

(1)

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

PUBLIC INTEREST LITIGATION NO.157 OF 2016

1. Sachin Shivajirao Hude,
Age: 35 years, Occ: Agri.,
R/o. Anand Nagar, Nanded Road,
Udgir, Tq. Udgir, Dist. Latur.
2. Basling Shivappa Gorte,
Age: Major, Occ: Business,
R/o. As above.
3. Pramila Vijaykumar Bhajibhakre,
Age: Major, Occ: Business,
R/o. As above. ..PETITIONERS

VERSUS

1. The State of Maharashtra
Through Principal Secretary,
Urban Development Department,
Mantralaya, Mumbai-32.
2. Collector, Latur,
Dist. Latur.
3. Assistant Director of Town
Planning Latur Division Latur.
4. Sub Registrar,
Class-II, Udgir,
Dist. Udgir.
5. The Superintendent of Police
Latur, Tq. & Dist. Latur.
6. The Deputy Superintendent of
Police Udgir, Tq. Udgir,
Dist. Udgir.
7. Joint Director of Income

(2)

Tax (Investigation) Nashik
Tq. &* Dist., Nashik.

8. Udgir Municipal Council,
Udgir, Tq. Udgir, Dist. Latur
through its Chief Officer
9. Rajeshwar Prabhappa Niture,
Age: 55 yers, Occ: President,
Municipal Counsel Udgir,
R/o. Naibadi, Udgir,
Tq. Udgir, Dist. Latur.
10. Ramchandra Nagappa Chaudari,
Age: 74 years, Occ: Pensioner
Chief Promoter of Anand Nagar,
GrahNirman Mandal, Udgir,
R/o. Udgir, Tq. Udgir, Dist.Latur.
11. Vijay Rajeshwaer Niture,
Age: Major, Occ: Business,
R/o. Naiabadi, Udgir,
Tq. Udgir, Dist. Latur.
12. Ajay Rajeshwaer Niture,
Age: Major, Occ: Business,
R/o. As above.
13. Ramakant Gurubasappa Malshete,
Age: Major, Occ: Business,
R/o. Degloor Road, Udgir,
Tq. Udgir, Dist. Latur.
14. Darshan Dharmpal Chavale,
Age: Major, Occ: Business,
R/o. Chavale Complex, Degloor
Road, Udgir, Tq. Udgir,
Dist. Latur.
15. Baburao Manmathappa Raga,
Age: Major, Occ: Business,
R/o. Degloor Road, Udgir,
Tq. Udgir, Dist. Latur.

(3)

16. Suryakant Dhulappa Muchamble,
Age: Major, Occ: Business,
R/o. Laxmi Sales, beside
Bidar Gate, Udgir,
Tq. Udgir, Dist. Latur.
17. Subhash Basvantappa Mirche,
Age: Major, Occ: Business,
R/o. H.No. 591, Kamal Nagar,
Aurad, Tq. Aurad, Dist. Bider. ..RESPONDENTS

Mr S.G. Jadhavar, Advocate for petitioners;
Mrs A.V. Gondhalekar, A.G.P. for respondent/State;
Mr U.L. Momle, Advocate for respondent No.8;
Mr M.K. Bhosale, Advocate for respondent
Nos.9,11,12,13,15,16;
Mr P.R. Nagane, Advocate for respondent No.14;

**CORAM : PRASANNA B. VARALE &
MANISH PITALE, JJ.**

DATE : 10th OCTOBER, 2018

ORAL ORDER :

Heard learned Counsel appearing for the
petitioners.

2. The petitioners are before this Court
submitting that these petitioners are espousing
social cause, as such, they are before this Court
in public interest litigation.

(4)

3. Perusal of the status of the petitioners, out of these petitioners, petitioner No.1 is agriculturist, petitioner No.2 carries business as well as petitioner No.3 is also carrying business. Though nature of their business is not referred to in the title clause, it is only stated that they are carrying their business.

4. Upon hearing learned Counsel appearing for the petitioners and on perusal of the material, it reveals that the petitioners submitted representation to the authorities namely Hon'ble Chief Minister, Secretary of Urban Development Department, Collector, Latur, Sub Divisional Officer, Udgir, Chief Officer, Nagar Parishad, Udgir and Superintendent of Police, Latur. The representation runs into more than four pages.

5. The sum and substance of the representation is, by playing certain mischief respondent No.10 in connivance of respondent Nos.11 to 17 sold out a property and thereby received

(5)

gains in terms of monetary benefits. Reading of the representation, it clearly reveals that the allegation of the petitioners is in the nature of acts which could easily cover under the compass and scope of criminal acts leading to constitute some material for the offence covered under the penal code. The allegations are of preparation of fabricated documents, forgery and cheating.

6. Now, all these representations and set of representations grounds are formulated in the petition are Ground Nos. (vii) and (viii). Now, apart from the allegation of criminal act, there is also reference to certain sale deed and civil documents.

7. On a pointed query to learned Counsel appearing for the petitioners, he fairly submitted that the petitioners have not availed any remedy including approaching nearest police station for lodgment of the report.

(6)

8. On the backdrop of above referred facts and submissions of learned Counsel appearing for the petitioners, we are of the clear opinion that if the petitioners are alleging act which covers under the criminal act and the petitioners are if not prohibited by any reason or logic or is not incapacitated to approach proper authority including law enforcing agency by availing remedies, then there is no reason for us to entertain this petition by treating the petition as public interest litigation.

9. Secondly, the reference is made to ground Nos.(vii) and (viii) which is in respect of certain documents. Now, these documents deal with civil rights of the persons. On this backdrop of also, we are not inclined to entertain public interest litigation for the simple reason that if certain civil rights are involved and if appropriate authority to ascertain and give authoritative decision is the Civil Court, in such situation, we are of the clear opinion that the

(7)

petition can not be entertained by us. Thus, the petition being meritless deserves to be dismissed at threshold. Accordingly, the petition is dismissed with the liberty to petitioners to avail any other alternative remedies available to them if so advised.

(MANISH PITALE)
JUDGE

(PRASANNA B. VARALE)
JUDGE

Tupe