

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Civil Application (CAO) No.945 of 2022

In

Public Interest Litigation No.112 of 2017

Girdhar S/o Laxmandas Harwani

Versus

The State of Maharashtra and others

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

Shri Akhil Mishra, Advocate for Respondent No.2.

Shri Shantanu Khedkar, Advocate for Petitioner.

Shri Ved R. Deshpande, Advocate for Respondent Nos.9, 11, 14, 16, 22 to 26, 28, 34, 38, 39, 41, 45, 47, 52, 54, 64, 67 to 69 and 71.

Shri N.R. Patil, Assistant Government Pleader for Respondent Nos.1, 3 and 7.

CORAM : SUNIL B. SHUKRE & M.W. CHANDWANI, JJ.

DATE : 24th NOVEMBER, 2022

1. Heard.
2. By this Civil Application, the Commissioner, Municipal Corporation, Akola, who, along with Municipal Corporation, facing a grave allegation of diversion of funds of the 13th Central Finance Commission for the individual purpose of renovation/construction of residential bungalow of Commissioner, Municipal Corporation, Akola, and who is the respondent No.2 in this Public Interest Litigation, seeks a relief of injunction against the State for the purpose that his possession of the bungalow in question should be protected.
3. If the respondent No.2 is so much aggrieved by the show-cause notice, which now he has sought to question by filing this civil application, he must agitate the same by filing a separate cause or separate civil suit. The attempt made by the respondent No.2 is nothing but a misuse of the Public Interest Litigation jurisdiction exercised by this Court and what has been tried to be done by him is

of espousing a private cause in a Public Interest Litigation. His learned counsel, however, gives an explanation. He states that the Commissioner filed this application because the show-cause notice makes a reference to this Public Interest Litigation. Even if it is so, it does not provide any reason for him to file an application, as a respondent No.2, seeking injunction against the State. At the most, he could have filed a pursis with copy of show-cause notice, just to place this fact on record. Then, if this application is allowed, it would result in impeding the process of hearing this Public Interest Litigation, which raises what appears to be a grave issue of misuse of power by the Municipal Corporation to cause benefit to its Commissioner. Therefore, the attempt made here by the respondent No.2-Commissioner, Municipal Corporation, Akola, to seek an injunction deserves deprecation and we do so.

4. Apart from what is stated above, we would like to point out here what is stated in the show-cause notice. The show-cause notice states that there is a breach of condition of the allotment of the Government land to the Commissioner, Municipal Corporation, Akola. In such a case, the Commissioner should either approach the concerned Authority and show that he has not committed any breach of condition or should abide by the same and return the land to the Government. He can also alternatively take up this issue with the higher Authorities in the State of Maharashtra. But, in a Public Interest Litigation, the Commissioner, Municipal Corporation, Akola, ought not to have raised his individual grievance. The State Government may consider taking necessary action against the Commissioner, Municipal Corporation, Akola, for raising a private grievance in a Public Interest Litigation.

5. The Civil Application is, therefore, rejected with above referred observations.

(M.W. CHANDWANI, J.)

(SUNIL B. SHUKRE, J.)

Lanjewar