

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

**PUBLIC INTEREST LITIGATION NO. 68 OF 2018
WITH
CIVIL APPLICATION NO. 7144 OF 2019
IN
PUBLIC INTEREST LITIGATION NO. 68 OF 2018**

Dr. Shivaji Shringrao Bhise and Others ..PETITIONERS

VERSUS

State of Maharashtra and Others ..RESPONDENTS

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Mr. G.L. Deshpande, Advocate for petitioners

Mr. P.S. Patil, A.G.P. for respondent nos. 1, 2, 4, 6 and 8

Mr. A.V. Hon, Advocate for Respondent nos. 5 and 7

Mr. S.C. Swami Chakurkar, Advocate for respondent no.9

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**CORAM : P.B. VARALE AND
R.G. AVACHAT, JJ.
DATED : 24th JUNE, 2019**

PER COURT :

Heard Mr. Deshpande, learned Counsel for petitioners.

2. Notice was issued to respondents on 12th July, 2018. Petitioners are before this Court espousing the cause viz. an encroachment in the area of school being run by Zilla Parishad, Latur at village Bhokramba, Tq. Renapur, Dist. Latur, thereby leaving no place for the play area in the school. Learned Counsel invited our attention to the documents placed on record to submit that petitioners have raised the issue of mischief played by Respondent No.9

before various authorities and as not get relief, petitioners ultimately approached this Court by present public interest litigation.

3. The basic prayers in the present public interest litigation are thus -

“a. It is therefore prayed that, respondents may kindly be directed to decide all the representations of the petitioners thereby directing the respondents to take appropriate steps to remove the encroachment on government / Zilla Parishad School land for use an access of public at large more particularly to the students studying in the school without the playground by removing illegal and unauthorized construction made by private person Shrikishan Baburao Bhise respondent no.9 on public property gut no. 349.

b. The respondents may kindly be directed to start the procedure of extension of gaonthan more particularly in view of the letter issued by the respondent no.2 the Collector Latur to respondent no.4 on 01/12/2016.

c. The respondents may kindly be directed to start high level enquiry in to misappropriation done in 14th Finance Commissioner Scheme and Gharkul / Indira Awas Yojana Scheme thereby to cause recovery of the funds misappropriated.”

4. In so far as prayer clause (c) is concerned, learned Counsel for petitioners was fair enough to submit before us that an enquiry in the matter of allotment of houses is already conducted and the criminal law is set in motion by lodgment of F.I.R. Though it was the submission of learned

Counsel for petitioners that the investigation is going on and is about to file charge-sheet. In view of this submission, we see no reason to consider prayer clause (c) as the grievance raised by way of prayer clause (c) is already arise to setting criminal law in motion and it is needless to state that if criminal law is set in motion, the competent criminal Court may take it to its logical end as per the procedure established.

5. In so far as prayer clause (a) is concerned, perusal of the documents placed on record show that petitioners have submitted an application to Chief Executive Officer, Zilla Parishad, Latur sometime in the year 2016 and more precisely on 21st November, 2016. The Deputy Chief Executive Officer, Zilla Parishad, Latur by communication dated 02nd February, 2017 directed Taluka Development Officer, Panchayat Samiti, Renapur and the Extension Officer, Panchayat Samiti, Renapur to conduct a thorough enquiry and submit the enquiry report expeditiously to him for his perusal. The perusal of documents placed on record further show that petitioners submitted some information to the office of Deputy Collector, Rehabilitation, Latur in respect of construction on the private site or the *gayran* land by encroaching certain area post disastrous earthquake in Latur district. The information submitted by petitioners is the subject matter of question raised in the assembly session on behalf of a member of Legislative Assembly. Deputy Collector, Rehabilitation, Latur directed Tahsildar to

conduct survey with the assistance of Block Development Officer. Thus, these two documents clearly show that the authorities acted promptly on revision petition or application submitted by petitioner. It seems that subsequent to these letters, there was no further progress in the matter.

6. Our attention was invited by learned Counsel for petitioners to Civil Application No. 7144 of 2019 filed in this Court for amendment of petition and placing certain documents on record. Perusal of civil application shows that the notice was issued to Respondent No.9 on 03rd April, 2018 for removal of an encroachment. Along with application, applicants/petitioners also placed on record the copy of plaint instituted at the instance of Vice-President of School Management Committee, Zilla Parishad against Respondent No.9. Learned Civil Judge Junior Division, Renapur initially passed the order closing the evidence and subsequently on 16th February, 2019 an application for setting aside the order was allowed with costs. Perusal of the documents placed on record alongwith application further show that Respondent No.9 approached learned Civil Judge Senior Division, Latur by filing Special Civil Suit No. 304 of 2018 challenging the notice dated 03rd April, 2018 making Collector, Latur, Block Development Officer, Renapur, Village Development Officer, Bhokramba, Tq. Renapur and Sarpanch of Bhokramba as party defendants.

7. Considering all these facts, we are of the opinion that there are intermediate parallel proceedings initiated by the parties including petitioners. These proceedings are pending before the competent Civil and Criminal Courts. In view of these, this court will have its own limitations to entertain the present public interest litigation under Article 226 of Constitution of India. At the same time, considering the cause espoused in the petition to an encroachment in the school premises leading to sufferance by school going students, we are of the opinion that interest can be taken care of by directing Respondent Nos. 2 and 3 to issue appropriate directions to subordinate authorities to take appropriate steps in the civil and criminal proceedings pending before the competent Courts. We further direct to take appropriate steps and to see that these proceedings are not delayed because of any action of these authorities or their subordinates. We also expect that learned Civil Judge Senior Division, Latur, before whom Special Civil Suit No. 304 of 2018 and learned Civil Judge Junior Division, Renapur, before whom Regular Civil Suit No. 5 of 2017 are pending consideration, to decide the respective suits as expeditiously as possible, needless to state on the merits of the civil proceedings.

8. Considering the fact that now there are above two civil proceedings, we grant liberty to the parties to take appropriate steps for clubbing of these two suits so as to avoid apprehension of contrary findings

and for better appreciation of contentions raised in the proceedings. In our opinion these directions could only serve the interest of justice and could not cause any prejudice to the parties.

9. In view of the aforesaid, public interest litigation stands disposed of. In view if disposal of public interest litigation, nothing survives in the civil application and same is accordingly disposed of.

10. Under order of this Court dated 13th June, 2018, petitioners had deposited the amount of Rs.1 lakh to show his bonafide. As public interest litigation is disposed of, petitioners are at liberty to withdraw the said amount deposited in this Court. Authenticated copy to learned A.G.P.

(R.G. AVACHAT, J.)

(P.B. VARALE, J.)

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