

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.62 OF 2012
WITH
CIVIL APPLICATION NO.7 OF 2013
WITH
CIVIL APPLICATION NO.29 OF 2014

Anil Tekadmal Vidhani and Anr. ... Petitioners
versus
The State of Maharashtra and Ors. ... Respondents

Mr.A.S.Khandeparkar with Mr.Shantanu
Chandratre, Mr.Rohit Mahadik,
Mr.Sankalpa Rajpurohit i/b
Khandeparkar & Associates for the
Petitioners.

Mr.B.V.Samant-AGP for Respondent Nos.1
to 6 (State).

Mr.A.Y.Sakhare-Senior Advocate a/w
Mr.Joel Carlos for Respondent Nos.7 to 21.

**CORAM :- S. C. DHARMADHIKARI &
R.I.CHAGLA, JJ.**

DATE :- FEBRUARY 14, 2020

P.C. :-

1. We have heard Mr.Khandeparkar at some length. Though he concedes that the order passed by this Court in Public Interest Litigation No.224 of 2014 with Civil Application No.108 of 2017 would conclude the issue, still, the argument is that this Public Interest Litigation has been filed, may be raising the same contentions and pleas, but when the earlier Public Interest

Litigation was disposed of, this Court was not apprised of the factual position and to the effect that the Government, and particularly, the Public Works Department of the State Government does not dispute the status of the road. It is major district road covered by Section 3 of the Maharashtra Highways Act, 1955.

2. Precisely, that contention was raised before us and the Government of Maharashtra may file any pleading before the Hon'ble Supreme Court or may not take a clear stand on the issue, still, for us to hold that the road in question is a major district road, the declaration by Notification under Section 3(i) and the classification will have to be produced. Despite opportunity being given to the petitioners in the companion Public Interest Litigation and this Public Interest Litigation, this Gazette Notification/ declaration has not been produced. Hence, a reference to the road as district road or major district road and loosely in the pleadings would not make any difference. Similarly, the notification so as to hand over maintenance of the major district road earlier to the Zilla Parishad and thereafter taking over the same from the Zilla Parishad is of no assistance and as held, is not a substitute for the declaration in terms of Section 3 of the Maharashtra Highways Act, 1955.

3. For all these reasons, in the light of the order passed by this Court in the companion Public Interest Litigation, concerning the same issue, even this Public Interest Litigation is disposed of. There would be no order as to costs.

4. In the light of the disposal of the Public Interest Litigation, Civil Applications do not survive and stand disposed of accordingly.

5. We clarify that the issue other than the status of the road has not been decided in this Public Interest Litigation and if any other grievance is projected, that will be decided on its own merit and in accordance with law.

(R.I.CHAGLA, J.)

(S.C.DHARMADHIKARI, J.)