

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 13638 OF 2017  
WITH  
CIVIL APPLICATION NO. 3685 OF 2018

1. Javed Iqbal Abdul Rashid
  2. Mukunda Vitthal Surwade
- ...Petitioners

versus

The State of Maharashtra and others

...Respondents

.....  
Mr. S.G. Chapalgaonkar h/f Mr. N.R. Shaikh, advocate for the petitioners  
Mr. A.B. Girase, Government Pleader with Mr. S. P. Tiwari, A.G.P. for  
respondent Nos. 1 and 2  
Mr. Shambhu Raje Deshmukh h/f Mr. V.D. Salunke, advocate for  
respondent No.3

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**CORAM : V. K. JADHAV, J.**

**Date of Reserving  
the Order : 16.03.2018**

**Date of pronouncing  
the Order: 20.03.2018**

**PER COURT :-**

1. By consent of learned counsel for the respective parties, heard finally at admission stage.
2. By way of this writ petition, the petitioners are challenging the order dated 1.11.2017, passed by respondent No.1, thereby removing the petitioners as the councilors from the office, under the provisions of Section 42 of the Maharashtra Municipal Council, Nagar

Panchayat and Industrial Township Act 1965 (hereinafter, for short, referred to as "the Act of 1965").

3. Brief facts giving rise to the present writ petition are as follows:-

a) The petitioners are elected members of Municipal Council, Jamner, in the elections held in the month of March, 2013. The Central and the State Government had allotted certain funds to the Municipal Council for construction of the houses under (Integrated Housing and Slum Development Programme (I.H.S.D.P.) scheme. Under the said scheme, near about 1238 houses were meant to be constructed for underprivileged section of the society and were to be allotted to the beneficiaries by drawing lucky draw/lot. However, all 1238 houses were not constructed and only 1104 houses were constructed. As per the scheme, the deadline to complete the construction work was up to December, 2016. On 16.10.2016, the Chief Minister of the State of Maharashtra, in the public function had dedicated the said project to the public (*Lokarpan*). Consequently, on 18.10.2016, respondent No.3 Chief Officer of Jamner Municipal Council has called upon the beneficiaries for allotment of the constructed houses by drawing a lot. On 18.10.2016, the allotment of houses to the beneficiaries, by drawing the lot, was going on in the hall of the Municipal Council, Jamner in C.C.T.V. installed in the said

hall. Respondent No.3 Chief Officer on the next date i.e. on 19.10.2016 had filed an application before respondent No.2 District Collector, Jalgaon alleging therein that the petitioners had unnecessarily objected to the allotment and created confusion in the minds of the beneficiaries and obstructed the work thereby prohibiting the beneficiaries from accepting the allotment. It has been also alleged in the said application that the petitioners have misbehaved with respondent No.3 Chief Officer and also tried to pressurize her. The beneficiaries were reluctant to accept the commands of the petitioners and after sometime process of allotment of residential houses by drawing lot has been completed at the instance of the beneficiaries. It has been stated in the applicant that the petitioners are guilty of disgraceful conduct and as such liable to be removed as councilors from the office in terms of provisions of Section 42 of the Act of 1965.

b) On 22.12.2016, respondent No.2 Collector, Jalgaon has issued notices to the petitioners as well as to the Chief Officer for hearing, scheduled to be held on 3.1.2017. The petitioners have submitted their detail reply to the said notices and respondent No.3 Chief Officer has also submitted her affidavit before the Collector. In the said affidavit, respondent No.3 Chief Officer has stated the incident dated 18.10.2016 in detail and also replied the contents of the

allegations made by the petitioners in their reply before the Collector.

c) Respondent No.2, the Collector, Jalgaon, after giving an opportunity of being heard to the petitioners and also to the Chief Officer, on 24.8.2017 by its communication in writing to respondent No.1 has recommended action for removal of the petitioners as councilors under the provisions of Section 42 of the Act of 1965.

d) Respondent No.1 has called upon the petitioners to show cause to the recommendation made by the Collector by communication dated 24.8.2017 and accordingly respondent No.1 on 7.10.2017 has issued notices to the petitioners and has scheduled the date of hearing as 12.10.2017. Alongwith the said notice, the report of the Collector was also provided to the petitioners.

e) The petitioners have submitted their detail say/ explanation alongwith the points of arguments to respondent No.1. By the impugned order dated 1.11.2017, the Minister of State for Urban Development Department has removed the petitioners from the office on the ground that the petitioners are guilty of misconduct and disgraceful conduct in the discharge of their duties and disqualified them as the councilors or members of any local authority for a period of five years from the date of such order. Hence, this writ petition.

4. Learned counsel for the petitioners submits that respondent No.3 Chief Officer was keeping grudge against the petitioners and further the Chief Officer is acting under the political patronage of the ruling party. As per the I.H.S.D.P. scheme, the deadline to complete the construction work was December, 2016, however, due to lethargy and apathy of respondent No.3, Chief Officer, the construction of the houses was not completed within stipulated period. Even the District Collector has directed the Municipal Council to return the amount to the Government. The petitioners have raised legitimate objection about the irregularities and illegalities committed in constructing the houses. The petitioners have also pointed out that at the time of process of the said allotment of the houses by drawing lot that the project was not complete in all sense and the basic amenities, like supply of drinking water etc. are remained to be completed. The petitioners are elected councilors and as such, they were protecting the interest of the beneficiaries of their wards in the process of allotment of residential houses to such beneficiaries by drawing the lot. However, respondent No.3 Chief Officer under the influence of ruling party, deliberately and with an ill-intention has filed a false complaint against the petitioners. The petitioners have not misbehaved with respondent No.3 Chief Officer in any manner. The said proceeding of allotment of residential houses to the beneficiaries

was recorded in C.C. T.V. footage and even though the petitioners have demanded the recording of the same, it was not supplied by the administration of the Municipal Council.

5. Learned counsel for the petitioners submits that the petitioners, being the elected councilors, cannot be removed unceremoniously without following due procedure, as prescribed by law. Learned counsel submits that the holder of a democratically elected office bearer can be removed only when there are grave and exceptional circumstances and alleged misconduct must be grave or willful or intentional. Learned counsel submits that issue of removal of elected office bearer is a very serious repercussions, it implicitly makes it imperative and obligatory on the part of the authority to have strict adherence to the statutory provisions. The elected office bearer must not be removed unless a clear-cut case is made out. Learned counsel submits that expression "must" has to be construed and understood in reference to the subject matter and context wherein the term occurs taking into consideration the scope and object of the statute which is being construed. The misconduct is to be measured in terms of the nature of misconduct and it should be viewed with consequences of misconduct as to whether it has been detrimental to the public interest.

6. Learned counsel for the petitioners submits that the proposed action initiated by respondent No.3 Chief Officer is malafide and prejudicial on the face of record. The respondent Chief Officer is deliberately trying to cut the strength of the opposition under the influence of ruling party. The petitioners had put-forth their views in a democratic, peaceful and lawful manner. It was the duty of the petitioners to point out the defect of the administration and vent out the grievances of the people. Thus, the alleged act did not come within the definition of misconduct or disgraceful conduct. Learned counsel submits that ensuing election is due in the month of March, 2018 and as a result of impugned order, the petitioners would be prohibited for near about 5 years from becoming the councilors or member of any local authority.

7. Learned counsel for the petitioners submits that the impugned order is cryptic order passed by the Hon'ble Minister without application of mind. It is evident from the impugned order that the Hon'ble Minister did not make any reference to the pleadings of the petitioners either in their reply to the show cause notice or during the course of hearing. The petitioners being elected councilors are accountable to their electorate and it would have serious repercussions when they are removed from the office and further declared disqualified to contest the elections for further period of five

years. In such eventuality every such action may be informed by the reasons. The impugned order passed by the Hon'ble Minister is without assigning the reasons and is passed without application of mind.

8. Learned counsel for the petitioners, in order to substantiate his contentions, placed reliance on the following judgments:-

- i) Ravi Yashwant Bhoir vs. District Collector, Raigad and others, reported in (2012) 4 SCC 407,
- ii) Tarlochan Dev Sharma vs. State of Punjab and others, reported in (2001) 6 SCC 260,
- iii) Sureshkumar Kanhaiyalal Jethlia vs. State of Maharashtra and others, reported in 2001(1) Mh.L.J. 901,
- iv) Mohinder Singh Gill and Anr. vs. The Chief Election Commissioner, New Delhi and others, reported in (1978) 1 SCC 405,
- v) Baldev Singh Gandhi vs. State of Punjab and others, reported in (2002) 3 SCC 667,
- vi) Dattatraya Adinath Bandgar vs. The State of Maharashtra and others, reported in (2009) 5 Bom. C.R. 795.

9. Mr. Girase, learned Government Pleader, submits that on

18.10.2016 the administrative work of allotment of residential houses to the beneficiaries by drawing lot was going on and the petitioners were not supposed to interfere in the said administrative work. Learned Government Pleader submits that the Council has passed specific resolution about allotment of residential houses to the beneficiaries by drawing the lot and if at all the petitioners were not happy with the said resolution, they ought to have submitted their objection to the District Collector and the District Collector, under the provisions of Section 308 of the Act of 1965 is empowered to suspend the execution of the order and resolution of the Council on certain grounds. On the other hand, the petitioners had entered in the hall where draw of allotment of residential houses was going on and further instigated the beneficiaries to leave the hall. The petitioners had also created confusion in the minds of the beneficiaries. The petitioners have created a scene in the said meeting and behaved with respondent Chief Officer in arrogant manner and further directed the beneficiaries to leave that hall forthwith. Learned Government Pleader submits that misconduct is apparent and in terms of provisions of Section 42 of the Act of 1965, the State Government may on its own motion or on the recommendation of the Council remove such councilors from office if he found guilty of any misconduct or of disgraceful conduct in discharge of his duties.

Learned Government Pleader has placed reliance on the judgment of this Court, delivered on 07.06.2017 in the case of ***Nandkumar @ Laxman Sahadu Borude vs. The State of Maharashtra and others, (writ petition No. 1430 of 2016).***

10. Learned counsel for respondent No.3 Chief Officer submits that the allotment of residential houses under I.H.S.D.P. scheme was started on 17.10.2016 and the said process was continued on the next day i.e. on 18.10.2016. On 18.10.2016 at 11.00 a.m. the process of allotment of residential houses to underprivileged persons/ beneficiaries was commenced by drawing a lot, at that time the petitioners came there and started interfering in the process of allotment the houses. Learned counsel submits that out of 1238 houses, 1104 houses are completed. Further out of those 1104 houses, 600 completed houses are to be allotted to the beneficiaries, who are residents of the Ghodpeerbaba Nagar and remaining 504 houses are to be allotted to the beneficiaries of Eklavya Nagar. Entire work of 600 and 504 houses was completed. The petitioners had intentionally obstructed in the process of allotment of houses and also created confusion in the minds of beneficiaries. The petitioners had also abused the respondent Chief Officer. Learned counsel submits that the petitioners had not only obstructed the process but

directed the beneficiaries to leave the hall forthwith. In spite of this misconduct and disgraceful conduct of the petitioners, the beneficiaries have shown their willingness to accept the houses and they have also filed representations under their signatures stating therein that they are willing to accept the houses. Learned counsel submits that though the work of construction of water tank was in progress, alternate arrangement of providing water was assured and there was no any objection of the beneficiaries for the same. Learned counsel submits that respondent Chief Officer has promptly submitted her report to the District Collector for the alleged misconduct and disgraceful conduct of the petitioners and the learned Minister has passed the impugned order considering the entire aspects of the case. Learned counsel submits that C.C.T.V. footage of the said meeting is available with him in the pen-drive and he is ready to produce the same. Accordingly, the said pen drive is taken on record.

11. I have carefully considered the submissions advanced by learned counsel for the respective parties. With their able assistance, I have perused the pleadings, grounds taken in the petition, annexures thereto and reply filed by the concerned respondents.

12. Admittedly, the petitioners were present in the meeting held for

allotment of residential houses to the beneficiaries by lucky draw/lot. On that day, the residential houses to 70 beneficiaries were to be allotted by lucky draw/lot. Accordingly, the beneficiaries were assembled in the hall of the Municipal Council, Jamner and the said process was undertaken by the administration of the Municipal Council. It was not the meeting on the floor of council for discussing the issue whether such residential houses were to be allotted to the beneficiaries or not and the said meeting was not called to discuss the issue about the incomplete work of providing basic amenities like drinking water etc. Respondent No.3 Chief Officer has reported to the District Collector, Jalgaon that in the said meeting, on the administrative side for allotment of residential houses to the beneficiaries by lucky drawn/lot, the petitioners had instigated the beneficiaries as not to accept the said allotment and further created confusion in their minds about entire process of allotment by the administration of the Municipal Council. Respondent Chief Officer has also reported to the District Collector, Jalgaon that the petitioners directed the beneficiaries to leave the hall where the said process of allotment was going on and also abused the respondent Chief Officer and pressurized her. It has been specifically alleged that the petitioners had obstructed the said process and further misbehaved with the Chief Officer.

13. Learned counsel for the petitioners vehemently submitted that so far as the misbehavior of the petitioners with respondent No.3 Chief Officer is concerned, the same is not specifically stated in the show cause notice issued by the State Government. Learned Government Pleader and the learned counsel appearing for respondent No.3 have submitted that the Collector, Jalgaon has given copy of complaint/report submitted by the Chief Officer to the petitioners well in advance and in the show cause notice issued by the State Government, under the provisions of Section 42 of the Act of 1965, a copy of report of the District Collector, Jalgaon was also provided to the petitioners. Consequently, the petitioners submitted their explanation, including to the allegations made against them about their misbehavior with respondent Chief Officer. According to the petitioners, they had raised legitimate objection about irregularities and illegalities committed in the construction of the residential houses and also about the deficiencies in providing basic amenities like drinking water etc. to the beneficiaries. Learned counsel for the petitioners has vehemently submitted that the charge of misconduct has to be proved. It must be shown that the petitioners have acted without any bonafide and willfully committed misdemeanor or disgraceful conduct in performing their duties. It is also the contention of the petitioners that the impugned order is nothing but a colourable exercise of powers of the State Government

and even respondent Chief Officer has acted under the influence of the ruling party in making false accusations against the petitioners.

14. In the case of ***Ravi Yashwant Bhoir vs. District Collector, Raigad and others, (supra)*** relied upon by learned counsel for the petitioners, in para 17 to 20 of the judgment, the Supreme Court has made the observations about misconduct and disgraceful conduct, which are reproduced as follows:-

“17. It is also a settled legal proposition that misconduct must necessarily be measured in terms of the nature of the misconduct and the court must examine as to whether misconduct has been detrimental to the public interest. (Vide: Bank of India & Anr. v. Mohd. Nizamuddin).

18. The expression ‘misconduct’ has to be understood as a transgression of some established and definite rule of action, a forbidden act, unlawful behaviour, willful in character. It may be synonymous as misdemeanor in propriety and mismanagement. In a particular case, negligence or carelessness may also be a misconduct for example, when a watchman leaves his duty and goes to watch cinema, though there may be no theft or loss to the institution but leaving the place of duty itself amounts to misconduct. It may be more serious in case of disciplinary forces.

19. Further, the expression ‘misconduct’ has to be construed and understood in reference to the subject matter and context wherein the term occurs taking into consideration the scope and object of the statute which is being construed. Misconduct is to be measured in the terms of the nature of misconduct and it should be viewed with the consequences of misconduct as to whether it has been detrimental to

the public interest.

#### DISGRACEFUL CONDUCT :

20. The expression 'disgraceful conduct' is not defined in the statute. Therefore, the same has to be understood in given dictionary meaning. The term 'disgrace' signifies loss of honor, respect, or reputation, shame or bring disfavour or discredit. Disgraceful means giving offence to moral sensibilities and injurious to reputation or conduct or character deserving or bringing disgrace or shame. Disgraceful conduct is also to be examined from the context in which the term has been employed under the statute. Disgraceful conduct need not necessarily be connected with the official (sic duties) of the office bearer. Therefore, it may be outside the ambit of discharge of his official duty."

So far as removal of elected office bearer is concerned, the Hon'ble Supreme Court in para 21 to 24 of the judgment has made the following observations:-

"21. The municipalities have been conferred Constitutional status by amending the Constitution vide 74th Amendment Act, 1992 w.e.f. 1.6.1993. The municipalities have also been conferred various powers under Article 243B of the Constitution.

22. Amendment in the Constitution by adding Parts IX and IX-A confers upon the local self Government a complete autonomy on the basic democratic unit unshackled from official control. Thus, exercise of any power having effect of destroying the Constitutional Institution

besides being outrageous is dangerous to the democratic set-up of this country. Therefore, an elected official cannot be permitted to be removed unceremoniously without following the procedure prescribed by law, in violation of the provisions of Article 21 of the Constitution, by the State by adopting a casual approach and resorting to manipulations to achieve ulterior purpose. The Court being the custodian of law cannot tolerate any attempt to thwart the Institution.

23. The democratic set-up of the country has always been recognized as a basic feature of the Constitution, like other features e.g. supremacy of the Constitution, Rule of law, Principle of separation of powers, Power of judicial review under Articles 32, 226 and 227 of the Constitution etc. (Vide: *Keshwananda Bharti v. State of Kerala & Anr.*, *Minerva Mills Ltd. & Ors. v. Union of India*, *Union of India v. Association for Democratic Reforms*, Special Reference No. 1 of 2002 in (Gujarat Assembly Election Matter), and *Kuldip Nayar v. Union of India & Ors.*

24. It is not permissible to destroy any of the basic features of the Constitution even by any form of amendment, and therefore, it is beyond imagination that it can be eroded by the executive on its whims without any reason. The Constitution accords full faith and credit to the act done by the executive in exercise of its statutory powers, but they have a primary responsibility to serve the nation and enlighten the citizens to further strengthen a democratic State.”

In para 36 and 37 of the said judgment, the Supreme court has concluded the issue by observing as follows:-

“36. In view of the above, the law on the issue stands crystallized to the effect that an elected member can be removed in exceptional

circumstances giving strict adherence to the statutory provisions and holding the enquiry, meeting the requirement of principles of natural justice and giving an incumbent an opportunity to defend himself, for the reason that removal of an elected person casts stigma upon him and takes away his valuable statutory right. Not only the elected office bearer but his constituency/electoral college is also deprived of representation by the person of their choice.

37. A duly elected person is entitled to hold office for the term for which he has been elected and he can be removed only on a proved misconduct or any other procedure established under law. Like “no confidence motion”, etc. the elected official is accountable to its electorate as he has been elected by a large number of voters and it would have serious repercussions when he is removed from the office and further declared disqualified to contest the election for a further stipulated period.”

So far as recording of reasons, the Supreme Court in para 46 of the judgment has made the following observations:-

“46. The emphasis on recording reason is that if the decision reveals the ‘inscrutable face of the sphinx’, it can by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind of the authority before the court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made. In other words, a speaking out, the inscrutable face of

the sphinx is ordinarily incongruous with a judicial or quasi-judicial performance.”

15. In the case of ***Baldev Singh Gandhi vs. State of Punjab and others (supra)*** relied upon by learned counsel for the petitioners, in para 9 of the judgment, the Supreme Court has made the following observations:-

“9. 'Misconduct' has not been defined in the Act. The word 'misconduct' is antithesis of the word 'conduct'. Thus, ordinarily the expression 'misconduct' means wrong or improper conduct, unlawful behaviour, misfeasance, wrong conduct, misdemeanor etc. There being different meaning of the expression 'misconduct', we, therefore, have to construe the expression 'misconduct' with reference to the subject and the context wherein the said expression occurs. Regard being had to the aims and objects of the statute. The appellant herein is an elected municipal councilor to a democratic institution i.e. local body. The aim and object of the Act is to make better provisions for administration of municipalities. The municipality is a democratic institution of self governance consisting of local people and for the local people and by the local people. The prime object of the local body is to serve the local people and to provide amenities and service to the people residing within the municipality. As a representative of the public it is the duty of an elected representative to see that the public of his constituency are not burdened with excessive and arbitrary levy. No doubt, a municipal councilor holds a statutory office in a municipal council, but no statutory code of conduct in respect of municipal councilors has been enacted. However, it is a different question whether such a law could be framed as to restrict the freedom of speech and expression of a

municipal councilor. However, it must be borne in mind that the appellant was not an employee or a servant of the municipal council and also never held any office of profit in the municipal council. Every citizen, inasmuch as a municipal councilor, has a freedom of speech and expression under Art.19(1)(a) of the Constitution which includes fair criticism of the law or any executive action. Freedom of speech and expression is guaranteed in our democratic republic both in legislature as well as in local bodies and, therefore, a legislator or a municipal councilor legitimately can express his views in regard to what he thinks to be in public interest. A legitimate exercise of right of speech and expression including a fair criticism is not to be throttled”.

16. Thus, keeping in mind the ratio laid down in the aforesaid case and the other cases cited by learned counsel for the petitioners, it would be appropriate to reproduce herein below the provisions of Section 42 of the Act of 1965.

**“42. Liability of Conciliators to removal from office.**

(1) The State Government may on its own motion or on the recommendation of the Council remove any Councilor from office if such Councilor has been guilty of any misconduct in the discharge of his duties, or of (any disgraceful conduct, during his current term of office or even during his immediately preceding term of office as a Councilor.)

(2) The State Government may likewise remove any Councilor from office if such Councilor has in the opinion of the State Government become incapable of performing his duties as a Councilor.

(3) No resolution recommending the removal of any councilor for the purpose of sub-sections (1) or (2) shall be passed by a Council and no order of removal shall be made by the State Government unless the Councilor to whom it relates has been given a reasonable opportunity of showing cause why such recommendation or order, as the case may be should not be made.

(4) In every case the State Government makes an order under sub-sections, (1) or (2), the Councilor shall be disqualified from becoming a Councilor, or a Councilor or member of any other local authority for a period of five years from the date of such order."

17. There are two modes prescribed under Section 42 of the Act of 1965 in respect of removal of the councilor from office i.e. the State Government on its own motion take action or may act upon the recommendations of the Council.

18. In the light of above provisions, in the instant case, the proceedings initiated for removal of the petitioners aptly satisfy the requirements of natural justice. Thus, the question that arises for consideration would be whether the act complained amounts to misconduct or disgraceful conduct and that the Hon'ble Minister has applied his mind to the allegations made and explanation furnished by the petitioners. The Supreme Court in the case of **Ravi Yashwant Bhoir vs. District Collector, Raigad (supra)** has observed the expression "misconduct" has to be understood as a

transgression of some established and definite rule of action, a forbidden act, unlawful behaviour, willful in character. It may be synonymous as misdemeanor in propriety and mismanagement. Further the expression "misconduct" has to be construed and understood in reference to the subject matter and context wherein the term occurs taking into consideration the scope and object of the statute which is being construed. The misconduct is to be measured in the terms of the nature of misconduct and it should be viewed with the consequences of misconduct as to whether it has been detrimental to the public interest. So far as the expression "disgraceful conduct" is concerned, it signifies loss of honour, respect, or reputation, shame or bring disfavour or discredit. Disgraceful conduct is also to be examined from the context in which the term has been employed under the statute. Disgraceful conduct need not necessarily be connected with the official (sic duties) of the office bearer. Therefore, it may be outside the ambit of discharge of his official duty.

19. In the instant case, the following circumstances as appeared from the facts of the present case, in my considered opinion, would amount to misconduct in reference to the subject matter taking into consideration the scope and object of Section 42 of the Act of 1965.

i) In the administrative meeting being conducted for allotment of residential houses to the beneficiaries, intentionally making a scene in the said meeting and to create confusion in the minds of the beneficiaries. The petitioners had directed the beneficiaries to leave the hall and obstructed the process of signing the requisite documents by the beneficiaries for allotment of such residential houses.

ii) Out of 1104 houses, 600 complete constructed houses were to be allotted to the beneficiaries, who are residents of Ghodepeerbaba Nagar and remaining 504 houses were to be allotted to the beneficiaries, who are residents of Eklavya Nagar and on the date of the incident, initially the allotment of houses was to be made to 70 of such beneficiaries and as such, the major portion of allotment of residential houses was to be commenced thereafter. It appears that the petitioners have deliberately raised some unwanted issues to deter the beneficiaries from accepting the residential houses by creating confusing in their mind.

iii) In consequence of unwarranted interference on the part of the petitioners and the manner in which the confusion has been created in the minds of the beneficiaries, the entire process of allotment of residential houses to the beneficiaries at large would have been rendered into chaos. Thus, the entire process of allotment undertaken by the administration, pursuant to the decision taken by the Municipal Council and the scheme sponsored by the State Government and the Central Government for underprivileged class of society, would have been frustrated.

iv) In the said process the petitioners had misbehaved with the Chief Officer and further pressurized her.

20. The CC TV footage/recording was made available for perusal of the Court and I have seen the same in presence of the learned counsel appearing for the respective parties. On viewing the same, it appears that all the while the respondent Chief Officer was begging before the beneficiaries to complete the process and at the same time, the petitioners were instigating the beneficiaries to leave the hall and not to accept the allotment. Petitioner No.1 was just standing by the side of the respondent Chief Officer. On seeing the said C.C.T.V. footage, I have observed that petitioner No.1 on more than one occasion had talked to the Chief Officer in a very rude manner though the actual words are not audible. In my considered opinion, the Chief Officer would be the best person to explain the same and accordingly the respondent Chief Officer has stated so in her complaint filed before the District Collector on the very next day of the meeting. In the C.C. T.V. footage, though the camera is not on petitioner No.2, his presence in the said meeting is not disputed. It further appears that camera was mainly focused on the chair-person and some beneficiaries standing in front of the table, however, from the crowd one voice is audible also giving direction to the beneficiaries to leave the hall. The petitioner No.1, however, found

standing by the side of the Chief Officer giving command to the beneficiaries to leave the hall and not to accept the allotment. I have also noted that the Chief Officer and one more councilor had tried their best to convince the beneficiaries. They had tried to remove the confusion in the minds of the beneficiaries by making a statement that it is the duty of the administration to find out the solution if at all there is any deficiency in the basic amenities. As a result thereof, the beneficiaries themselves have given representations in writing under their signatures that they are ready to accept the allotment. Had there been any other result of such unwanted and uncalled interference on the part of the petitioners in the process of allotment creating unrest amongst the beneficiaries, serious consequences would have been followed which are certainly detrimental to the public interest. In my considered opinion, both the petitioners are guilty of misconduct and disgraceful conduct in terms of provisions of Section 42 of the Act of 1965.

21. On perusal of the impugned order passed by the Minister, I find that the Minister has considered entire factual aspects i.e. the allegations made against the petitioners and also explanation tendered by them. It is not expected from the Minister to write the judgment like in the judicial proceedings; however, in the impugned order, I find that the Minister has considered the explanation

tendered by the petitioners and after considering the provisions of Section 42 of the Act of 1965, passed the impugned order. The finding recorded by the Minister in respect of the misconduct and disgraceful conduct of the petitioners does not appear to be erroneous. In the democratic form of the Governance, the functions of the local authorities are administered by the elected representatives of the people in a democratic manner. Any such uncivilized behavior is not expected and it assumes seriousness when the representatives of the people like the petitioners behave in the manner which is detrimental to the public interest.

22. In view of above discussion, I do not find any substance in the writ petition. The writ petition is liable to be dismissed. The writ petition is accordingly, dismissed. In the circumstances, there shall be no order as to costs.

23. Pending civil application is also disposed of.

24. The pen drive containing the C.C. T.V. footage of the meeting, as aforesaid, is taken on record, sealed and handed over to the Registrar (Judicial) of this Court.

**( V. K. JADHAV, J.)**