

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

WRIT PETITION NO.39 OF 2023

RAGHUNATH SANDUBA DHOLE

VERSUS

**THE PHULAMBRI NAGAR PANCHAYAT THROUGH ITS CHIEF
OFFICER**

....

Mr. Akshay D. Kulkarni, Advocate for petitioner

Mr. Y. V. Kakade, Advocate for respondent

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**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**

DATE : 20.01.2023

PER COURT :-

. Heard both the sides.

2. The petitioner alleges that in spite of an encroachment having been effected/made on a street which vests with the respondent Municipal Council, no steps are being taken as is contemplated under Chapter XI of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1956.

3. The learned advocate for the petitioner submits that petitioner would be satisfied if the respondent is merely directs to take cognizance of his representations dated 31.10.2022 and 21.12.2022.

4. The Chief Officer of the respondent in his affidavit in paragraph No.15 expects the petitioner to approach the Civil Court. It clearly demonstrates that he is oblivious of the powers vested in the council as laid down in Chapter XI (supra).

5. It is expected of the respondent to act swiftly and undertake an independent scrutiny objectively in respect of the allegations being made by the petitioner. If it is a matter of encroachment on public street vesting in the respondent Municipal Council, it is highly imperative for the respondent to take emergent steps. Failure to do so would be like setting the statutory provisions at naught, which cannot be countenanced.

6. We dispose of the writ petition by directing the respondent to take cognizance of the petitioner's representation and take necessary steps as contemplated in law and particularly Chapter XI referred to herein above, as expeditiously as possible and in any event within twelve weeks.

[S. G. CHAPALGAONKAR, J.]

[MANGESH S. PATIL, J.]

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