

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

**Writ Petition No.72/2018**

Shailesh Dongarwar V Municipal Council, Warora

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders

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Mr. Chetan Dhore, Advocate for petitioner.

Mr. S.A. Sahu, Advocate h/f Mr. M.I. Dhatrak, Advocate for respondent.

**CORAM : AVINASH G. GHAROTE, J.**

**DATE : 01-08-2022**

Heard Mr. Chetan Dhore, learned Counsel for the  
petitioner and Mr. Sahu, learned Counsel for the respondent.

2. This petition challenges the order dated 24-04-2017, whereby the application for amendment of the plaint filed by the plaintiff came to be rejected.

3. Mr. Dhore, learned Counsel for the petitioner submits that though the application was filed at the stage of final hearing of the matter, however, the cause for the same accrued on account of the Rights of Persons with Disabilities Act, 2016 coming into force on 28-12-2016, which granted certain rights and privileges to the disabled persons, the petitioner being one amongst them. The application therefore merely seeks to bring on record the the above said enactment and the rights available thereunder to the petitioner/plaintiff. That being the position, the application could

not have been rejected on the ground that it was filed at the belated stage. Though, Mr. Sahu, learned counsel for the respondent oppose the same, in my considered opinion, when the amendment was based upon the rights available to the petitioner/plaintiff accrued for the first time on 28-12-2016 due to the above said enactment, it would be appropriate instead of driving the petitioner to another set of litigation, to permit the plaint to be amended and to decide the entire controversy in the said suit. The proviso to Order 6 Rule 17 of the Code of Civil Procedure would not be attracted, in view of the rights accruing under the subsequent enactment as indicated above.

4. Therefore, the petition is allowed. The impugned order dated 24-04-2017 is hereby quashed and set aside.

5. Application for amendment is allowed.

(Avinash G. Gharote, J.)