

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2354 OF 2018

Kirsing Hunya Vasave

.. **Petitioner**

Versus

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

Mr. R. S. Deshmukh, Advocate h/f. Mr. Gajanan K. Kshirsagar, Advocate for the Petitioner.

Mr. S. G. Karlekar, A.G.P. for Respondent Nos. 1 to 3.

Mr. D. S. Bagul, Advocate for Respondent No. 4.

CORAM: S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.

DATE: 16th JANUARY, 2019

PER COURT :

1. Mr. Deshmukh, learned counsel for the petitioner submits that the petitioner is the member of the Zilla Parishad, Nandurbar. He is also the member of the Standing Committee, Works Committee and the District Planning Committee of the Zilla Parishad, Nandurbar. The petitioner belongs to Nationalist Congress Party and the Zilla Parishad is under control of the Congress

Party.

2. The learned counsel for the petitioner further submits that the petitioner was concerned with the conditions of the roads of Akkalkuwa taluka as they were in bad state. The petitioner made efforts and filed an application to the then member of the Parliament for sanction of the funds for construction of the roads. The list of works was also submitted along with application on 09.03.2017. The member of the Parliament issued letter dated 13.03.2017 requesting the Hon'ble Minister, Tribal Development Department, Mantralaya, Mumbai to sanction funds for construction of the important roads. In the said letter, the list of roads were also detailed. Respondent no. 1 submitted proposal to respondent no. 4 seeking funds of Rs.2726.00 lacs. The list of works was also submitted along with estimated cost. Respondent no. 3 considered the proposal and under order dated 31.03.2017 sanctioned funds of Rs.1851.23 lacs for the respective works. The

works to be carried out are also detailed therein. There were no basic facilities. The work is required to be carried out. The learned counsel submits that the area of Akkalkuwa taluka is tribal and hilly area. Because of non availability of the roads, grave problems are faced by the citizens for medical treatment. The transportation facilities are also not available.

3. According to the learned counsel for the petitioner, though the amount is sanctioned for the works on 31.03.2017 i.e. during the financial year 2016-2017 and if the same is not utilised by 31.03.2018, the same would be lapsed and would be remitted back. In view of that the petitioner approached this Court. The learned counsel submits that by way of interim order this Court has safeguarded the amount received by the Zilla Parishad. The learned counsel submits that the respondents now are proceeding ahead with the work of the public roads and not the roads which were sanctioned by the Collector under its

administrative sanction on 31.03.2017. The respondents cannot be allowed to deviate from the administrative sanction issued by the Collector. It is with great efforts the petitioner could bring the funds for the development of the roads as are detailed in the administrative sanction.

4. Mr. Bagul, learned counsel for respondent no. 4 submits that majority of the roads under the administrative sanction of the Collector are non-planned roads. The Government Resolution has been issued by the State dated 03.09.2016, thereby prohibiting the development of non-planned roads, only planned roads can be developed. The learned counsel submits that even the Collector is not an Authority to accord administrative sanction. It is the Zilla Parishad who has to accord the sanction. The Resolution has been passed by the members of the Zilla Parishad and the administrative sanction has been granted to the works as detailed in the said order. Some of the roads which are planned roads under the administrative sanction of the

Collector are also to be executed, however, those roads which are non-planned have been excluded. The tender process has also culminated and now only work order is required to be issued and the work shall start within 15 days.

5. The works can be carried out in consonance with the instructions issued by the State Government pursuant to Government Resolution dated 03.09.2016. Save and except the Government Resolution dated 03.09.2016 no other executive instructions are pointed out. The executive instructions dated 03.09.2016 specifically states that planned roads and bridges are to be developed and not the non-planned roads. We may not enter into the debate as to which are the planned and non-planned roads. The public authorities and the local bodies are the best judge for that. The amount has been received, may be because of the laudable act of the petitioner, however, the said amount can be utilised for the planned work.

6. A statement has been made by the respondent that whatever roads are planned roads under the administrative sanction of the Collector dated 31.03.2017 they have been included in the work order for which the tender has already been issued. We accept the said statement.

7. It would be in nobodies interest to stall the work. Suffice it to state, the respondents have assured to issue the work order within 15 days and the work would commence immediately and that planned roads which were sanctioned by the Collector under order dated 31.03.2017 are also included in the works to be carried out by the respondents, no further orders would be necessary.

8. With these observations, the writ petition stands disposed of. No costs.

[A. M. DHAVAL, J.] [S. V. GANGAPURWALA, J.]

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