

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

PUBLIC INTEREST LITIGATION NO.143 OF 2018

Raosaheb Mahadev Borade
Age 42 years, occu.Social work
and Agriculturist, R/o Georai
Tq.Georai,Dist.Beed
Pan Card No.AZAPB6267F

.. PETITIONER

VERSUS

1]The State of Maharashtra
through Secretary,L & JD
Mantralaya,Mumbai.

2]The Collector,Beed

3]The District and Sessions Judge,Beed

4]The Executive Engineer
PWD, Beed

5]The Tahsildar,Georai,Dist.Beed

6]Nagar Parishad Georai
Dist.Beed,through its Chief Officer .. RESPONDENTS

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Adv.Mr.C.V.Thombre for petitioner
AGP Mr.S.S.Dande for respondent State

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**CORAM : PRASANNA B. VARALE &
MANGESH S. PATIL,JJ.**

DATE : 05/12/2018

ORAL JUDGMENT [PER PRASANNA B VARALE,J.] :

Rule. Rule is made returnable forthwith. Heard learned counsel appearing for the parties. The Petition is taken up for final hearing with consent of the parties.

2] The petitioner submits that he is a social worker and espousing the cause of general public and particularly the residents of Georai town. The learned counsel Mr.Thombre appearing for the petitioner submitted that due to certain encroachment in front of the entry gate and exist gate of the Court building which is due to unruly parking of the vehicles, the public in general and litigants in particular are required to carry the activity of thoroughfare using the internal gate of the building and this exercise leads to inconvenience and delay. The learned counsel for petitioner thus submitted before us that on the backdrop of this grievance, the petitioner prayed for the basic prayer in the Petition and i.e. prayer clause "B" and the prayer clause "B" reads thus :

"B" By issuing of writ of mandamus or any other writ, order, or direction in the like nature, to direct the respondents may be directed to remove the encroachments made by the encroachers on Aurangabad-Georai Beed Road, which was passing from Georai City and also remove encroachment in front of Court building by which the Entry Gate and Ext Gate were closed, and also Bus-stand and also remove encroachment of Auto-Rickshaw's stand and private taxies in front of S.T.Bus-stand and Government offices passing from the Georai City Area."

3] The learned counsel then submitted that in identical fact situation, the Division Bench of this Court was pleased to observe that it would be open for the concerned competent authority viz.

the Chief Officer to take steps for removal of the encroachment. Though the submissions of the learned counsel looked attractive at the first blush, on perusal of the material placed on record, we find that except approaching to the concerned competent authority viz. the Chief Officer of Municipal Council, the petitioner had approached to all other authorities including the Chief Secretary to the State and the police authorities of Georai town. When this fact is taken note of by us, the learned counsel though initially made an attempt to submit before us that a representation is submitted to the local revenue authorities inviting their attention by representation dated 17/7/2017, perusal of this document shows that his representation is addressed to the Chief Secretary and copy is forwarded to the Divisional Commissioner, Aurangabad, District Collector, Beed and Tahsildar, Georai. Thus even in this representation, there is no such reference that the petitioner is either approaching the competent authority i.e. the Chief Officer of the Municipal Council, Georai or even the copy of this representation is forwarded to Chief Officer of Municipal Council, Georai.

4] The learned counsel then submitted before us that as no personal interest is involved in the present petition and the petitioner is only espousing the cause of the public, the petitioner be permitted to submit a proper representation raising his grievance to the Chief Officer, Municipal Council, Georai, alongwith necessary material including the order of the Division Bench in similar circumstance. Mr.Thombre then further submitted that in case petitioner submits such representation to

the Chief Officer, Municipal Council, Georai, the Chief Officer be directed to decide the representation expeditiously or within a stipulated period.

5] In so far as the first submission of Mr.Thombre, for submitting representation to the authority viz. the Chief Officer, Municipal Council, we permit the petitioner to submit the representation to the Chief Officer, Municipal Council. In so far as the second submission that the Chief Officer be directed to decide the representation within a stipulated period, we are unable to pass such directions in view of the fact that at this stage, the petitioner has not even approached the Chief Officer and assuming at this stage that the Chief Officer would keep the representation pending for indefinite period would be stretching the logic too far, as such we are not inclined to pass such direction.

6] The Petition is thus disposed of in view of the above referred directions. We may only observe that if the petitioner submits representation to the Chief Officer, the Chief Officer to decide the representation on its merits, as expeditiously as possible.

(MANGESH S. PATIL,J.)

(PRASANNA B. VARALE,J.)

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