

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

PUBLIC INTEREST LITIGATION NO. 94 OF 2014

(Jayanta Moreshwar Temurde, Sarpanch, Mohabala, Tq. Warora, District – Chandrapur vs. The State of Maharashtra, thr. Department of Rural Development and Revenue & Ors.)

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

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
ROHIT B. DEO, JJ.
JULY 05, 2017.**

The effort of Mrs. R.S. Sirpurkar, learned counsel for the petitioner is to urge that as proper procedure for discontinuing user as public road, stipulated under Maharashtra Land Revenue Code, 1966, has not been followed, the respondents cannot prohibit the residents of Mohabala and other areas from using the said public road. It is claimed that said public road has been taken in their premises / possession by respondent No. 5.

2. Shri A.S. Jaiswal, learned Senior Advocate for respondent No. 5 states that respondent No. 5 got a plot as it is from the Maharashtra Industrial Development Corporation. The road was already included as its part. He further submits that a power plant has already come up and functioning and an alternate road is already provided and is in use. He submits that alternate road increases distance only by 200 meters.

3. Mrs. K. Deshpande, learned AGP appearing for

respondent Nos. 1 to 3 submits that the alternate road has already been provided for.

4. A perusal of records show that the requisite procedure before adding the public road to private land and carving out a plot, was not followed. It is claimed that that procedure has been followed subsequently by respondent No. 3 – Collector. The petitioner assails correctness of the same.

5. However, taking larger view of the matter, we find that an alternate way is already provided and as power plant has come up in the vicinity, the residents may have been benefited. The locals must have secured some employment or must have also developed some source of income because of the industry which has come up in the neighbourhood.

6. In this situation, the only question is, whether increased travel distance of 200 meters is so material as to require us to intervene in the matter either in public interest or in writ jurisdiction. We find that balance of convenience is in favour of the respondents.

7. Accordingly, we dispose of the present Public Interest Litigation. No order as to costs.

JUDGE

JUDGE