

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

**CONTEMPT PETITION NO. 747 OF 2019
IN
PUBLIC INTEREST LITIGATION NO. 132 OF 2016**

Shaikh Nizam s/O Shaikh Jainuddin
Age:41 years, Occu:Business
R/o Subhash Road, Jai Hind Saw Mill
Beed, Tq. and Dist.Beed

PETITIONER

VERSUS

1. The State of Maharashtra
Though the Secretary of Urban Development
Department Mantralaya, Mumbai-32
2. Milind Sawant
In Charge Chief Officer
Municipal Council, Beed
Tq. and Dist. Beed
3. Rohidas Dorkulkar
The Chief Officer
Municipal Council, Beed
Tq. and Dist.Beed
4. Dhananjay Jawalikar
The Chief Officer
Municipal Council, Beed
Tq. and Dist.Beed

RESPONDENTS

Mr H.V. Tungar, Advocate for the petitioner;
Mr S.P. Sonpawale, A.G.P. for respondent/State;
Mr G.K.Thigle, Advocate for respondent No.4;

**CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.**

DATED : 13th NOVEMBER, 2019

ORAL ORDER:

Heard Mr Tungar, learned Counsel appearing for the petitioner.

2. The grievance raised in the present petition is that in spite of the order of this Court dated 5th September, 2019, where in a statement made on behalf of respondent No.4 is accepted as an undertaking. The required documents are not submitted for conducting special audit. It is also submitted before this Court that initially one Mr Dhananjay Jawalikar- respondent No.4 was occupying the post of Chief Officer, of the Municipal Council, Beed and soon after, this Court on 5th September, 2019, order is passed. Mr Jawalikar stood retired and Mr Rohidas Dorkulkar – respondent No. 3 was occupying position as Chief Officer of Municipal Council,

Beed. Subsequently, respondent No.2 – Mr Milind Sawant, was occupying the position as In Charge, Chief Officer, Municipal Council, Beed and till date Mr Sawant is In-Charge, Chief Officer, Municipal Council, Beed.

3. Be that as it may. After hearing the submission of Mr Tungar learned Counsel for petitioner, Mr Thigle learned Counsel, who had appeared for respondent No.4, while disposing of P.I.L. No. 132 of 2016 on 5th September, 2019, submitted before this Court that the petition is filed only on the assumption and presumption. Mr Thigle, learned Counsel submitted before this Court that exercise of special audit report is going on by the special team who had undertaken an exercise of special audit and special audit report is available in the premises of Municipal Council, Beed with the required members of special squad. Mr Thigle, learned Counsel submitted copy of communication dated 5th November, 2019 issued through the Assistant Director and Local Auditor, Aurangabad and Circle Chief, Municipal Council, Beed.

4. Perusal of these documents shows that the special squad undertook the exercise of special audit which is initiated on 5th November, 2019. On a specific query put to Mr Tungar, learned Counsel the petitioner, to invite our attention to the material so as to support his submission that there is a willful disobedience of the order of this Court, he invited our attention to the documents placed on record i.e. communication dated 9th October, 2019. This clearly means that except this material, there was no attempt made by the petitioner to support the submission that the act of the respondents is in the nature of willful disobedience of the order of this Court.

5. Perusal of the communication dated 9th October, 2019 only shows that there was exchange of letters between various government offices and it will not be out of place to state that the communication dated 9th October, 2019, itself takes into consideration the fact

that exercise of special audit is going on and this is reflected from the copy being forwarded to the Assistant Director and Special Audit Report that a request to complete the work of special audit and submit the compliance report.

6. Thus, all these facts if read together lead to only conclusion that the process of special audit is going on. The petitioner was unable to show any material to arrive at a conclusion that there is any act of willful disobedience committed by the respondents. We find some merits in the submission of Mr Thigle, learned Counsel that it is only assumption of the petitioner on which the present contempt petition is filed. This being the opinion arrived at by us, we see no reason worthy of even issuing notice in the contempt petition. The contempt petition is accordingly disposed of.

[ANIL S. KILOR, J.]

[PRASANNA B. VARALE, J.]