

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO. 10275 OF 2016**

Jaysing Narayansing Girase and others

..

Petitioners

Versus

The State of Maharashtra and others

..

Respondents

Shri. B. R. Waramaa, Advocate for Petitioners.

Shri. S. K. Tambe, A.G.P. for Respondent Nos. 1 and 2.

The Respondent No. 3 served.

CORAM : S.V. GANGAPURWALA AND**R. G. AVACHAT, JJ.****DATED : 25th October, 2018****PER COURT:**

. Present writ petition is filed by the villagers of village Divi, Varpade and Sonshelu Tal. Shindkheda. The grievance of petitioners is that the tender notice issued for up-gradation work of Arave-Jakhane road in Shindkheda Taluka is in contravention of Mukhya Mantri Gram Sadak Yojna (MMGSY) scheme. The said road is upgraded only with an intention to extend personal facility to the Respondent No. 6 and that too with ill intention to defeat lawful need of petitioners. The petitioners

further seek direction against the respondents to conduct survey of road in Shindkheda Taluka as per the scheme dated 28.05.2016 and implement the Mukhya Mantri Gram Sadak Yojna (MMGSY) scheme.

2. Mr. Waramaa, the learned counsel submits that the road that is undertaken for up-gradation is at Serial No. 4 in the priority list . The road shown at Sr. No. 1 in the priority list is ignored. The details are given by the petitioners about necessity of up-gradation of the road. It is only to favour the Respondent No. 6, the road near to the agricultural land of the Respondent No. 6 is undertaken. The Respondent No. 6 has exercised his influence. The learned counsel submits that the priority road at Serial No. 1 has been ignored. In fact there is necessity for Sindhkheda - Varpade road to be upgraded immediately. Minimum thirty minutes travel time is required. The population of Varpade is Five Thousand. Even the road from village Bhadane to Hatnoor to Salve is in worst condition. Only one Secondary School is situated between village Salve and Hatnoor. They are separate by 4 K.M. The condition of the road is bad. Same is condition of road from Warsus to Akkadsa and Shindkheda to Warsus and Amalthe to Warpade and Shindkheda to Nirgudi. There is no reason for the respondents to jump the priority list. It is only to favour the Respondent No. 6, who was also the member

of the District Selection Committee, the work was undertaken. The respondents be directed to conduct the survey of roads in Shindkheda Taluka as per the scheme.

3. The learned Assistant Government Pleader submits that the District Selection Committee is constituted. The State Government introduced the scheme for the calculation of marks as per the Government Resolution dated 11.12.2015. The comprehensive up-gradation of priority list is prepared. Jakhane road is at Sr. No. 2 in the order of merit and the road in demand by the petitioners is at Serial No. 5. The proposal was placed before the District Selection Committee headed by the Guardian Minister. The District Selection Committee after considering comprehensive merit list recommended and selected four roads in the order of merit that is Ghusare, Jakhane, Warpade and Vadode. The approval is granted vide Government Resolution dated 10.03.2016. No illegality is committed.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. In matters of such nature, the scope of judicial review would be in

narrow compass. The same would be restricted to the adherence of decision making process.

6. No doubt, the welfare state has to consider the needs of its citizens with regard to the infrastructure and it is responsibility of the State and it's authorities to provide basic necessary infrastructure.

7. The Mukhya Mantri Gram Sadak Yojna (MMGSY) scheme was introduced. The same was sought to be implemented. It has been averred in the affidavit filed by respondents that the priority roads were fixed and the same were referred to the District Selection Committee. The Respondent No. 6 was a member of the District Selection Committee along with the MLA of Dhule Legislative Assembly and the Executive Engineer, Pradhan Mantri Gram Sadak Yojna (PMGSY) scheme. It appears that, approval is granted to four roads shown therein. The Government Resolution dated 10th March, 2016 is issued accordingly and work was directed to be undertaken of these roads.

8. As far as the work for which tender in question is assailed was to be undertaken in the year 2016. Public interest would not warrant to stall the said work.

9. The implementation of the scheme would also depend upon the financial resources of the State. In the light of that, it would not be possible to give blanket directions with regard to the work to be undertaken. However, the District Selection Committee has approved some works of the roads. Considering the budgetary provision, the respondents are bound to implement the same.

10. The Pradhan Mantri Gram Sadak Yojana scheme was introduced and the scheme was detailed under the Government Resolution dated 20th October, 2013. The scheme provided for the budget to be allocated, the constitution of District Selection Committee, research and development of the work. Thus out of the budgetary allocation the work has to be conducted. The directions cannot be issued wherein budgetary allocation would be disturbed.

11. The work under the tender impugned has been started. It would not be proper to stall the same.

12. The priority of the work has already been determined. The respondents are supposed to undertake work as per the same.

13. In case, the petitioners have any grievance with regard to condition of the roads affecting them and the right under the said scheme, they may approach the Respondent Nos. 2 and 3, and the grievance of the petitioners would be considered on its own merits by Respondent Nos. 2 and 3 expeditiously. Writ petition is disposed of. No costs.

[R. G. AVACHAT, J.]

[S. V. GANGAPURWALA, J.]

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