

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

**PUBLIC INTEREST LITIGATION NO.103 OF 2019**

Mrs Kiran w/o Shriwallabh Sharma,  
Age: 54 years, Occ: Social Work,  
R/o. Plot No.15, Samarth Nagar,  
Aurangabad, Tq. & Dist. Aurangabad

PETITIONER

**VERSUS**

1. The State of Maharashtra  
Through its Secretary,  
Nagar Vikas Department,  
Mantralaya, Mumbai
2. The Commissioner,  
Municipal Corporation,  
Aurangabad, Dist. Aurangabad
3. Dr. Shri Mohan s/o Anandrao  
Deshmukh, Age: Major, Occ: Lecturer,  
R/o. 254, 'B' Samarth Nagar,  
Aurangabad, Tq. &  
District Aurangabad

RESPONDENTS

Smt Asha D. Rakh, Advocate for petitioner;  
Mr S.P. Sonpawale, A.G.P. for respondent/State

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

**DATED : 30th AUGUST, 2019**

**ORAL ORDER:**

Heard learned Counsel appearing for the petitioner.

2. Though present petition is filed and styled as 'Public Interest Litigation', considering the grievance raised in the petition, prayers sought in the petition and the documents placed on record, we are of the clear opinion that present petition cannot be treated as Public Interest Litigation by any stretch. The basic prayer clauses in the petition are; The respondent No.2 may please be directed to remove encroachment on the area reserved for play ground and garden in Samarth Nagar, Aurangabad and interim relief sought for is pending hearing and final disposal of the public interest litigation. Respondent No.3 may please be directed to look into the matter as earliest and construct the compound wall to the area mentioned earlier.

3. Smt. Rakh, learned Counsel for the petitioner submitted that the Corporation through respondent No.2 Commissioner, Municipal Corporation, Aurangabad granted permission to respondent No.3 who is a private party to break open the compound wall of his own premises for carrying out construction work.

4. On a specific query, learned Counsel for the petitioner submitted that no attempt is made by the petitioner to challenge this particular permission granted to respondent No.3, who is a private party by any of the proceedings either approaching the Corporation authorities or the competent adjudication forum.

5. Considering the very fact, we re-iterate that the petition cannot be treated as public interest litigation and we further make it clear that the petitioner is at liberty to avail other remedies as are available under law, if she is so advised.

6. With these observations, public interest litigation is dismissed.

**[AVINASH G. GHAROTE, J.]**

**[PRASANNA B. VARALE, J.]**