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

PUBLIC INTEREST LITIGATION NO.43 OF 2017

Idriskhan S/o Usmankhan Multani,
Age: 37 years, Occu: Business and Agri.,
R/o Tanda Bazar, Tq. Sillod,
Dist. Aurangabad

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai
2. The Principal Secretary,
Urban Development Department,
Mantralaya, Mumbai
3. The Principal Secretary,
Animal Husbandry Department,
Mantralaya, Mumbai
4. The Divisional Commissioner,
Aurangabad Region, Aurangabad
5. The District Collector, Aurangabad
6. The Sub-divisional Officer, Sillod
7. The Tahsildar, Sillod,
8. The Regional Assistant Commissioner,
Animal Husbandry, Aurangabad
9. The Chief Officer,
Municipal Council, Sillod,
Having office at Mondha Road,
Dr. Zakir Hussain Nagar, Sillod,
Tq. Sillod, Dist. Aurangabad

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10. The Chief Executive Officer,
Zilla Parishad, Aurangabad,
Having office at Aurangpura,
Aurangabad, Tq. & Dist. Aurangabad

11. The Block Development Officer,
Panchayat Samiti, Sillod,
Tq. Sillod, Dist. Aurangabad

..RESPONDENTS

Mr Girish N. Kulkarni, Advocate for petitioner;
Mrs M. A. Deshpande , A.G.P. for respondent Nos 1 to 8;
Mr P. G. Deshmukh, Advocate holding for Mr S. D. Hiwrekar,
Advocate for respondent No. 9;
Mr D. P. Bankar, Advocate for respondent No.10

**CORAM : PRASANNA B. VARALE
AND
AVINASH G. GHAROTE, JJ.**

DATE : 11th September, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner at length.

2. By way of present public interest litigation, the petitioner challenges the orders dated 27th August, 2014 and 28th August, 2014, passed by the Collector, Aurangabad, thereby transferring the land to the Municipal Council, Sillod. The thrust of submission of learned Counsel for the petitioner is, while passing the order, the Collector failed to consider the provisions of Maharashtra Land Revenue

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(Disposal of Government Land) Rules, 1971 and more particularly Rule 31 thereof.

3. On perusal of the documents placed on record, we are unable to entertain the present public interest litigation for more than one reasons. Firstly, the orders which are passed by the Collector in 2014 are challenged in the present public interest litigation, which is filed in the year 2017. It was the submission of the learned Counsel for the petitioner that in the year 2015, a complaint was lodged by the petitioner raising this issue. In support of this submission, our attention was invited to the document placed on record, dated 18th July, 2015. Bare perusal of this document shows that the petitioner, who is office bearer of a wing of a political party submitted representation to the then Minister holding the portfolio of Revenue, Animal Husbandry and Dairy Department, Maharashtra State. Interestingly enough, perusal of this representation shows that the representation aimed at an allegation of mischief being played by the earlier Minister holding charge of this portfolio and on that sweeping statement, the entire representation proceeds. Thus, we are unable to accept this communication as a complaint to an appropriate authority.

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4. The second and more important ground for not entertaining the petition is, the documents placed on record by the petitioner clearly show that a proposal was submitted to the Collector for interchange of the lands between two Government departments and the purpose is for having a sufficient space for the public utility, namely, a veterinary dispensary for the areas under Municipal Council, Sillod. The proposal was thoroughly considered by the Collector. The Collector, Aurangabad forwarded this proposal with all the requisite details to the State. A copy of the proposal is placed on record at page 44-A. The Collector also refers to the annexures, namely, the Government Resolution dated 7th March, 2006, the proposal submitted by the Chief Executive Officer, Municipal Council, Sillod, the communication received from the Additional Secretary of Agriculture Animal Husbandry, Dairy Development and Fisheries Department, dated 17th September, 2011, the communication from the Revenue and Forest Department, dated 20th June, 2014, the communication from the office of Assistant Director, Town Planning Department, Aurangabad and the communication from the Sub Divisional Officer, Sillod, dated 25th June, 2014. Then the Collector states that the communication forwarded from the office of Tahsildar, Sillod reveals that certain land to the extent of 2 Hector 20 Gunthas in Survey No.3 finds entry in the revenue record and the office of veterinary dispensary is situated there.

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Then he refers to an unutilized land to the south of Survey No.42, to the extent of 3 to 3.20 Acres. Then by referring to various communications and also the proposal from the Chief Executive Officer, Municipal Council, Sillod as well as Government Circular dated 7th March, 2006, wherein reference is made to the market value of the lands, in case when the lands are to be allotted for commercial purpose to the public at large or an individual, the Collector then specifically states that as this interchange of land is between two State Government departments and the land is to be made available for public utility purpose, namely, veterinary dispensary, it is not necessary to obtain market value from the office of Municipal Council, Sillod. The Collector then states that the Municipal Council, Sillod is a local body and the issue is only of interchange of the lands. Thus, with a positive opinion, proposal is forwarded to the State Government and in turn, the State Government approves the proposal permitting the Collector to impose certain conditions, which the Collector, Aurangabad deems it appropriate. Accordingly, the Collector, Aurangabad passed the ultimate order on 28th August, 2014, reiterating all the issues and his opinion.

5. Considering the very fact that the proposal was only for interchange of the lands as such the reliance placed by the petitioner

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on the Rules and more particularly Rule 31 of Maharashtra Land Revenue (Disposal of Government Land) Rules, 1971 would be nothing but an erroneous impression of the petitioner of requirement of the tender process being operated upon. In the case of **Janata Dal Vs. H. S. Chowdhary & ors**, reported in **(1992) 4 Supreme Court Cases 305**, the Hon'ble Apex Court has expounded "public interest" in the following manner:

"51. In Strouds Judicial Dictionary, Vol. IV (4th edn.) 'public interest' is defined thus:

"Public Interest - 1. A matter of public or general interest does not mean that which is interesting as gratifying curiosity or a love of information or amusement; but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected." (Per Crompton C.J., in R. V. Bedfordshire).

52. In Black's Law Dictionary (6th edn.), 'public interest' is defined as follows:

"Public Interest - Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interest of the particular localities, which may be affected by the matters in question. Interest shared by citizens generally in affairs of local, state or national government"

53. The expression 'litigation' means a legal action including all proceedings therein, initiated in a court of law with the purpose of enforcing a right or seeking a remedy. Therefore, lexically the expression 'PIL' means a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected."

6. Considering the present matter in light of the above, we are of the clear opinion that in view of the factual position narrated above, as to interchange of lands, the petition fails to serve any public cause/interest. As such, the petition being devoid of any merit cannot be entertained as public interest litigation. The petition stands dismissed accordingly.

7. Mr Deshmukh, learned Counsel for the petitioner, on instructions, submitted that the petitioner has deposited amount of Rs.50,000/- in this Court to show his bona fides and he is willing to part some amount for any social cause as this Court deems appropriate.

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8. Accordingly, amount of Rs.25,000/- out of Rs.50,000/- deposited in this Court together with interest accrued, if any, be transferred to the account of the Collector, Kolhapur for flood relief fund and rest of the amount of Rs.25,000/- be returned to the petitioner together with interest accrued, if any.

(AVINASH G. GHAROTE, J.)

(PRASANNA B. VARALE, J.)

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