

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL WRIT PETITION NO. 2354 OF 2019

Husenbai Gulab Pathan

....Petitioner

Versus

The State of Maharashtra thr. AGP and ors

....Respondents

Ms. Manisha A. Devkar for the Petitioner.

Ms.M. S. Bane, AGP for the Respondent-State.

Mr. Vishwasrao S. Deokar for the Respondent Nos.3 to 5.

**CORAM : PRASANNA B. VARALE &
SHRIKANT D. KULKARNI, JJ.**

DATE : 13th JULY, 2022.

P.C. :

1. Perused the order of this Court dated 29 June, 2022. The Division Bench of this Court was pleased to record the issue involved in the Petition. Notice was issued to the Respondents. It was submitted before this Court that Mr.Vishasrao Deokar, learned counsel has filed his vakalatnama for Respondent Nos.4 and 5. The Court was pleased to issue notice to Respondent No.3 making the same returnable on 29th June, 2022.

2. Learned counsel appearing for the Petitioner invited our attention to a copy of the complaint Application made on behalf of the Petitioner to Block Development Officer, Panchayat Sangola. The same is placed on record as Exhibit 'B' at page 11. It is submitted in the

Application that the Petitioner is the beneficiary of certain land i.e. in occupation and possession of the land. It is submitted in the complaint Application that two members of the Grampanchayat by misusing their positions have erected tin sheds over the land allotted to the Petitioner and certain business activities being carried in the tin sheds. It seems that the Petitioner forwarded various such complaint Applications. Respondent No.4 Block Development Officer, Sangola on receipt of the complaint Application issued notice and called for a spot inspection through the extension officer, Grampanchayat and passed an order on 23rd May, 2018. A copy of the said order is placed on record as Exhibit 'C' at page 13. The grievance of the Petitioner in respect of the Block Development Officer is that no steps are taken in view of the encroachment. Now though this is one of the direction i.e. direction no.4 in the order for removal of encroachment but then this direction is subjected to the earlier three Clauses of the order. Clause 2 is in respect of conducting a fresh monthly meeting and by taking subject in the meeting for passing of a resolution. Then Clause 3 refers to various Government Resolution, and ultimately in Clause 4, it is stated that by sanctioning Clause Nos.2 and 3, necessary action be initiated within seven days.

3. When we put a query to the learned counsel appearing for the Petitioner as to whether the Petitioner had apprised the superior officers

about the order passed by the Block Development Officer. The counsel for the Petitioner on instructions submitted that the representation was submitted to Respondent No.3-Chief Executive Officer, Zilla Parishad Solapur, on 15th June, 2018 and inadvertently a copy of the said representation remained to be placed on record. Learned counsel appearing for Respondent Nos.3 to 5 on instructions submitted that the Applications of the Petitioner were decided and the Petitioner could have approached the superior officer for an appropriate directions. Learned counsel appearing for Respondent Nos.3 to 5 submitted that due to short of certain documents, the affidavit-in-reply could not be filed.

4. Be that as it may, at this stage, learned counsel for the Petitioner submits that the Petitioner be permitted to file a fresh representation to Respondent no.3 – Chief Executive Officer, Zilla Parishad, Solapur apprising the Chief Executive Officer the order passed by the Block Development Officer dated 23rd May, 2018 as well as incorporating the grievance of the Petitioner in the representation. Learned counsel for the Petitioner then submits that Respondent No.3 – Chief Executive Officer, Zilla Parishad, Solapur be directed to decide the representation expeditiously.

5. Considering the submission of learned counsel for the Petitioner, we deem it appropriate to dispose of the Petition with the

following directions;

:: ORDER ::

- (i) The Petitioner is permitted to submit a fresh representation to Respondent No.3 – Chief Executive Officer, Zilla Parishad Solapur, within two weeks from today.
- (ii) If such representation is submitted to Respondent No.3– Chief Executive Officer, Zilla Parishad Solapur, Respondent No.3, then Respondent No.3 – Chief Executive Officer, Zilla Parishad Solapur shall pass an appropriate orders on the representation as early as possible and not later than eight weeks from the date of receipt of the representation.
- (iii) Needless to state that Respondent No.3 – Chief Executive Officer, Zilla Parishad Solapur, to pass an appropriate order considering the merits of the Application and by giving an opportunity of hearing to the concerned parties. If Respondent No.3 – Chief Executive Officer, Zilla Parishad Solapur, is of the opinion that such an opportunity of hearing is required in the matter, then he may also call necessary record / report from the subordinate officer before passing an order.

6. With the aforesaid directions, Petition is disposed of.

(SHRIKANT D. KULKARNI, J.)

(PRASANNA B. VARALE, J.)