

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

7 WRIT PETITION NO.9917 OF 2021
WITH CA/9462/2021 IN WP/9917/2021

RAMESH BABARAO PATIL

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

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Mr. S. S. Thombre, Advocate for the Petitioner.

Mrs. M. A. Deshpande, AGP for Respondents-State.

Mr. Mukul Kulkarni h/f Mr. Menezes A. Joslyn,
Advocate for Applicant in CA/9462/2021.

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CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.

DATED : 14th SEPTEMBER, 2021.

PER COURT:-

1. The petitioner is assailing the corrigendum dated 26.08.2021 changing the implementing agency from Municipal Council to the Public Works Department.

2. Mr. Thombre, learned counsel for the petitioner submits that, the petitioner is a Councilor of Municipal Council, Dharmabad. On 20.08.2021, the Government passed Resolution thereby providing the special funds for implementation of Vaishishtyapurna Yojna. In the said Government Resolution the Municipal Council was appointed implementing agency. Abruptly on 26.08.2021, corrigendum is issued whereby, the implementing agency is changed to Public Works

Department.

3. The learned counsel further submits that, the corrigendum issued is arbitrary and without assigning any reason. In fact, under the Government Resolution dated 20.08.2021 the funds were also earmarked. The work to be done was also earmarked by the Government and Municipal Council was an implementing agency. The decision to delete Clause-2 whereby the Municipal Council was implementing agency is illegal, erroneous and does not stand to reason. The same is arbitrary and violative of Article 14 of the Constitution of India.

4. According to the learned counsel, earlier also with the present Municipal Council the same thing had taken place.

5. We have also heard learned A.G.P. and Mr. Kulkarni, learned counsel for intervenor.

6. It is fact that the Municipal Council had not passed Resolution for the work to be done. It also appears that, the Government Resolution is issued on 14.07.2021 to provide for the special funds to the Municipal Council for the work under the Vaishishtyapurna Yojna. The said Government Resolution was succeeded by the Government Resolution dated 20.08.2021. Clause-2 of the Government Resolution prescribed the Municipal Council to be the implementing agency.

7. After about six days on 26.08.2021 the corrigendum is issued deleting Clause-2 of Government Resolution dated 20.08.2021 and it prescribed Public Works Department as implementing agency. All other clauses remained the same. It is the fact that, the Collector had not granted administrative sanction as yet. The Government Resolution dated 14.07.2021 requires the Collector to grant administrative sanction. Reference can be had to Clause 8 (f). No further steps were taken pursuant to the Government Resolution dated 20.08.2021. The funds were not transferred to the Municipal Council, as such the funds never acquired the status Municipal funds.

8. Reference can be had to the judgment of the Division Bench of this Court in the case of **Amalner Municipal Council Vs. The State of Maharashtra and Ors.** reported in 2020 (6) Mh.L.J. 305 wherein this Court had observed that it was discretion of the Government to appoint the implementing agency. The power of the State Government to appoint an implementing agency for performance of Vaishishtyapurna Yojna is not circumscribed by the Statute or Rules.

9. In the present case, no administrative sanction has been granted. The Resolution was never passed by the Municipal Council. The funds were not transferred. The petitioner is the lone Councilor of the Municipal Council assailing the same.

10. For all the aforesaid reasons, we are not inclined to interfere. Writ Petition is disposed of. No costs.

11. In view of disposal of writ petition, present civil application stands disposed of.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE