

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO. 3713/2016.**

Group Grampanchayat, Danori (Panori) Tq. Akot

**-VERSUS-**

State of Maharashtra and others.

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders

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**CORAM : B.P. DHARMADHIKARI &**  
**MRS. SWAPNA JOSHI, JJ.**

**DATE : FEBRUARY 28, 2017.**

Heard Shri C.A. Joshi, learned Counsel for  
petitioner, Ms. R. Kalia, learned A.G.P. for respondent  
no.1 and Shri B.N. Jaipurkar, learned Counsel for  
respondent nos. 2 and 3.

2. Petitioner – Gram Panchayat, a local  
authority functioning under the Maharashtra Village  
Panchayat Act, 1958 has approached this Court, as  
work for constructing the road within its area is being  
entrusted to some other agency by respondent nos. 2  
and 3.

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3. Learned Counsel appearing for petitioner has placed reliance upon the letter of Deputy Engineer of Zilla Parishad to its Executive Engineer to show that this road is within Gram Panchayat area. Certificate given by the Secretary of Gram Panchayat as also by Talathi, is being relied upon by him. He submits that statutorily it is the duty and obligation of Gram Panchayat to construct/repair and maintain that road.

4. Learned counsel appearing for respondent Zilla Parishad as also learned A.G.P. for State, are relying upon reply-affidavit. They state that verification from Talathi reveal that said road does not fall completely within gaathan and part of it is included within the jurisdiction of petitioner Gram Panchayat, as such, the decision has been taken in terms of government resolution dated 25.03.2015.

5. The government resolution cannot override the statutory provisions. This aspect is looked into by this Court in judgment reported at 2012[7] All M.R.9 (Charan Waghmare .vrs. State of Maharashtra) and later judgment reported at 2013[4] Mh.L.J. 211 (Banotai Garve .vrs. Divisional Commissioner (Revenue) and others). It is

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apparent that it is the statutory obligation of the petitioner Gram Panchayat to construct and maintain said roads. Source of funds therefore is hardly relevant. The work is available and petitioner Gram Panchayat has shown its readiness and willingness for doing it.

6. The certificate issued by the Talathi dated 01.04.2016 mentions that 90% of the work of construction of the road is in the area of petitioner Gram Panchayat, while only 10% is outside the gaathan area.

7. We therefore, find that the situation is covered by the above mentioned two judgments. Petitioner Gram Panchayat is entitled to construct and maintain the road. The impugned order does not look into the statutory provisions contained in the Maharashtra Village Panchayat Act. The remark put in by respondent no.3 denying that work to petitioner is, therefore, incorrect. We quash and set aside the said remark.

8. We direct respondent nos. 2 and 3 to consider the placement of road and thereafter the provisions of law and then take suitable decision

within a period of four weeks of communication of this order to it.

9. Writ Petition is thus, partly allowed and disposed of. No costs.

**JUDGE**

**JUDGE**

Rgd.