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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO.2059 OF 2006**

1. Gangapur Municipal Council,  
Gangapur, Tq. Gangapur,  
Dist. Aurangabad  
Through it's President:-  
Smt. Rekhatai Sainath Darunte,  
Age: 42 years, Occu:Household  
& Social Service,  
R/o ward No.2, Ambewadi Road,  
Gangapur, Tq. Gangapur,  
Dist. Aurangabad
2. Raju Bapurao Khajekar,  
Age: 35 years, Occu: Social Service  
& Councillor of Gangapur Municipal  
Council,  
R/o Ward No.2, Gangapur,  
Tq. Gangapur, Dist. Aurangabad ..PETITIONERS

VERSUS

1. The State of Maharashtra,  
Through it's Secretary,  
Urban Development Department,  
Maharashtra State, Mantralaya,  
Mumbai-32
2. The Collector, Aurangabad,  
Tq. & Dist. Aurangabad
3. The District Deputy Registrar,  
Co-operative Societies,  
Aurangabad, Tq. & Dist. Aurangabad
4. The Agriculture Produce Market  
Committee, Gangapur,  
Tq. Gangapur, Dist. Aurangabad  
Through it's Secretary/President ..RESPONDENTS

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None for petitioners;

Mr A. S. Shinde, A.G.P. for respondent Nos.1 to 3;

Mr Mayur Salunke, Advocate holding for Mr V. D.

Salunke, Advocate for respondent No.4

**CORAM : PRASANNA B. VARALE &  
S. M. GAVHANE, JJ.**

**DATE : 14th JUNE, 2018**

**ORAL JUDGMENT : (PRASANNA B. VARALE, J.)**

Perusal of the record shows that initially Mr. R.N. Dhorde, learned Counsel was appearing for the petitioners. On 9<sup>th</sup> June, 2008 Division Bench of this Court was pleased to grant 'Rule' in the petition making the same returnable early. By this order, the Division Bench of this Court in clear and unambiguous terms observed that this Court was not inclined to grant any interim relief. As such, the order reads; 'No interim relief'. On 12<sup>th</sup> March, 2018 Mr. Dighe, learned Counsel submitted that at the request of petitioner, he had issued no objection certificate and sought discharge from the petition. Accordingly Advocates Mr. Dhorde and Mr. Dighe, who were representing the petitioner were

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permitted to seek discharge and notice was issued to the petitioner to make necessary arrangement of the Counsel. On 25<sup>th</sup> April, 2018 Mr. Abhijit Choudhari, learned Counsel submitted before the Court that he has instructions to appear for the petitioner and prays some time to take necessary steps. At his request, time was granted and the matter was adjourned to 14<sup>th</sup> June, 2018.

2. Perusal of the record further show that on 24<sup>th</sup> April, 2018 power came to be filed by Mrs. M.P. Joshi, learned Counsel. Today, learned Counsel, who had filed her power is not present before this Court. It seems that the petitioner Municipal Council and other petitioner, who claims himself as a person engaging in social service and is a Councillor lost interest in prosecuting the petition.

3. It may not be out of place to refer to certain other factual aspects.

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The petition is filed in the year 2006 initially challenging the notification dated 5<sup>th</sup> January, 2006 issued by respondent No. 3 District Deputy Registrar (Co-operative Societies) and then by way of amendment, notification dated 5<sup>th</sup> April, 2006 was also subjected to challenge. The issue involved and notification under challenge is of fixing the place for a weekly cattle bazar. By the said notification dated 5<sup>th</sup> April, 2006 District Deputy Registrar fixed the place of Agricultural Produce Market Committee for holding weekly cattle bazar.

4. Perusal of the notification shows that the place expands in an area of 4 acres. Perusal of the said notification further shows that before issuing notification, notices were issued calling objections from the aggrieved persons or parties. In response to the notice calling objections, as many as ten objections were received including certain objections by the Councillors personally and objection was raised by Chief Officer of

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Municipal Council, Gangapur. An opportunity of hearing was granted to the objectors. The objectors were heard by the authority personally or through Council.

5. It was submitted on behalf of the certain Councillors that there is no sufficient place available for market committee. The place of the market committee is far away from the town and it seems that other objection was, if the place of cattle bazar is shifted, municipal council would suffer financial loss. The authority namely District Deputy Registrar, on hearing parties and on perusal of the proposal as well as documents and material, more particularly, on perusal of spot inspection report, found that there is sufficient place available with market committee, area of four acres is available with market committee so as to hold weekly cattle bazar. There are also necessary facilities to accommodate the traders and agriculturists. The place is also not far away from the town. Thus, on critical assessment of the

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material as well as on giving an opportunity of hearing to the objectors District Deputy Registrar (C.S.) issued the notification.

6. It seems that a ground was raised in the petition that District Deputy Registrar (C.S.) issued notification exceeding jurisdiction. Learned A.G.P. invited our attention to the reply filed by the State. Our attention was invited to the documents placed along with affidavit to show that District Deputy Registrar (C.S.) was exercising powers delegated to him. As such, the challenge that District Deputy Registrar (C.S.) exceeded his jurisdiction fails. There is also material placed on record to show that District Deputy Registrar (C.S.) before issuing notification had given an opportunity of hearing to the parties including the Chief Officer of Municipal Council and certain Councillors. There is a circular placed on record along with affidavit dated 9<sup>th</sup> November, 1989 wherein it is stated that District Deputy Registrar (C.S.) by exercising powers under Agricultural

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Produce Market Committee Act can take decision of fixing place of weekly cattle bazar and before issuing such notification, he may give an opportunity of hearing to Corporation, Municipal Council or Grampanchayat whatever case may be.

7. As stated above, District Deputy Registrar gave an opportunity of hearing and objections were filed and also considered by the District Deputy Registrar (C.S.) and this fact is reflected in the notification issued by District Deputy Registrar.

8. Considering all these aspects, we are of the opinion that the petition is thoroughly meritless. The petition, thus being, meritless, stands dismissed. Rule is discharged.

**(S. M. GAVHANE)**  
**JUDGE**

**(PRASANNA B. VARALE)**  
**JUDGE**