

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

**WRIT PETITION NO.1461 OF 2017**

Smt. Nilambari W/o. Nandkishor Kulkarni ... Petitioner

Versus

The Executive Engineer  
(Shri Vivek Navle)

And Others

... Respondents

.....

Mr. B.R. Deshmukh for the Petitioner.

Mr. A.I. Patel, AGP for Respondent Nos.1 and 2.

Mr. S.M. Sabrad for Respondent No.4.

.....

**CORAM : SHANTANU KEMKAR &  
SARANG V. KOTWAL, JJ.**

**DATE : 21 AUGUST 2018**

**P.C. :**

. Heard learned Counsel for the parties.

2 The Petitioner challenges the communication dated 18 December 2015 issued by Executive Engineer, Public Works Department (East), Nasik.

3 According to the Petitioner, she had applied for grant of permission for storage of Petroleum Products-Class 'A' and Class 'B' before the District Magistrate, Nasik, who in turn asked various State Government Departments to send their opinion about the said application. In response to the said communication of the District Magistrate the Respondent No.1

has communicated to the District Magistrate, vide impugned letter dated 18 December 2015 that the permission cannot be granted. Feeling aggrieved the Petitioner has filed the present petition.

4 In reply, the stand of Respondent No.1 is that the impugned communication dated 18 December 2015 is an order of rejection of the application but in our considered view the impugned communication cannot be said to be an order because the order is required to be passed by the District Magistrate and not by the Executive Engineer. The impugned communication is only an opinion as sought by the District Magistrate.

5 In the circumstances, in our considered view since the matter has not been considered by the District Magistrate, who is the competent authority, the petition is liable to be and is disposed of by directing the District Magistrate to pass a reasoned order after taking into consideration all opinions/recommendations from the various authorities as has been called. So far as regard to the impugned communication made by Respondent No.1, we direct that the District Magistrate shall not be influenced by the said communication and shall call fresh opinion/report from Respondent No.1, the Executive Engineer, within a period of two weeks from the date of receipt of this order. The Executive Engineer shall send the fresh report as aforesaid within two weeks thereafter.

6 On receipt of such report from Respondent No.1, the District Magistrate, Nasik, shall take an appropriate decision on the Petitioner's application in accordance with law as expeditiously as possible and preferably within a period of three months.

7 With the aforesaid directions, the petition is disposed of.

8 Needless to say, we have not commented on merits of the matter and all rights and contentions of the parties are kept open.

**[SARANG V. KOTWAL, J.]**

**[SHANTANU KEMKAR, J.]**

Rajesh  
Vasant  
Chittewan

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by Rajesh Vasant  
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