

((1))

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

PUBLIC INTEREST LITIGATION NO.81 OF 2019

Satish s/o Keshavrao Deshmukh ... PETITIONER

VERSUS

The State of Maharashtra & others ... RESPONDENTS

.....
Shri Y.K. Bobade, Advocate for petitioner
Mrs. A.V. Gondhalekar, Additional G.P. for State
.....

CORAM: PRASANNA B. VARALE AND
R.G. AVACHAT, JJ.

DATED : 9th JULY, 2019.

ORAL ORDER :

Heard Mr. Bobade learned counsel for the petitioner. The petitioner, who claims to be a resident of village Chaklamba, Taluka Georai, District Beed, is raising a cause of public importance in the present petition. The learned counsel for petitioner invited our attention to the documents placed on record. Mr. Bobade, the learned counsel, by inviting our attention to the copy of the representation dated 9.2.2018, submitted that a Nala was flowing adjacent to village Chaklamba. Subsequently, the same was converted into a percolation tank. Though the exercise of measurement of the tank was for the purposes of an

irrigation tank, due to certain riders, the same was converted into a percolation tank.

2. It is then stated in the representation that the work of construction of the tank was completed some time in the year 2000. It is further stated in the representation that the work of minor repairs of one wall of the tank was undertaken by the authorities 5 to 6 years prior to the representation while carrying out this work, and the work was not properly executed. There was an opening in the wall, whereby the water started going waste through the tank. It is submitted in the representation that, a large area of an agricultural land situated nearby can be provided with the irrigation facility if the said percolation tank is intact and properly maintained. It is also stated in the representation that, the then Collector Mr. Kendrekar personally visited the site and the tank, but subsequent to transfer of Mr. Kendrekar, there was no progress in the matter. The representation then concluded with a request to the authority to take appropriate steps.

3. The documents placed on record show that, the office of the Collector immediately took cognizance of the representation dated 9.2.2018 and in turn, a communication was forwarded from the Deputy District Programme Coordinator and the Deputy Collector, Beed to the Executive Engineer, Minor Irrigation, Water Resources Department, Beed. The said

communication dated 9.3.2018 specifically refers to the grievance of the petitioner which was twofold. Firstly, the conversion of an irrigation tank into a percolation tank and secondly, the wastage of water due to unsatisfactory maintenance work of the wall. In the communication dated 9.3.2018, it is informed to the Executive Engineer to immediately look into the matter and to submit action taken report to the office of the Collector. A copy of this communication is also forwarded to the petitioner and the petitioner is requested not to take any extreme steps in the nature of an indefinite hunger strike.

4. Perusal of the reply to the communication dated 9.3.2018 from the office of the Deputy Executive Engineer, Minor Irrigation, Beed, dated 21.3.2018 shows that the said authority only addressed to one issue raised by the petitioner and that is about conversion of the tank. The communication dated 21.3.2018 nowhere refers to the other grievance of wastage of water due to an opening in the wall. The communication dated 21.3.2018 then refers to other aspects such as a demand from the representative of people, the proposal being forwarded to the Chief Engineer, preparation of the Task Plan etc. The communication then refers the participation of the other authorities in the matter such as the Minor Irrigation Division of Zilla Parishad. Then there are certain other documents placed on

record. It may not be necessary for us to refer to these documents. These documents only reiterate the grievance of the petitioner and his application to the authorities under Right to Information Act.

5. Considering the above referred facts, and more particularly the communication issued from the office of the Collector through the Deputy District Programme Coordinator to the office of Executive Engineer, Minor Irrigation, Beed, we are of the opinion that present Public Interest Litigation can safely be disposed of with directions to the respondents No.3, 4, 5 and 6, who are the authorities of District administration as well as Irrigation Department and the Zilla Parishad. There cannot be any dispute that the petitioner, by way of representation to the Collector, apprised the authorities of his twofold grievance and in turn, the respondent No.3 i.e. the Collector forwarded communication to the respondent No.5, but the office of respondents No.5 and 6 failed to take into consideration the aspect of an opening to the wall and wastage of water.

6. Though we are aware of our limitations insofar as the formalities such as preparation of the draft plan, requirement of the percolation tank or the water storage tank will have to be considered by the technical experts, and this Court is not possessing that technical expertise, but the other aspect of the matter i.e. wastage of water can certainly be taken care of by

these authorities, that too in the drought situation being faced by this region for last more than three years. Accordingly, we direct the respondents No.3, 4, 5 and 6 to consider the issue raised by the petitioner in respect of wastage of water, in coordination with each other. The authorities are not prevented from taking comprehensive steps so as to address the issue of wastage of water.

7. We expect that these authorities would address the issue in tandem to each other, as early as possible and not later than eight weeks from today. We are of the opinion that, these directions would serve the purpose of approaching this Court and submitting the present Public Interest Litigation. The Public Interest Litigation is accordingly disposed of.

8. Learned A.G.P. to immediately communicate this order to respondents No.3, 4, 5 and 6.

9. Authenticated copy of this order be provided to learned A.G.P.

(R.G. AVACHAT)
JUDGE

(PRASANNA B. VARALE)
JUDGE

fmp/-