

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

PUBLIC INTEREST LITIGATION NO. 106 OF 2016

(Steel & Hardware Chamber of Vidarbha, Nagpur thr. Secretary Mr. Sanjay s/o Kailashchandra Agrawal vs. State of Maharashtra, Urban Development Department thr. its Deputy Secretary & Anr.) AND

PUBLIC INTEREST LITIGATION NO. 169 OF 2016

(The Nagpur Itwari Kirana Merchant Association thr. Secretary Shri Shiv Pratap Rambahadur Singh vs. State of Maharashtra thr. its Deputy Secretary & Anr.)

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.
JUNE 14, 2017.**

Heard Shri H.R. Gadhia, learned counsel for the petitioners, Ms. R.V. Kaliya, learned AGP for respondent No. 1 and Shri J.B. Kasat, learned counsel for respondent No. 2.

2. After hearing respective counsel, we find that the cognizance of the controversy could not have been taken in public interest. However, as it is already registered as such and this Bench also in its roster has writ petitions registered for the year 2016 for disposal, we are proceeding further to pass the order.

3. The short grievance of the petitioner is, rates of LBT made effective from 01.04.2013 were exorbitant and arbitrary. Due to widespread unrest and agitations a corrigendum has been issued on 06.07.2013 and those rates have been brought down. As the rates have been prescribed to meet the demand, the same must be made applicable

retrospectively from 01.04.2013. A parallel is drawn by pointing out communication dated 22.02.2016 sent by Vilas Maluste with reference to RTI application dated 12.02.2016. The communication states that revised rates specified in the Schedule for Navi Mumbai Municipal Corporation on 06.07.2013 are to be applied from 01.04.2013.

4. It appears that the petitioners were making representations and ultimately in August 2016, Nagpur Municipal Corporation has communicated their stand to the petitioners.

5. Shri Kasat, learned counsel as also the learned AGP submits that even if rates are made applicable from 01.04.2013, as the petition has been filed after more than three years after issuance of corrigendum, money decree cannot be passed and no adjustment or appropriation can be allowed. We keep the contention open for its appropriate consideration, if occasion therefor arises.

6. It is further urged that grant of any relief at this stage may constitute undue enrichment as tax burden has already been passed over to customers by the petitioners. We keep this contention also open.

7. We have perused Section 99-D of the Maharashtra Municipal Corporation Act, 1949. As at Navi Mumbai Corporation rates have been made applicable from 01.04.2013, we are inclined to direct Respondent No. 1 to

look into the representations made by the petitioners as per law within next three months.

8. The objections raised by Shri Kasat, learned counsel as also the learned AGP shall be kept in mind by the State Government while looking into the representations.

9. With these directions and keeping all rival contentions open, we dispose of the present PILs. No order as to costs.

JUDGE

JUDGE

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