IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12658 OF 2016

Rajabhau @ Rajendra S/o. Digambar Mane..**Petitioner**

Versus

The State of Maharashtra and others .. **Respondents**

Mr. Mr. V. D. Sapkal, Advocate for the Petitioner.
Mr. S. P. Taiwari, A.G.P. for Respondent Nos. 1 to 4.
Mr. Krishna K. Kulkarni, Advocate for Respondent No. 5.

CORAM: S. V. GANGAPURWALA &
R. G. AVACHAT, JJ.

DATE: 21st November, 2018

PER COURT :

1. The petitioner seeks direction against respondent nos. 1 to 4 to initiate action for recovery of the amount shown as recoverable in the Special Audit Report dated 28.06.2016, so also, seeks further direction to initiate criminal action on the basis of the said Audit Report.

2. We have heard Mr. Sapkal, the learned counsel for the petitioner, Mr. Kulkarni, the learned counsel for respondent no. 5 and the learned A.G.P.

3. The learned counsel for the petitioner submits that the Audit Report has been submitted on or about 28.06.2016. The Compliance Report is not submitted. No further action is taken pursuant to the Audit Report. It is further submitted by the learned counsel for the petitioner that the First Investigation Report only in respect of the misappropriation during the Yatra and housing scheme are filed, however, no criminal action is taken in respect of the other issues as raised in the Audit Report. The Commissioner has also not taken any action.

4. Mr. Kulkarni, learned counsel for respondent no. 5 submits that the Compliance Report has been submitted in respect of Points 1 to 35. With regard to Points 36 to 51 the documents were

required to be submitted. The letter was issued on 12.03.2018 intimating to the office of the Auditor that the record is available and the office / officer can peruse the same. It is submitted that Auditor has submitted the report to the Commissioner only on 07.03.2018.

5. It is now the Commissioner to take further steps as per Section 11 and 12 of the Bombay Local Fund Audit Act, 1930 (hereinafter referred to 'Act-1930').

6. The report is also with the Commissioner (Respondent No. 3). The respondent no. 3 shall take necessary steps as per Section 11 and 12 of the Act – 1930, considering the Audit Report, so also, the compliance as said to have been made by respondent no. 5. The steps shall be taken expeditiously and preferably within a period of four (4) months.

7. The writ petition is accordingly disposed of. No costs.

8. As it is found that the petition was not frivolous, the petitioner is allowed to withdraw the amount of Rs. 50,000/- deposited by him.

[R. G. AVACHAT, J.] **[S. V. GANGAPURWALA, J.]**

marathe