

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3993 OF 2014

Vishal M. Gupta .. Petitioner
versus
Collector of Thane and ors. .. Respondents

Mr. A.S. Rao for the Petitioner.
Mr. B.V. Samant, AGP for Respondent Nos.1 to 4.
Mr. Rajesh S. Datar for the Applicants/Intervenor

CORAM: S. C. DHARMADHIKARI &
SMT. BHARATI HARISH DANGRE, JJ.
DATE : 15TH FEBRUARY, 2018.

P. C. :

2] The petitioner in this petition seeks a relief of direction to respondent Nos.3 and 4 to decide their representations or complaints, the particulars of which are mentioned in prayer clause (a)

“a. Be pleased to issue writ of Mandamus or any other appropriate writ and thereby direct Respondent No.3 and 4 to decide the applications / representations / complaints dated 27.08.2012, 12.12.2012, 18.07.2011, 03.12.2013 made by petitioner to Respondent Nos.2 to 4 within 4 weeks or within any other reasonable period as this Hon.Court deems fit.”

3] The petitioner claims to be a resident of Kalyan, District-Thane. He claims to be an agriculturist. He then claims that he is working for the rights of Scheduled Tribe persons and has been informed that there are atrocities committed on them due to their illiteracy and poverty. They are supposed to have approached the petitioner and requested him to intervene as he is working actively to create awareness amongst them about their rights.

4] At the same time, he claims to be a Power of Attorney Holder of Shri. Vithal L. Shid.

5] The petition is not filed by the said Shid. The Collector of the District and the State are impleaded as the respondents on the allegation that whenever the petitioner has been approached by such tribals and they have narrated tales of injustice suffered by them, promptly he has addressed complaints in writing and requested for an enquiry and report. The complaints may have been acknowledged and the petitioner was informed, as stated, that the complaints have now been forwarded to some authority for enquiry and report, but the whole petition is only narrating as to how such complaints remain unattended.

6] As we have noticed that in such petition, when it is not styled as public interest litigation, what is essentially projected is the grievance of a private party. The petitioner, during the course of his narration in the petition at page 6, states that the Power of Attorney has been executed in favour of said Vitthal Shid, but that Power of Attorney is not forthcoming. Suddenly, he says that the cousin of the executor of the Power of Attorney of the petitioner viz. Balaram K. Shid has been named and he is supposed to have approached the Chief Minister of the State. An order of inquiry came to be passed. That is how on 18th July 2013, the Tahsildar issued a demolition notice, but the rejection of the stay application by the Commissioner as also this Court and by the Civil Court, has not resulted in the demolition being carried out.

7] Then again at page 6 of the petition, another instance has been given of the 3rd respondent accepting one contention of the petitioner. That is on the status as to agriculturist in proceeding, namely, RTS No.

47 of 2013. It is stated that mutation entries in the name of Smt. Roma Kisan Chawala and Smt. Puja V. Chawala were deleted. Thus the complaint pertains to seven persons, but resulted in cancellation of mutation entry in only two. Thus, this is a case of fraud, according to the petitioner and perpetuated on the public, particularly on the members of the Scheduled Tribe (ST).

8] It is highlighting such a grievance that the petition has been filed, but on what issues the petitioner obtained documents in relation to some of the persons and in which cases does not find place in the petition. Pertinently, in paragraph 1 of the petition, it is stated that the petitioner is also the Power of Attorney Holder of one Shri. Vithal L. Shid. We do not see the said Vithal Shid approaching any Court, much less this Court. The Power of Attorney in favour of the petitioner is, *prima facie*, not acted on or there is no Power of Attorney at all, but it is stated that the cousin of the executor of the Power of Attorney of the petitioner, namely, Shri. Balaram K. Shid approached the Hon'ble Chief Minister of the State. Thus, the interest of some private parties allegedly claiming themselves to be S.T. is projected and we do not therefore, think that the petitioner is really concerned with the plight of tribals. The petitioner, *prima facie*, has his own interest as somebody executed a Power of Attorney, allegedly in his favour, that is why he projects their cases in the petition and then says that he is an activist actively working for the tribals.

9] We do not think that we were obliged to grant relief, much less, of direction to the statutory authorities to consider the representation of such a person, who is the petitioner before us. Pertinently, the petitioner cites an example of the tribals and gives their names, but somehow conveniently maintains silence as to why these persons did not move the

statutory authorities and issued allegedly Power of Attorney in his favour. We do not think that we can rely upon such statements and particularly when the petitioner refers to only RTS No. 47 of 2013. Who initiated those proceedings, who obtained the reliefs or who failed therein had not been clarified at all. It would be highly unsafe to rely on the petitioner's version and call upon the statutory authority to consider his grievance as projected by him in the representation.

10] The petition is entirely misconceived and is dismissed, but by clarifying that those who are aggrieved by any action of the authorities and particularly the private party, have their remedies and avenues open. They can approach the competent authorities/courts and seek redressal of their grievances in accordance with law.

(SMT. BHARATI H. DANGRE, J.) (S. C. DHARMADHIKARI, J.)

Dinesh