

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

PUBLIC INTEREST LITIGATION NO. 83/2018.

Bhola Garibdasji Baisware and others.

-VERSUS-

The State of Maharashtra and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A.R. Ingole, Advocate for Petitioners.
Shri P.S. Tembhare, A.G.P. for Respondent Nos.1 and 2.
Shri A.A. Naik, Advocate for Respondent Nos.3 & 4.
Shri S. Dewani, Advocate for Respondent No.5.

CORAM : R.K. DESHPANDE &
VINAY JOSHI, JJ.

DATE : JANUARY 10, 2019.

Heard.

2. Petitioners claim to have filed this petition in public interest, claiming relief in terms of prayer clauses [a] and [b], which are reproduced below :

“(a) by an appropriate Writ, Order or Direction direct the respondent nos.3 and 4 – Municipal Corporation, Nagpur and Town Planning Department, Nagpur to initiate an enquiry as regards the irregularities in construction of Community Hall over

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the old structures of the school owned by respondent no.3 Nagpur Municipal Corporation by name Daji Marathi Primary School;

(b) by an appropriate Writ, Order or Direction punish the persons responsible for misuse of school owned by respondent no.3 Nagpur Municipal Corporation by name Daji Marathi Primary School;”

2. In order to find out as to whether the construction of the Community Hall is over the old structure of the school owned by respondent no.3, photographs are placed on record by petitioners clearly indicate that the Community hall is not constructed over and above the school, but, it is constructed adjacent to the school building in terms of the proposal of the MLA given on 07.05.2016, for spending the funds allotted to him. In spite of pointing out this position in reply, rejoinder filed by petitioners reiterate the same position.

3. We find that irresponsible statements are made in paragraph no.3 of the petition, which are reproduced below :

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“3. The petitioners further submits that the President of of the Respondent No.5 is the sitting Corporator and therefore respondent no.5 has misused his position in misappropriating the fund granted for construction of community hall near Daji Marathi Primary School and not over and above the Daji Marathi Primary School, warranting an interference of this Hon'ble Court.”

4. Though the allegations are made against the President of respondent no.5 Society, about misappropriation of funds, he has not been joined personally as party respondent.

5. In the entire petition, repeated averments are made that the community hall is constructed over and above the old building on the terrace without getting structural audit, contrary to the funds sanctioned by the MLA. The petition is based upon such averments which we find to be false and frivolous. In spite of visible construction, rejoinder reiterates the same case. This litigation is not bonafide.

6. Our attention is invited by the learned

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counsel appearing for petitioners to paragraph no.2 of the affidavit filed by the Collector, in which it is stated that the dispute regarding the speed of the work, quality of work and allied work are to made subject matter of enquiry by the implementing agency. There is no complaint in this petition in respect of the subject matter of this enquiry.

7. We find that the petition and the rejoinder is full of irresponsible statements and this Court is not satisfied by the bonafides of petitioners.

8. Public Interest Litigation is, dismissed. The costs of Rs. 20,000/- deposited by each of the petitioners, is forfeited and the same be appropriated in the account of Juvenile Justice Fund maintained by the State Government.

JUDGE**JUDGE**

Rgd.