



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

912 WRIT PETITION NO. 4715 OF 2024

**SHRI KHANDOBA MHALSADEVI SACCHIDANANDBABA
AND NARADMUNI TRUST NEWASA BK THROUGH ITS
SECRETARY**

VERSUS

**THE STATE OF MAHARASHTRA THROUGH PRINCIPAL
SECRETARY AND OTHERS**

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Shri Dnyaneshwar R. Kale, Advocate for the Petitioner.
Shri V.M. Kagne, AGP for Respondent Nos.1 to 4/State.
Shri S.B. Parnere, Advocate for Respondent Nos.5 and 6.

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**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 07th August, 2024

Per Court :-

1. The Petitioner claims that a 'Committee' submitted the inquiry reports dated 11.12.2023 and 12.03.2024, which are tendered to Respondent No.6. It is prayed that the said reports should be taken to a logical end for which a Writ of Mandamus should be issued.

2. In our view, a Writ of Mandamus to implement any Committee's inquiry report, would presuppose that the

Committee was legally constituted under a specific provision of law providing for its constitution. If it is so prescribed, only then the report generated by such committee will have legal sanctity. If the committee does not have the foundation of any provision of law and no statute permits constitution of such committee for investigation, a report generated by such committee would not have legal sanctity.

3. The learned Advocate representing the Respondent/ Block Development Officer (BDO), is all at sea in searching for a provision under which, the BDO had directed the Extension Officer to conduct an inquiry and tender a report. He, however, rightly submits that when the Panchayat has power to remove the obstruction under sub-section (2) of Section 53 of the Maharashtra Village Panchayats Act and if the Panchayat fails to do so, sub-section (2A) of Section 53 empowers the District Collector to look into the matter and take action.

4. In view of the above, since the reports dated 11.12.2023 and 12.03.2024, tendered by the Extension Officer to the BDO have no sanctity of law and as the Petitioner claims that

the Panchayat is not acting on the complaint seeking removal of encroachment, the District Collector can look into the matter.

5. In view of the above, **this Writ Petition is disposed off** with a direction to the district Collector to first call upon the Gram Panchayat, Newasa Budruk, to initiate some action as prescribed under Section 53 of the Maharashtra Village Panchayats Act. If the Panchayat fails to do so, the District Collector shall by exercising it's power under sub-section (2A) of Section 53, deal with the claim of encroachment by following the due procedure laid down in law, expeditiously. If the claim of the Petitioner turns out to be frivolous, appropriate action can be initiated against it by the Collector.

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)