

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

PUBLIC INTEREST LITIGATION NO. 12 OF 2020

Amol Balasaheb Wankhede

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....
Mr. M.V. Thorat, Advocate for petitioner
Mr. D.R. Kale, A.G.P. for respondent – State
....

**CORAM : P.B. VARALE AND
R.G. AVACHAT, JJ.
DATED : 12th FEBRUARY, 2020**

PER COURT :

Heard learned Counsel for the petitioner.

2. Learned Counsel for the petitioner vehemently submitted before this Court that the petitioner espouses a cause of public interest. The petitioner consistently made an attempt to approach the respective authorities, i.e. the respondents, apprising that the works of construction of the village roads undertaken under the scheme known as 'Pradhanmatri Gram Sadak Yojana' were either of sub-standard quality or delayed. In support for his submissions learned Counsel invites our attention to the documents placed on record viz. the representations dated 21st June, 2017 and dated 12th September, 2018 made to the Executive Engineer, Pradhanmantri Gram Sadak Yojana Office at Hingoli. There is also a

communication on record, forwarded to the Executive Engineer dated 19th March, 2019, whereby the petitioner withdrew his warning given to the authorities that the petitioner would proceed on a fast unto death. Learned Counsel for the petitioner also invited our attention to the photographs placed on record to submit that the photographs reveal the picture that the work undertaken is of sub-standard quality, which cannot be repaired. Learned Counsel for the petitioner also placed heavy reliance on the judgment dated 24th February and 12th April, 2018 delivered by the principal seat of this Court in Public Interest Litigation No. 71 of 2013. On perusal of the documents placed on record, we are of the opinion that the petitioner has approached this Court on the assumption that the respondent – authorities are carrying the malafide intention and there are contrary reports prepared by the respondent authorities.

3. Now, let us refer to the material which prompted us to arrive at a conclusion that the petitioner approached this Court as a social worker. From his submissions it appears that in spite of petitioner's repeated requests to the authorities, no heed was paid to the grievance in respect of sub-standard quality of the work. Material placed on record clearly shows that on receipt of the representation, the respondents authorities immediately undertook the exercise of enquiry. Not only this, but the petitioner was permitted to participate in the exercise of inspection of sites and the copy of the report was

also supplied to the petitioner. The opportunity given to the petitioner by the respondent authorities to participate in the site inspection reveals from the communication placed on record at Exhibit 'B' i.e. letter dated 12th October, 2017, wherein it is noted that on receipt of the complaint application of the petitioner, the competent authority assigned the work of quality checks to Mr. R.S. Patil, State Quality Controller/Inspector, who proceeded for spot inspection on 15th October, 2017 at 10.00 a.m. The petitioner was informed to remain present on the site without fail. Then there is copy of report placed on record by the petitioner at Exhibit 'D'. Perusal of this report shows that total eighteen works are undertaken. Out of these eighteen works, sixteen works were completed and out of two remaining works, one work was in progress and one work was to be commenced. In the presence of the petitioner, inspection was carried out. There is reference of technical assistance in detail in a tabular form alongwith measures suggested for repairs of the work. The opinion of the competent authority was recorded and it was stated that the works undertaken were satisfactory and steps be taken for repairs, as stated in the report.

4. The petitioner also submitted a representation to the Executive Engineer on 22nd January, 2018 with a grievance that the report prepared by the Quality Controller/Inspector is a false report and prepared in connivance with the contractor and engineer.

5. The petitioner, in the representation, referred to certain deficiencies. We have put a specific query to learned Counsel for the petitioner, as to what expertise in civil engineering the petitioner carries. To our query, learned Counsel for the petitioner submitted that the petitioner is not carrying any expertise in civil engineering and it is his personal opinion reflected in the representation that the work carried out was of sub-standard nature. Then, again reiterating the contents of representation dated 22nd January, 2018, the second representation is forwarded on 14th February, 2018. Considering the repeated representations, the competent authority thought it fit to undertake the exercise of calling the second report and accordingly, an officer was deputed for carrying out spot inspection. The second report is also placed on record. This report deals with each of the issues raised by the petitioner. It must be stated here that in the second report it is specifically observed that the petitioner was causing disturbance in the work, time and again. The disturbance of the petitioner not only caused delay in the work, but also the contractor was required to seek police protection for continuity of the work.

6. The report then refers to the issue of joints. It is specifically stated in the report that the joints can be filled by using bitumen filler. It is stated that when labours of the contractor proceeded for undertaking the work, the petitioner caused disturbance to them and prevented them from

doing the work. The report concludes with a satisfactory opinion of the competent authority and it may be also stated here that the contractor was required to seek police protection because of the threats of life given to the labours by the petitioner. The report also states that the petitioner seemed to be only interested in causing disturbance in the work and there is no genuine complaint of the petitioner against the construction quality. The report was forwarded alongwith all the necessary documents and the photographs. Learned Counsel for the petitioner by referring the photographs submits that the cracks in the works cannot be repaired. This opinion is formed by the petitioner only on his personal view and at the cost of repetition, we state that it is admitted by learned Counsel for the petitioner, that the petitioner is not carrying any expertise in the field of civil engineering. This Court certainly cannot sit over a report which is prepared by the experts in the field as if this Court is an appellate expert authority to assess, whether the construction carried out is as per specification. This Court cannot undertake this exercise only on the basis of an opinion arrived by a person, who is not carrying any expertise in the field.

7. Learned Counsel for the petitioner also submits that there is a contradiction in the two reports. This submission appears to be based without reading the second report. The second report clearly states that the inspection was carried out on two occasions through two State level Quality

Controllers/Inspectors and two national level Quality Controllers/Inspectors. The observations of these experts state that the work is satisfactory. It is also stated in the report that the experts have suggested the corrective measures in the work. On the backdrop of this report, merely because the petitioner contends that the work carried is not satisfactory or of sub-standard, this Court cannot form an opinion of a lay man, over and above an opinion expressed by experts not on one occasion but on two occasions. It may not be out of place again to state that in the communication forwarded by the petitioner himself under the exercise of right to information, the petitioner was informed that due to his disturbance in the work, the work would not be proceeded and the authorities were unable to maintain the time schedule of the work because of the repeated disturbance by the petitioner.

8. Now, going through the judgment relied by learned Counsel for the petitioner delivered at the principal seat, there cannot be any dispute on the observations of the Division Bench in so far as the duty cast upon the civic body for a proper maintenance of roads or the duty of the State and its authorities to provide good and proper road to the citizens. Considering the facts of the present case, referred to above, we are of the clear opinion that the reliance placed on the judgment of this Court at principal seat, would not help the petitioner. Resultantly, the petition, being thoroughly meritless, deserves to be dismissed and the same is dismissed at the threshold.

9. Though we are of the opinion that some costs must be imposed on the petitioner, who seems to be a busybody approaching the authorities time and again and causing disturbance in the work, considering the fact that the petitioner is an agriculturist and his livelihood is only agriculture, we restrain ourselves from taking any such harsh action.

(R.G. AVACHAT, J.)

SSD

(P.B. VARALE, J.)