



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

WRIT PETITION NO. 5981 OF 2022

Municipal Council, Anjangaon Surji,  
Through its Chief Officer,  
Sumedh Ishwarrao Alone, aged about  
41 years, Occ. : Service, R/o. C/o.  
Municipal Council, Anjangaon Surji,  
Tq. Anjangaon Surji and Dist. Amravati.

.... PETITIONER.

// **VERSUS** //

1. Divisional Commissioner,  
Amravati Division, Amravati.
2. The Collector, Amravati.
3. Sheikh Rahim Sheikh Rehman,  
Age – Major, Occupation : Councilor,  
R/o. Anjangaon Surji, Dist. Amravati.

.... RESPONDENTS.

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Shri Kuldeep P. Mahalle, Advocate for Petitioner.  
Shri Sagar Ashirgade, Addl.G.P. for Respondent Nos. 1 and 2.  
Shri Anshu R. Deshpande, Advocate for Respondent No.3.

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CORAM :      ANIL S. KILOR, J.  
DATED :      NOVEMBER 02, 2023

ORAL JUDGMENT :

1.          Heard.

2.       **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

3.       The order dated 20/05/2022 passed by the Divisional Commissioner, staying the resolution dated 22/03/2021 in relation to Subject No.66, is under challenge in this writ petition.

The facts, in brief, are as under :

4.       The land bearing Plot Nos. 5 and 7 of Nazul Sheet No.9 of Mouza : Anjangaon Surji was reserved for garden and out of which some land was reserved for a library and since the petitioner Municipal council failed to acquire the same, the owner of the said land issued a notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966.

5.       Thereafter the owner filed Writ Petition No.4178 of 2012, wherein the Division Bench of this Court vide judgment and order dated 28/04/2014 declared that the reservation was lapsed.

6.       The Special Leave Petition challenging the said judgment came to be filed.

7. However, the same was decided to be withdrawn, vide resolution dated 22/03/2021 passed by the petitioner Municipal Council on Subject No.66.

8. The respondent No.3 thereupon, filed a proceeding under Section 318 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (hereinafter referred to as “the Act of 1965”), before the Divisional Commissioner, Amravati Division, Amravati raising a grievance against the said resolution dated 22/03/2021.

9. The Divisional Commissioner, after hearing both the parties, passed the order dated 20/05/2022 and thereby stayed the resolution dated 22/03/2021 as regards the Subject No.66.

10. After going through the provisions of Section 318 of the Act of 1965, it is evident that the said provision empowers the State Government that it may, at any time, call for and examine the record of any case pending before or disposed of by such Council or officer for the purpose of satisfying itself as to the legality or propriety of any order passed by, or as to the regularity of the proceedings of, any Council or of any officer subordinate to such Council or the State Government, acting

in exercise of any power conferred on it or him by or under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, and may pass such order in reference thereto as it thinks fit.

11. The first proviso to Section 318 of the Act of 1965 says that, no order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard.

12. The language of Section 318 of the Act of 1965 does not suggest that on an application the State Government may exercise powers under Section 318 of the Act of 1965. It is evident from the language of Section 318 of the Act of 1965 that, the State Government on its own motion may exercise the powers under Section 318 of the Act of 1965. However, Section 318 of the Act of 1965 does not permit any person to apply and seek indulgence of the Government for exercise of revisional powers.

13. Moreover, the first proviso to Section 318 of the Act of 1965 would take me to the only conclusion that the State Government may vary or reverse the order passed by or any decision taken in the

proceedings by a Councilor or any officer subordinate to such Councilor or the State Government, but there is no power to stay the same for permanent effect.

14. In that view of the matter, I have no hesitation to hold that the Divisional Commissioner has exceeded its jurisdiction while staying the resolution. Accordingly, I pass the following order:

- i) The Writ Petition is allowed.
- ii) The impugned order dated 20/05/2022 passed by respondent No.1-Divisional Commissioner, Amravati Division, Amravati, is hereby quashed and set aside.
- iii) The respondent No.2 is at liberty to file appropriate proceedings, as permissible in law.

The Writ Petition is **disposed of** accordingly. No order as to costs.

( ANIL S. KILOR, J )