

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

3 PUBLIC INTEREST LITIGATION NO.36 OF 2011

SHIVKUMAR VITTHAL GULVE AND ANOTHER
VERSUS
THE STATE OF MAHARSHTRA AND OTHERS

...

Advocate for Petitioners : Shri Ajinkya Kale h/f Shri
Talekar S.B.

AGP for Respondent no.1: Shri P.S. Patil

Advocate for Respondent nos.2 to 4 : Shri S.T. Shelke

Advocate for Respondent no.9 : Shri V.S. Bedre

Respondent nos.5,7,8,10 & 11 served.

**CORAM: PRADEEP NANDRAJOG, CJ &
R.G. AVACHAT, J.**

DATE: 26.09.2019

PER COURT :

1] Issue raised in the public interest litigation concerns works executed for water supply at village Kharda Tq.Jamkhed Dist.Ahmednagar.

2] The grievance in the petition is that funds were misappropriated and the works were not completed. Prayer made is to call for the records and in particular the measurements concerning the works entered in the record in respect of payments made to the Contractor and pass suitable directions.

3] This Court was of the opinion that a Commission be directed to be executed and submit a report to the Court after verifying facts at site. This was as per order dated 9.8.2012.

4] Two Lawyers having Degree and Diploma in Engineering as also one Mr.V.M. Patil, Executive Engineer, was the inspecting Committee which had to visit the site.

5] The Committee submitted its report on 24.9.2012. The report of the Committee is that the work has been executed, but adequate water is not being supplied and the reason thereof is that the Irrigation Tank was constructed in village Khairi some times in the year 1979-80. There was a well situated up-stream of the said Irrigation Tank and the said well constituted the principal source of water for the supply scheme. The diameter of the well was 9 meters and depth was 8 meters. When the Committee inspected, water level was 1.20 meters in the well. An electric pump of 7.5 HP was fitted by the side of the well to lift the water. Sans any scientific material but based upon the practical knowledge of the Committee and information given by the villagers, the Committee opined that rate of influx of water in the well of approximately three litres per second was necessary. The Committee opined that less water from the

underground channels was percolating in the well due to the reason there was hard rock and probably the location of the well was not properly identified.

6] Now, this issue whether the well was sunk at the correct place or a wrong place would lead this Court into uncharted territories. Be that as it may, the report establishes that the grievance of the petitioner that without works being executed payments were released and measurement books were also false is incorrect.

7] We terminate the proceedings in the petition noting that the Contractor completed the works and operated the water supply scheme for a year. The Grampanchayat has since taken over the distribution of the water and as per Resolution No.20 at the meeting held on 15.8.2017 has recorded satisfaction of the implementation of the scheme.

8] File be consigned to the record. No costs.

(R.G. AVACHAT, J.)

CHIEF JUSTICE