

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

WRIT PETITION NO. 8419 OF 2020

Santosh s/o Kisanrao Kolhe

.. Petitioner

Versus

The State of Maharashtra and ors.

.. Respondents

Mr K.C. Sant, Advocate for petitioner

Mr A.B. Chate, A.G.P. for respondent-State

Mr V.D. Sapkal, Senior Advocate i/b Mr D.K. Rajput, Advocate for petitioner

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 18th December 2020

PER COURT :

1. Mr Sant, learned Counsel for the petitioner submits that under the Vaishitapurna Scheme, the Collector had directed the Chief Officer that the work is not being done and that the Chief Officer shall implement and grant No Objection Certificate as per the provisions of Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965 or else it will be considered that deemed consent is granted.

2. Mr Sant, learned Counsel submits that Municipal Council being a planning authority is required to pass a resolution for the works necessary to be undertaken and thereafter only the Government can appoint the implementing agency for the work recommended by the Municipal Council. In the present case, the Government decided the works to be done. According to learned counsel, works under the communication issued would amount to duplication. The competent authority is required to be taken in confidence.

3. We have heard Mr Sapkal, learned Senior Advocate for the intervenor. He submits that there is an additional communication dated 11.9.2020 by the

Chief Officer to the Collector thereafter clarifying that the work of the water supply scheme would not be affected. The works entrusted by the Government under the Vaishitpurna scheme are not done in last five years and the said works are in tune with the development plan and development control regulation. The Collector, on 28.10.2020 has granted administrative sanction .

4. The Vaishitpurna scheme had been introduced by the State Government with the sole object and to facilitate the work in the Municipal Council. Clause 4 of the scheme permits State Government to finalise the wok. The scheme also empowers the Government to appoint the implementing agency. The funds for the work under the Vaishitpurna scheme are to be spent by the Government.

5. In the present case, the Collector and the Chief Officer appear to be in tandem and they are at consensus *ad idem*.

6. Under the Vaishitapurna scheme, the Municipal Council cannot claim a vested right that the work recommended by the Municipal Council only should be undertaken or that the implementing agency ought to be Municipal Council.

7. The Municipal Council does not possess vested right under the Vaishitapurna scheme to dictate the works to be done.

8. In light of the above, no case for interference is made out. Writ Petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)

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