarity in the measurement of road. Road is being constructed in unequal proportion. Actual road side should be 5.8 meter according to the plan received under RTI.

b.) Depth of side gutter is increased more than required unlikely to the structured plan of road.

c.) Usages of agriculture land to extend the area of construction and usage of soil from

agriculture land to fill up and level the side line of road.

d.) Construction of bridge is done with a mixture of soil and gravel.

e.) Digging in dry pond area upto 15 ft and the soil used for construction instead of spending money from project.

f.) In respect of said digging and taking soil from ponds and agriculture area which is without any prior permission from Tahasildar and collector.

g.) Usage of low quality material for construction.”

Petitioner, then, after explaining the poor quality of construction, refers to pond area and also says that if dry pond area is dug, huge damage would be caused to the villagers. He does not say to whom this pond belongs to and why it is dry. According to him, there are holes in the road and there are gutters by the side of the road which would endanger children. According to him, cattle and children may endanger themselves by falling into gutter area. He also refers to

negligence of the contractor in laying the road. He apprehends that the material used for construction may lead to damaging the road, which not only would affect the life and limbs of the persons but also cause a loss to the exchequer. He refers to cost cutting methods adopted by Respondent No.2 – Contractor and refers to so-called intention of Respondent No.2 trying to grab land of the farmers. After referring to all these facts, the prayer sought by him is to initiate action against Respondent No.2 for illegally digging in private property of farmers and then he asked for cancellation of the contract given to Respondent No.2.

5] The entire exercise done by the Petitioner clearly indicates that either he must be a competitor for tender in question or supported by the person who must have lost the tender or it is quite possible that the Petitioner is the owner of some land where the road is passing through. Though he refers to digging of property of farmers, he never collects one single information with regard to the owner of the land, Gat Number or measurement of the land when he could collect all details about the contractor in question in whose favour the tender was awarded for formation of the road. Prayer at para 10.3 seeks a writ of mandamus to grant contract to some other contractor after cancelling the contract awarded in favour of Respondent No.2. The entire averments clearly indicate that it is nothing but a motivated public interest litigation. Petitioner has concealed his real intention of filing the Petition and he has not come to Court with clean hands. If

really the lands of the farmers are being dug for the purpose of road formation, they can directly approach the forum where they can immediately take protection to save their property.

6] Petition is therefore dismissed with costs of Rs. 1 lakh which shall be paid by the Petitioner within one month from today and the same shall be deposited with the Legal Services Authority of the State of Maharashtra, failing which the same shall be recovered as land revenue.

**(N.M. JAMDAR, J. )**

**(CHIEF JUSTICE)**