

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

918 WRIT PETITION NO.1710 OF 2020

VANDANA PRADIP PATIL
VERSUS
THE HONBLE MINISTER CABINET URBAN DEVELOPMENT
DEPARTMENT AND OTHERS

...
Advocate for Petitioners : Mr. Deshmukh Mahesh S.
AGP for Respondent Nos.1 to 3 : Mr. N.T. Bhagat
Advocate for Respondent No.4 : Mr. Umesh Gite
Advocate for Respondent No.5 : Mr. V.D. Sapkal h/f Mr. Yuvraj
V. Kakade
...

**CORAM : ROHIT B. DEO, J.
DATED : 24th JANUARY, 2020.**

PER COURT:-

. The petitioner is assailing notice dated 17.01.2020 issued by the Hon'ble Minister pursuant to an application seeking review of order dated 18.01.2019.

2. By order dated 18.01.2019, the Hon'ble Minister was pleased to reject the application preferred under Section 55(A) and (B) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965, seeking removal of the petitioner as the President of the Gangapur Municipal Council.

3. The learned counsel for the petitioner would submit that initiation of the proceedings is patently illegal and therefore, a case is made out for this Court to intervene

at the stage of issuance of show cause notice. The said submission is predicated inter alia on the provisions of Section 320 of the Act, which read thus:

“320. The State Government may, either on its own motion or on the application of any party interested, review any order passed by itself or any sanction or approval given under this Act, and the Director or the Collector may, similarly, review an order passed by himself or any sanction or approval given by him under this Act, and pass such order in reference thereto as it or he thinks fit:

Provided that -

- (i) no order shall be varied or reversed or no sanction or approval reviewed unless notice has been given to the parties interested to appear and be heard;
- ii) no order from which an appeal has been made, or which is the subject of any revision proceedings, shall so long as such appeal or proceedings are pending be reviewed;
- (iii) no order affecting any question of right between private persons shall be reviewed, except on the application of a party to the proceedings and no application for the review of such order shall be entertained unless it is made within ninety days from the passing of the order.”

4. The learned counsel would submit that there is no power to condone the delay exceeding 90 days in preferring review application. The learned counsel would invite my attention to the language of provision to substantiate the

said contention. Other submission of the learned counsel for the petitioner is that there is absolutely no material suggesting a rational for exercise of power of review and that the change in political dispensation is the only motive for the notice impugned. In essence, the submission is that the issuance of notice is a fraud on statutory power.

5. The learned counsel Shri Sapkal would submit that every contention can be looked into by the Hon'ble Minister and there is no reason for this Court to entertain this petition.

6. Having given my intense consideration to the rival contentions, I broadly agree with the submission of Shri Sapkal that there is no reason to assume, atleast at this stage, that the Hon'ble Minister will not consider and decide the objections to the maintainability of the review application, on its own merits and in accordance with law. However, while the contentions can be left open for the Hon'ble Minister to decide, considering the submission that it is only the change in the political dispensation that has led to the issuance of notice, the apprehension expressed by the petitioner shall have to be allayed. This can be done by directing that any adverse order which may be passed by the Hon'ble Minister shall not be given effect to for a period

of four weeks from the date the adverse order is actually received by the petitioner.

7. While I am not inclined to interfere in writ jurisdiction, it is made abundantly clear that the Hon'ble Minister shall decide every objection as to the maintainability and tenability of the review application including the objection that there is no power to condone the delay, and assuming that there is power to condone delay, no case is made out for condonation of delay. The objection that even otherwise no case is made out for exercising review power shall also be addressed and adjudicated on its own merits.

8. The proceedings are fixed on 27.01.2020. The Hon'ble Minister is expected to ensure that every stake holder has ample opportunity to file their submissions and to place on record such oral or documentary material in support of the respective submissions.

9. With these observations and directions, the petition is disposed of.

(ROHIT B. DEO, J.)