

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

PUBLIC INTEREST LITIGATION NO. 21 OF 2014

Janardhan Vaijyanathrao Gunjkar
Age: 42 years, Occu.: Business,
R/o Shelgaon, Tq. Sonpeth, Dist. Parbhani
At present Parbhani
PAN No. BKVPG8041D
Voter I.D. No. MT/31/177/492456
Mob. No. 09922698993

..PETITIONER

VERSUS

1. State of Maharashtra
Through its Secretary,
Water Supply and Sanitation Department,
Mantralaya, Mumbai-32
2. The Deputy Secretary,
Water Supply and Sanitation Department,
Mantralaya, Mumbai-32
3. The Chief Executive Officer/
District Project Officer,
Zilla Parishad Parbhani,
Dist. Parbhani.
4. Deputy Chief Executive Officer/
District Project Coordinator,
Zilla Parishad, Parbhani,
Dist. Parbhani.
5. The Block Development Officer,
Panchayat Samiti Sonpeth,
Tq. Sonpeth, Dist. Parbhani.
6. Shri Padmakar Kendre
(the then Dy. C.E.O.,
Zilla Parishad, Parbhani)
Age: Major, Occu.: Service,

At present Dy. C.E.O.,
Zilla Parishad Jalna, Dist. Jalna.

7. Shri. K.R. Talnikar
(the then Facilitation Block Chief)
Age: Major, Occu.: Service,
R/o Audit Nagar, Parbhani,
Tq. and Dist. Parbhani.
8. Shri K.S. Hiremath
Age: Major, Occu.: Service,
Project Executive Engineer,
Rural Water Supply Department,
Zilla Parishad Parbhani,
Tq. and Dist. Parbhani.
9. Shri Ambekar
Age: Major, Occu.: Service,
Assistant Engineer,
Jalswarajya Project,
Zilla Parishad, Parbhani.
10. Shri Bharat Doli
Age: Major, Occu.: Govt. Contractor,
R/o Shastri Nagar Parbhani,
Tq. and Dist. Parbhani.
11. Shri Laxmikant Suryakant Deshmukh
Age: Major, Occu.: Politics & Business,
The then President Village Water Supply and
Sanitation Committee,
R/o Shelgaon, Tq. Sonpeth,
Dist. Parbhani.
12. Sayeed Burhan s/o Sayeed Fakir
Age: Major, Occu.: Business,
The then President Village Water Supply and
Sanitation Committee,
R/o Shelgaon, Tq. Sonpeth,
Dist. Parbhani.
13. Shrimant Vishwanath Choudhary
Age: 47 years, Occu.: Service,
The then Gramsevak of village Shelgaon

now Gramsevak of village Lasina,
Tq. Sonpeth, Dist. Parbhani
R/o Village Lasina,
Tq. Sonpeth, Dist. Parbhani.

14. Smt. Gangubai w/o Vishnu Shinde
Age: Major, Occu.: Sarpanch,
R/o Shelgaon, Tq. Sonpeth,
Dist. Parbhani.

..RESPONDENTS

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Mr. S.J. Salunke, Advocate for petitioner
Mr. S.B. Yawalkar, Addl. G.P. for respondent nos.1 and 2
Mr. P.S. Dikale, Advocate h/f Mr. V.S. Panpatte, Advocate for respondent
nos. 6 to 9
Mr. A.D. Sonkawade, Advocate h/f Mr. A.V. Hon, Advocate for respondent
no.11

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**CORAM : S.S. SHINDE AND
R.G. AVACHAT, JJ.**
RESERVED ON : 15th FEBRUARY, 2019
PRONOUNCED ON : 02nd MAY, 2019

JUDGMENT (PER : R.G. AVACHAT, J.) :

Rule, made returnable forthwith and heard finally with the
consent of the learned Counsel for the respective parties.

2. This is Public Interest Litigation. The petitioner hereby seeks
direction to Respondent No.1 – State of Maharashtra to initiate judicial
enquiry into the matter of misappropriation of funds in implementation of
Jalswarajya scheme at village Shelgaon. The petitioner also seeks direction
to register F.I.R. against Respondent Nos. 6 to 14 for misappropriation of
funds with further direction to recover misappropriated amount from them
and utilise the same for completion of the scheme.

3. Petitioner is the resident of village Shelgaon. It appears that at the relevant time his wife was the member of Gram Panchayat of village Shelgaon. It is the case of the petitioner that Gram Panchayat of village Shelgaon is a Group Gram Panchayat of village Shelgaon and four *tandas* viz. *Tiku Naik Tanda*, *Maha Vishnu Tanda*, *Bhau Tanda* and *Harising Tanda*. In 2006, the Gram Panchayat took a decision to implement Jalswarajya scheme and a resolution was passed to that effect. The Gram Panchayat was expected to contribute 10% of the cost of the scheme, 5% thereof was in terms of money and remaining 5% was in the form of public *Shramadan*. The source of the scheme was in *Godavari* river at west-north side of the village. The estimated cost of the project was Rs.42,99,818/-. Details with break up of estimate of the cost of the project have been given in the petition.

4. According to the petitioner, Respondent Nos. 6 to 14 have misappropriated almost entire amount sanctioned for the project. Only three R.C.C. ESR tanks claimed to be of 20,000 liters capacity each were constructed at three different places viz. *Maha Vishnu Tanda*, *Bhau Tanda* and *Harising Tanda*. A small plastic water tank of 5,000 liters capacity was fixed at *Tiku Naik Tanda*. According to the petitioner, new RCC ASR having total capacity of 1.5 lakh liters was to be constructed. According to

the petitioner, he made various representations to Respondent No.3 and other officials and sought all the information under Right to Information Act. Respondent No.3 appointed Respondent Nos. 6 to 10 to make enquiry into the complaint of misappropriation of funds of Jalswarajya project. These respondents were mainly involved in misappropriation and therefore gave report favourable to themselves and others involved in the misappropriation of funds. The petitioner had therefore no option but to file the present petition.

5. Respondent Nos. 6 to 9 filed their affidavit-in-reply. Respondent no.11 filed separate affidavit-in-reply. The petitioner has therefore filed affidavit-in-rejoinder. On hearing the learned Counsel for respective parties and perusal of pleadings and the documents in support thereof, we are of the view that no case is made out for grant of relief to the petitioner as prayed for.

6. Admittedly, Jalswarajya scheme has been implemented for village Shelgaon. The averments in the petition appear to be grossly inconsistent with the factual matrix. According to the petitioner, the project was worth little over Rs.42,00,000/- and amount of Rs.32 to 35 lakh thereof have been misappropriated. Whereas the affidavit-in-reply filed by the responsible officers undoubtedly indicate Jalswarajya scheme has been completed way back in 2010 and handed over to Gram

Panchayat, Shelgaon on 01st May, 2010 for implementation and its maintenance. It was a scheme for supply of water to the village and four *tandas*. The details of correspondence of the scheme have also been given in the affidavit. It has been denied that construction of water tank of 1.5 lakh liters capacity had been proposed. The scheme has been implemented on village level itself by Gram Panchayat. Affidavit-in-reply deals with each and every allegations made in the petition. On receipt of complaint, Chief Executive Officer, Zilla Parishad, Parbhani appointed four members committee of Respondent Nos. 6 to 9 headed by Deputy Chief Executive Officer. According to the petitioner, the committee members were involved in the alleged misappropriation of funds. It is however specifically averred in the affidavit-in-reply that project Jalswarajya (Rural Water Supply & Sanitation Project) has been implemented at Gram Panchayat level itself. The committee members were no way concerned with the financial affairs of the project. Gram Panchayat, Shelgaon had constituted three committees and also appointed Technical Service Supplier to ensure that the project would be completed in all respect. The affidavit-in-reply further records that for water supply scheme of village Shelgaon, Assistant Geologist recommended for dug a well on the bank of *Godavari* river. There was no provision for erecting pump house. The existing pump house has been repaired and brought to use. Since there was already water tank of 1.50 lakh liters capacity in existence in the village, no provision was

made for new water tank and repairing of the old water tank already in existence was proposed. It has also been stated in the affidavit-in-reply that expenditure had been incurred as per the actual measurement of works carried out and valuation made. Work of source strengthening has not been carried out. New well was dug as per recommendation of the Assistant Geologist. Construction of three water tanks of 20,000 liters capacity each has been completed. Those were meant for *Bhau Tanda*, *Maha Vishnu Tanda* and *Tiku Naik Tanda*. Although the budget of Rs.50,000/- was sanctioned for wire fencing of water tank, no actual work of wire fencing has been done and therefore there was no question of misappropriation of said funds. Construction of drainage has also been done in the village, incurring expenditure of Rs.2,83,071/-. In short, work of new well, repairs of pump house, pipe line, distribution system, *nala* construction, work of electricity, etc. have been done. After completion of work, water supply scheme of village Shelgaon has been handed over to Gram Panchayat in Gram *Sabha* held on 01st May, 2010 and thereafter responsibility of further maintenance and repairs is of the concerned Gram Panchayat. Some of the villagers were present when the committee paid visit to the village. The villagers informed that there was regular water supply to the village. It has been stated in the affidavit that some damage has been caused to the water pipe line. Same needs to be repaired.

7. The petitioner filed affidavit-in-rejoinder. It appears that petitioner has been filed with some motive. The wife of the petitioner was the member of Gram Panchayat, Shelgaon. In the petition it has been alleged that out of estimated cost of Rs.42,00,000/-, sum of Rs.30 to 35 lakh has been misappropriated. The petitioner meant to say that except construction of three R.C.C. ESR tanks no work has been done. Enquiry committee was headed of a responsible officer. The scheme has been implemented at village level itself. The enquiry report indicates that all the works of the scheme were completed and thereafter the scheme came to be handed over to Gram Panchayat in Gram Sabha dated 01st May, 2010 for implementation. Maintenance of the scheme thereafter was the responsibility of Gram Panchayat.

8. In view of the averments made in the affidavit-in-reply, which undoubtedly indicate that the petitioner painted the picture with tar. Petitioner's claim in the petition appears to be motivated. The petitioner, thus, fails to make out a case for grant of reliefs as prayed for. In the result, petition fails. Same is therefore dismissed. Rule is discharged.

(R.G. AVACHAT, J.)

(S.S. SHINDE, J.)

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