

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 10229 OF 2016

Lok Seva Mandal

.....Petitioner

V/s.

Ambernath Municipal Council and another

....Respondents

Mr. Girish Agrawal i/b Mr. Pradeep D. Dalvi for the petitioner

M. N. C. Walimbe AGP for the State-respondent no. 2.

Mr. A. S. Rao for the respondent no. 1.

**CORAM : SMT. VASANTI A. NAIK,
RIYAZ I. CHAGLA, JJ.**

DATE : NOVEMBER 3, 2017.

P.C.

By this writ petition, the petitioner seeks a direction against the respondent no. 1-Corporation to issue work order for maintenance of public toilet at Shivaji Chowk, Ambernath under the pay and use scheme vide general body resolution dated 19/04/2001.

According to the petitioner, on two earlier occasions, the Corporation had issued the work order for the maintenance of public toilet at Shivaji Chowk in favour of the petitioner Mandal. It is stated that a resolution was passed by the general body of the Corporation in the year 2001 that the contract for maintenance of public toilet at Shivaji Chowk could be granted to the petitioner

for a particular period. It is stated that on the basis of the resolution dated 19/04/2001, the petitioner started the construction of a public toilet at Shivaji Chowk. It is stated that immediately thereafter, the petitioner was asked to stop the construction due to road widening. It is stated that though the road widening work is completed in the year 2016, the Corporation has not permitted the petitioner to complete the construction of the public toilet and operate the same.

On hearing the learned counsel for the parties and on a perusal of the documents annexed to the petition, we find that the petitioner has not made out any right, whatsoever to seek a direction against the Corporation to issue work order for maintenance of public toilet at Shivaji Chowk. No work order is granted in favour of the petitioner during the past several years. In the absence of any work order, the petitioner could not have commenced the construction of the public toilet. Merely because on two earlier occasions a work order was issued in favour of the petitioner for maintenance of public toilet, no right is created in the favour of petitioner to seek a work order in respect of maintenance of the public toilet, in perpetuity. We do not find any illegality in the action on the part of the respondent-Corporation in not permitting the petitioner to construct the public toilet and not issuing the work order in its favour.

Since there is no merit in the writ petition, we dismiss the same with no order as to costs.

[RIYAZ I. CHAGLA J.]

[SMT. VASANTI A. NAIK, J.]