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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO.87 OF 2016

Vithal Pandurang Barge ..Petitioner
Versus
State of Maharashtra and Ors. ..Respondents

Mr. C.G. Gavnekar alongwith Mr. G.S. Hiranandani and Mr. A.C. Gavnekar, Advocates for the Petitioner.

Mr. S.B. Kalel, AGP, for Respondent Nos. 1 to 3.

Mr. Vikas M. Mali, Advocate for Respondent No.5.

**CORAM: B. R. GAVAI &
M. S. KARNIK, JJ.**

DATE: 11th OCTOBER, 2018

P.C.:-

1] Petitioner has approached this Court challenging the Notification vide which Koregaon Gram Panchayat has been constituted into Nagar Panchayat.

2] Mr. Gavnekar, learned Counsel appearing on behalf of the Petitioner, relies on the judgment of Division Bench of this Court to which one of us (Gavai, J.) was a party, in the case of *Padmatai w/o*

*Krushnaji Chute vs. State of Maharashtra*¹, to contend that when the Statute prescribes a particular thing to be done, the said compliance is mandatory. He submits that the provisions of sub-section (3) of Section 3 of the Maharashtra Municipal Councils, Nagar Panchayat and Industrial Townships Act, 1965, requires that the Notification must mention the name of news-paper in which the draft Notification was published. He submits that the impugned Notification does not mention the name of the news-paper in which the draft Notification was published and as such, the impugned Notification is liable to be set aside.

3] In the judgment cited supra, Division Bench held that when the Statute requires a particular thing to be done, statutory compliance is necessary before quasi legislative piece of legislation could be notified. To consider the submission of learned Counsel for the Petitioner, it will be necessary to refer to sub-section (3) of Section 3 of the said Act, which reads thus :-

3(3). Before the publication of a notification

¹ 2016(4) Mh.L.J. 306

under sub-section (2), the State Government shall cause to be published in the Official Gazette, and also in at least one newspaper circulating in the area to be specified in the notification, a proclamation announcing the intention of Government to issue such notification, and inviting all persons who entertain any objection to the said proposal to submit the same in writing with the reasons therefor, to the Collector of the District within not less than thirty days from the date of the publication of the proclamation in the Official Gazette.

Copies of the proclamation in Marathi shall also be posted in conspicuous places in the area proposed to be declared as a municipal area.”

It could thus be seen that what sub-section (3) of Section 3 requires is that, prior to issuing the final Notification, a draft Notification is required to be published in one news-paper circulated in the area to be specified in the Notification. The purpose of publishing the draft Notification is to enable the residents of the area to be informed that Government proposes to convert the area into municipal area and to file their objections, if they so desire. It could further be seen that the

said sub-section (3) also requires copies of the proclamation to be posted in Marathi in conspicuous places in the area proposed to be declared as a municipal area. The legislative intent is therefore clear that prior publication of draft Notification is necessary, so that residents of the area become aware of the intention of the Government and if they so desire they can file their objections. The purpose can be fulfilled by publishing the draft Notification in the news-paper which has wide circulation in the area which is sought to be converted.

4] We find that the interpretation, as is sought to be placed by the learned Counsel for the Petitioner on the provisions of sub-section (3) of Section 3 that the Notification must mention the name of news-paper in which the draft Notification was published is without substance.

5] Petition is therefore dismissed.

(M. S. KARNIK, J.)

(B. R. GAVAI, J.)