

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

CRIMINAL WRIT PETITION NO. 255OF 2019

Firoz Ali Asgar Ali and another

Vs.

The Collector, Akola and anr

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri J.B.Gandhi, Advocate for petitioner
Shri S.M.Ghodeswar, APP for Respondent No.1
Shri A.R.Deshpande, Advocate for intervenor

**CORAM :- SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATED :- 12.01.2021

CRIMINAL APPLICATION NO. 148/2019.

Heard.

The intervenor - Akola Cricket Club seeks to intervene in the matter on the ground that it is desirous of opposing this petition and placing before this Court necessary facts which would assist this Court in appropriately adjudicating the issue involved in this petition.

According to the learned counsel for the intevenor/ applicant, the intevenor is Akola Cricket Club, which is the original allottee of the land where the present petrol pump is situated and such allotment has been taken place in the year 1929. It is the submission of the intervenor/applicant that now the lease of the land of the petrol pump has expired and therefore, if any enquiry as directed by the Collector is stalled, it would amount to illegal continuation of the petitioner in the subject land.

Learned counsel for the petitioner submits that since the year 1967, the subject land has been reserved for petrol pump and therefore, there is no way that the land could be re-allotted to the Akola Cricket Club. He also submits that in any case the grounds on which the proposed opposition of the intervenor is based, has no connection whatsoever with the issue involved in the petition and the reliefs claimed therein.

We find great substance in the submission of the learned counsel for the petitioner. The petition seeks the relief of declaration of action of respondent No.1 i.e. Collector, Akola, in giving directions to the authorities for registering F.I.R. against the petitioner as illegal and also for quashing and setting aside of show cause notice dated 29.12.2018.

So far as the first prayer is concerned, the petitioner does not press it and what has been pressed here is only challenge to the show-cause notice dated 19.12.2018. By this notice the petitioner has been called upon to give his reply to the irregularities in respect of running of the petrol pump, stated in the notice. The petitioner has also been informed that the magisterial enquiry has been ordered into these irregularities and he would be given opportunity to defend himself. Such being the subject matter of the dispute, any ground founded upon a claim or interest in the subject land, as contended by the intervenor/applicant, would have no connection with the issue involved in this petition and therefore, the intervenor/applicant cannot be said to be party interested in this petition.

Apart from what is stated above, by the letter dated

02.06.2010, the lease of the subject land has been given to the petitioner for a period 01.04.1967 to 31.03.1997 and that, as there is no dispute about the subject land being reserved for petrol pump, there is no way that now it can be allotted to an entity like Akola Cricket Club for carrying out any sports activities on the said land. If the intervenor/applicant has some dispute to be raised in the matter, it would have to be raised before the Court of civil jurisdiction and not in petition/application like the present one.

There is, thus, no substance in the intervention application and it stands rejected.

Cri. W.P. No.255/2019

The learned counsel for the petitioner has given up prayer clause (i) and now the petition has been pressed only for prayer clause (ii), whereby challenge to legality and correctness of show-cause notice dated 29.12.2018 has been raised.

This Court, by the order passed on 29.03.2019, had directed that enquiry as per the said show cause notice may continue, but no decision, if it was to be taken on the conclusion of enquiry, shall not be given effect to and shall not be implemented without seeking leave of the Court.

Accordingly, the magisterial enquiry as directed under the impugned show-cause notice went on and now, as submitted by the learned counsel for the petitioner, this enquiry has been concluded. He further submits that on the conclusion of the enquiry, the whole matter has been closed and now nothing remained

to be agitated in respect of the closure of the enquiry and the decision taken therein. In support, he has produced before us a copy of the communication sent by the Collector, Akola, to Sub-Divisional Officer, Akola, on 14.12.2020, which is taken on record and marked as 'A' for identification.

In view of above, now this petition has been rendered infructuous and the same is dismissed as such.

JUDGE

JUDGE

Rvjalit

**Rajesh
Jalit**

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Rajesh Jalit
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