

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.3646 OF 2022

1. Suryawanshi Rajendrakumar Namdeorao
Age; 46 years, Occ; Business,
R/o; Nagarsoga, AUSA, District; Latur.
2. Pathan Farzana Naeemoddin,
Age; 45 years, Occ; Business,
R/o; Hasmi Chowk, AUSA, Dist. Latur
3. Suryawanshi Jyotsana Rajendrakumar
Age; 41 years, Occ; Business,
R/o; Nagarsoga, AUSA, Dist. Latur.
4. Kaldate Prakash Narsingrao,
Age; 55 years, Occ; Business,
R/o; Nagarsoga, AUSA, District; Latur.
5. Gaikwad Bhagwat Narayan,
Age; 42 years, Occ; Business,
R/o; N.P. Colony, AUSA, Dist. Latur.
6. Veernath Bhagwan Mali,
Age; 38 years, Occ; Business,
R/o; Mali Galli, AUSA, Dist. Latur.
7. More Surekha Vinayak,
Age; 40 years, Occ; Business,
R/o; Shivgiri Colony, AUSA, Dist. Latur.
8. Kathare Shital Hiralal,
Age; 28 years, Occ; Business,
R/o; Nhavi Galli, AUSA, Dist. Latur.
9. Pawar Sanjay Dnyanoba,
Age; 50 years, Occ; Business,
R/o; Shivgiri Colony, AUSA, Dist. Latur.
10. Mhetre Mangal Anil,
Age; 45 years, Occ; Business,

R/o; Mali Galli, Ausa, Dist. Latur.

11. Pathan Nikhat Sattar,
Age; 32 years, Occ; Business,
R/o; Hasmi Nagar, Ausa, Dist. Latur.
12. Majid Yunus Kacchi,
Age; 37 years, Occ; Business,
R/o; Afsar Nagar, Ausa, Dist. Latur.
13. Pathan Firdos Amjad Khan,
Age; 36 years, Occ; Business,
R/o; Nabi Nagar, Ausa, Dist. Latur.
14. Auti Rajkumar Narsing,
Age; 63 years, Occ; Business,
R/o; Mukteshwar Road, Ausa, Dist. Latur.
15. Shaikh Parvez Hameed,
Age; 41 years, Occ; Business,
R/o; Saroda Road, Ausa, Dist. Latur.
16. Shaikh Jamil Jaleel,
Age; 50 years, Occ; Business,
R/o; Bhoi Galli, Ausa, Dist. Latur.
17. Mauli Charitable Trust,
through its Secretary,
S.S.Suryawanshi,
Age; 42 years, Occ; Business,
R/o; Ekambi, Ausa, Dist. Latur.
18. Kale Swapnali Janardhan,
Age; 35 years, Occ; Business,
R/o; Arihant Nagar, Ausa, Dist. Latur.
19. Sayyed Mohammed Habib Khurshid,
Age; 45 years, Occ; Business,
R/o; Shafa Nagar, Ausa, Dist. Latur.
20. Arab Bibi Hajra Fahad Bin,
Age; 30 years, Occ; Business,
R/o; Jamal nagar, Ausa, Dist. Latur.
21. Sherikar Ashraf Qurban,

Age; 56 years, Occ; Business,
R/o; At Post Ujini, Ausa, Dist Latur.

22. Patelo Khatoon Bi Mujahed,
Age; 43 years, Occ; Business,
R/o; Hayat Nagar, Ausa, Dist. Latur.
23. Maniyar Shabana Akbar,
Age; 23 years, Occ; Business,
R/o; Qazi Galli, Ausa, Dist. Latur.
24. Maniyar Afzal Shaikh Ahmed,
Age; 26 years, Occ; Business,
R/o; Qazi Galli, Ausa, Dist. Latur.
25. Siddiqui Riyaz Ahmed,
Age; 51 years, Occ; Business,
R/o; Hashmi Nagar, Ausa, Dist. Latur.
26. Shakil Khalil Pasha Maniyari,
Age; 31 years, Occ; Business,
R/o; Khandak Galli, Ausa, Dist. Latur.
27. Syed Shahira Bano Mujiboddin,
Age; 38 years, Occ; Business,
R/o; Khandak Galli, Ausa, Dist. Latur.
28. Fahmida Majid Kachi,
Age; 32 years, Occ. Business,
R/o; Afsar Nagar, Ausa, Dist. Latur.

...PETITIONERS

VERSUS

1. The State of Maharashtra,
through its Secretary,
Urban Development Department,
Mantralaya, Mumbai – 400 032.
2. District Collector, Latur,
Office of the District Collector, Latur,
3. The Chief Officer/ Administrator,
Ausa Municipal Council, District; latur.

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| 4. | Shaikh Mujmin Mohammad
Age; 42 years, Occ; Business,
R/o; Kazi Lane, Ausa, Ta. Ausa, Dist.Latur. | Deleted as per
order of this Court
dated 06.06.2022. |
| 5. | Amar Ashok Khanapure,
Age; 40 years, Occ; Business,
R/o; Professor Colony, Ausa,
Tq. Ausa, Dist. Latur. | Deleted as per
order of this Court
dated 06.06.2022. |
| 6. | Shaikh Afsar Nawaboddin,
Age; 40 years, Occ; Business,
R/o; Khandak Galli, Tq. Ausa,
Dist. Latur. | Deleted as per
order of this Court
dated 06.06.2022. |

...RESPONDENTS.

...
Advocate for Petitioners : Mr.Muhammad Aseem
AGP for Respondent Nos. 1 & 2-State : Mr.K.N.Lokhande
Advocate for Respondent No. 3 : Mr. Sayyed Tauseef Yaseen
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**CORAM : R. D. DHANUKA, &
ANIL L. PANSARE, JJ.**

DATE : 06th JUNE, 2022.

ORAL JUDGMENT :

1. Learned counsel for the petitioners seeks liberty to delete the names of respondent Nos. 4 to 6 from the cause title of this petition. Leave to amend is granted. Amendment be carried out forthwith. Re-verification is dispensed with.

2. Rule. Mr.K.N.Lokhande, learned A.G.P. waives service of notice for respondent Nos. 1 & 2. Mr. Sayyed Tauseef Yaseen, the

learned counsel waives service of respondent Nos. 3. Rule is made returnable forthwith.

3. By this petition filed under article 226 of the Constitution of India, the petitioners seek writ of mandamus against the respondents to decide the application dated 4th February, 2022, filed by the petitioners, inter-alia, raising objection about the maintainability of the complaint filed by respondent Nos. 4 and 5, before the Collector and the said application is still pending. It is the case of the petitioners that the said complaint is not maintainable under Section 308 of the Maharashtra Municipal Councils, Nagar Panchyats and Industrial Townships Act.

4. We direct respondent No. 2 District Collector, Latur to decide the said application dated 04th February, 2022 filed by respondent Nos. 4 & 5 within a period of eight weeks from today, after hearing the petitioners and respondent Nos. 4 and 5, in accordance with law. The order that would be passed by respondent No. 2, would be intimated to the petitioners as well as to the respondent No. 3 within one week from the date of passing of order.

5. Respondent No. 2 shall give clear seven days notice to the petitioners as well as to respondent Nos. 4 and 5. before hearing the

parties. If any party remains absent inspite of service of notice, respondent No. 2 shall proceed with the hearing of the said objection filed by the petitioners. If respondent No. 2 comes to the conclusion that there is no merit in the objection raised by the petitioners, after dismissal of the said objection, respondent No. 2, shall proceed with the complaint filed by respondent Nos. 4 & 5. If the Collector is of the opinion that the complaint if any filed by respondent Nos. 4 & 5 is not maintainable on the issue of jurisdiction or otherwise, learned Collector to dispose of the petition, after taking into consideration the objection raised by the petitioners and pass appropriate order on the complaint filed by respondent Nos. 4 & 5.

6. It is made clear that this Court has not expressed any view, on the merit of the complaint filed by the respondent Nos. 4 & 5 and so far as the objections raised by the petitioners regarding the maintainability of the complaint filed by respondent Nos. 4 & 5 are concerned. All contentions of the parties are kept open. The Writ Petition is disposed of in above terms. Rule is made absolute. No order as to costs.

7. Learned A.G.P. is directed to convey this order to respondent Nos. 2, 4 and 6 for information and compliance.

8. The petitioner is at liberty to rely upon the judgment of the Hon'ble Supreme Court and of this Court if applicable to the facts of this case before respondent No.2.

(ANIL L. PANSARE)
JUDGE

(R.D.DHANUKA)
JUDGE

mahajansb/