

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO. 48 OF 2017

Shivraj Balasaheb Kadu

... Petitioner

VERSUS

The State of Maharashtra and others

... Respondents

...

Mr. Sanket S. Kulkarni, petitioner-in-person

Mr. S.B. Yawalkar, AGP for respondent – State

Mr. Ameet R. Vaidya, Advocate for respondent no. 10

Mr. M.N. Navandar, Advocate for respondent no. 11

...

**CORAM : DIPANKAR DATTA, CJ
AND
RAVINDRA V. GHUGE, J.**

DATE : JUNE 14, 2021

PC :

1. The prayers in this Public Interest Litigation read as follows :

"B) By issuing writ of mandamus or any other writ, order or directions in the like nature the respondent no. 8 and 10 may kindly be directed to remove encroachments at Zalta Phata to Mahanobhav Ashram road, SBI Bank to Deolai chowk and Cidco bus stand Chowk to Beed by pass road.

C) By issuing writ of mandamus or any other writ, order or directions in the like nature the respondents no. 1, 4 and 11 may kindly directed to take further steps to complete the squire bridge at Deolai Chowk and to complete the 6

lane road of Cidco Chowk to Beed by pass along with Mukudwadi railway station over bridge.

- D) By issuing writ of mandamus or any other writ, order or directions in the like nature the respondent no. 6 SLO Aurangabad may kindly directed to complete the acquisition process of by pass road (ring road) of National Highway no. 211 passing through the village Gandheli and Balapur within 2 months and the respondent no. 12 may kindly be directed to complete the said ring road by initiating rapid steps."

2. Insofar as the relief claimed vide prayer clause (B) is concerned, an affidavit has been filed by Shri Ravindra Prabhakar Rao Nikam, Deputy Commissioner, Administration, Municipal Corporation, Aurangabad. Paragraph 2 of such affidavit reads as follows :

- "2. I say and submit that after the expiry of the period of protection as ordered by this Hon'ble Court on account of the Covid-19 pandemic, demolition drive was undertaken on 12/3/2021, 16/3/2021 and 17/3/2021. On these days action was taken for removal of unauthorised structures affected by the road widening of Beed bypass and all the 23 structure as were shown to be remaining in my Affidavit dated 13/3/2020 are now removed and no structure remains to be demolished, as far as the properties that are not subjudice in any matter before this Hon'ble Court are concerned."

3. Having regard to such statement of the Deputy Commissioner on oath, which is not disputed by Mr. Kulkarni, learned advocate for the petitioner, we record that prayer clause (B) does not survive for consideration.

4. Regarding prayer clause (C), we wish to observe that the issue relating to construction of an underpass at Shivaji Nagar is under consideration of this Court in PIL Petition No. 96 of 2013. Several orders have been passed on PIL Petition No. 96 of 2013 including an order passed today for expediting the project work. We are of the considered opinion that the same issue need not be considered twice over and if the petitioner is interested in expeditious completion of the underpass at Shivaji Nagar, he may participate in the proceedings of PIL Petition No. 96 of 2013. Liberty in this behalf is reserved.

5. Prayer clause (D) is in respect of ring road. The National Highways Authority of India (hereafter 'the NHAI') is a necessary party in respect of construction of such ring road. Although we find that officers of the NHAI are party respondents in this Public Interest Litigation, the NHAI is not included in the array of respondents. That apart, we are of the view that the issue of construction of ring road is quite different from the relief that the petitioner sought for vide prayer clauses (B) and (C).

6. We, therefore, permit the petitioner to file afresh seeking orders for facilitating construction of ring road by

arraying appropriate parties. All contentions in respect thereof are kept open.

7. This Public Interest Litigation stands disposed of. There shall be no order as to costs.

[RAVINDRA V. GHUGE, J.]

[CHIEF JUSTICE]

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