

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1362 OF 2019

(KASAM PIRU GAWALI & ANR...VS.. COLLECTOR, BULDHANA & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.M.Ghare, Advocate for Petitioners.
Ms Tajwar Khan, A.G.P. for Respondent No.1.

CORAM : Z.A.HAQ, J.

DATED : FEBRUARY 21, 2019.

Relying on the judgment given by this Court in the case of *Jyoti Anil Ganeshpure Vs. State of Maharashtra & oth.*, reported in (2006) 2 Mh.L.J. 173, the learned Advocate for the petitioners has argued that the impugned notice has to be treated as “order” within the meaning of explanation below Rule 18 of Chapter XVII of the Bombay High Court Appellate Side Rules, 1960 and therefore, the petition is rightly placed before the single Judge.

Heard.

The petitioners have challenged the notice issued by the learned Collector calling upon them to remain present for hearing on the application filed by the respondent Nos. 3, 4 and 5 under Sections 16 and 44 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (hereinafter referred to as “the Act of 1965”). According to the petitioners, if at all the respondent Nos. 3, 4 and 5 have any grievance they will have to seek redressal under Section 21 of the Act of 1965 and the application under Sections 16 and 44 of the Act of 1965 is not

maintainable. To support the submission reliance is placed on the judgment given by the Hon'ble Supreme Court in the case of *State of H.P. Vs. Surinder Singh Banolta*, reported in (2006) 12 SCC 484.

Pointing out the earlier history, it is argued that the petitioners are being unnecessarily harassed and they apprehend adverse order because of the political situation. An alternate prayer is made that if any adverse order is passed disqualifying the petitioners, the authority be directed to keep it in abeyance for eight weeks from the date of its communication.

As far as first submission is concerned, in my view, the petitioners can point out to the learned Collector that the application under Sections 16 and 44 of the Act of 1965 cannot be entertained. As far as second submission is concerned, there is no basis for the apprehension expressed by the petitioners and even if any adverse order is passed against the petitioners it will not be irreversible situation and the superior authority/ Court can always issue appropriate directions to protect the interests of the petitioners.

Hence, keeping all the issues open, the writ petition is **dismissed**. No costs.

JUDGE