

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

123 CRIMINAL WRIT PETITION NO.840 OF 2020

PRASHANT S/O BIBHISHAN SALUNKE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. D.M. Shinde h/f. Mr. S.G. Kawade
APP for Respondents 1 to 6 : Mr. A.V. Deshmukh
...

**CORAM : T.V. NALAWADE AND
M.G. SEWLIKAR, JJ.**
DATED : 03/02/2021.

ORDER : [PER T.V. NALAWADE, J.]

1. The petition is filed for giving direction to respondents, mainly, the Collector Osmanabad to take action in respect of irregularities noticed in the work done under the project Lokshahir Annabhau Sathe Urban Development Scheme 2019-20. Prayer is also made to take action against Chief Officer of Municipal Council Osmanabad by registering crime against him. Hearing was given to the learned counsel for petitioner and the learned APP.

2. To comply the orders made by this Court, today some record was produced by the learned APP. The record shows that directions are given by Collector Osmanabad to see that departmental inquiry is started against the then Chief Officer of

Municipal Council, Osmanabad. This action is to be taken due to irregularities noticed in execution of the work done in aforesaid project. The learned counsel for petitioner submitted that the petitioner is not satisfied only with that kind of action and he wants to see that crime is registered against him. The learned counsel was asked to show the provisions under which the crime can be registered for such irregularities, but he could not show such provision. Admittedly, the funds which were made available for the purpose of construction of roads were used by the Municipal Council for constructions of roads. There is allegation that some funds which were made available for Dalit Vasti Sudhar Yojna were not utilized for that purpose and construction of roads was made in the locality where there was no majority of the Dalit Vasti (people of scheduled castes and scheduled tribes).

3. The learned counsel for petitioner placed reliance on the Government Resolution dated 5.3.2002 in which the provision was made to make funds available for Nagari Dalit Vasti Sudharna Yogna (improvement of the localities of Dalit from city area). The Government Resolution shows that more attention was to be paid to the area which have locality of 50% or more of scheduled castes and *Navboudha*. The Government

Resolution, however, shows that after making proposal of the work, the District Collector was expected to study it, verify it and then only give administrative and financial approval to the work. In the present matter, it is admitted that such proposal was submitted by the Chief Officer.

4. The main grievance of the petitioner is that the Chief Officer gave certificate in respect of the area like Ward No. 7 that it was Dalit Vasti, when the percentage of the scheduled castes and scheduled tribes people in that area was not more than 50%. He drew attention to the chart prepared and also the map prepared to show caste of persons living in those areas. The map in respect of the road which was to be prepared from the house of Gundre to Panbude shows that one road was proposed in the area where on one side there was the house of one scheduled caste's person, but that road was meeting Dalit Vasti where all the persons of scheduled castes community were living. It cannot be said that the approach road to Dalit Vasti need not be prepared. The persons from Dalit Vasti need to have access to main road. The road in respect of which there is grievance is situated between two Dalit Vastis roads. In view of this circumstance, it can be said that it was only irregularity. No criminal intention can be attributed to this act of Chief Officer.

Further, there are no other allegations except the allegation of aforesaid nature.

5. The Chief Officer is required to work in the local body where the persons elected belong to different political parties. He cannot please each and every councilor. Thus, some persons have got reasons to file the proceeding against the Chief Officer and they go to the extent of filing criminal proceeding against the Chief Officer. Due to all these circumstances, this Court had directed the petitioner to deposit Rs.25,000/- first. This Court has now ascertained that there was no criminal intention from the part of Chief Officer. The officers of this position are expected to utilize the funds made available and if he has done that, though with some irregularity, he cannot be made criminally liable for such act. Now the Collector has directed departmental inquiry in respect of that irregularity. This Court holds that no more action can be taken and it is not warranted also. So, the petition stands dismissed. The amount of Rs.25,000/- deposited by the petitioner is to be credited to the Government as the petition is apparently politically motivated.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]

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