



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

CRIMINAL APPLICATION NO. 428 OF 2024

IN

CRIMINAL PUBLIC INTEREST LITIGATION NO. 2 OF 2019

(Digambar s/o Haribhaury Pajgade ..vs.. State of Maharashtra and others)

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

Court's or Judge's orders

The petitioner in person,
Mr. D.P. Thakare, Addl.G.P. for respondent Nos.1,2,3,6 and 7,
Mr. D.M. Kakani, Counsel for respondent Nos.4,5 and 8,
Mr. V.D. Darne, Counsel for respondent No.9,
Mr. P. Kamat, Ms. A. Panvalkar and S. Chaudhari, Counsel for respondent
No.10.

**CORAM : NITIN W. SAMBRE &
ABHAY J. MANTRI, JJ.**

DATED : 13-03-2024

Mr. Shashibhushan Wahane, learned Counsel who
was appearing for the petitioner has sought discharge as
the petitioner intends to address in person.

2. The petitioner who is present before this Court, is
duly identified by the learned Counsel Mr.
Shashibhushan Wahane.

3. In this background, we discharge the appearance
of the learned Counsel Mr. Shashibhushan Wahane as is
prayed by him.

4. Criminal Application to that effect stands disposed
of.

CRIMINAL PUBLIC INTEREST LITIGATION NO.2/2019.

This Public Interest Litigation which is styled as
Criminal Public Interest Litigation is filed by public

spirited person of which this Court has taken cognizance by issuing notice vide order dated 13-3-2019.

2. After respondent No.3 served, this Court having found *prima facie* substance in the issue canvassed by the petitioner passed a detailed order on 19-1-2021 thereby directing the respondents to file reply at each of the issues which are reflected in the said order dated 19-1-2021.

3. Respondent No.9-Municipal Council who is governing by the provisions of the Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 is under statutory obligation pursuant to the mandate of Section 50 to prepare water supply scheme and to make sufficient drinking water available within stipulated period.

4. Apart from above, Section 49 of the Act provides for the duties and functions of the Council amongst others. The duties narrated in Clauses 2(e)(d)(i)(j)(ra) and 3(c) etc. contemplate the regular use of potable and non-potable water. As a sequel of above, it appears that under the Amrut Programme Scheme sponsored by Government of India the water supply scheme was implemented by respondent Nos.5 and 8. It appears that for implementation of the said scheme respondent No.1 has appointed respondent No.10-Contractor. For the purpose of procurement of the pipes an independent order was placed by the respondent-State Government

with respondent No.11, and respondent No.12 was appointed as Quality Control and Certification Authority in the matter of implementation of the project.

5. The grievance made in the petition by the petitioner, who appears in person, is the costs of the project was Rs.302 Crores. The pipes were procured from respondent No.11 at the costs of around Rs.32 Crores and the work was to be completed at the end of 2019. According to him, the goal which was to be achieved through implementation of this scheme was to make available water for the residents of Yavatmal town. According to him, even if the scheme is sought to be implemented, till this date the same is not completed. He has invited our attention to the inspection report issued by the Visvesvaraya National Institute of Technology, Nagpur thereby certifying that respondent No.10 has indulged into false certification which led to the implementation of the scheme for water supply by using faulted and sub-standard pipes. It is further claimed that as a sequel of above, in this season it is difficult for the citizens of Yavatmal to have potable or drinking water at least once in a week and very object with which the scheme was executed and implemented has been frustrated.

6. As against above, when we confronted, the learned Counsel for the Municipal Council submits that he has not filed affidavit as no relief is sought against him.

7. However, we deem it appropriate to have affidavit of Chief Officer of the Municipal Council on the issue of the quantity of requirement of the water for the people residing within its jurisdiction and the available quantity of water may be to various sources including the scheme which is implemented.

8. We deem it appropriate to warn the Chief Officer who has failed to file affidavit till this date that if any statement on the issue as regards the quantity of water required and also the future requirement for next ten years is not correctly narrated, the Court will be constrained to pass appropriate order against the said Chief Officer.

9. Mr. D.M. Kakani, learned Counsel appearing for respondent Nos.4, 5 and 8 has specifically stated that already an order of blacklisting respondent No.12 is passed. According to him, respondent No.11 who has supplied sub-standard pipes, has already replaced the entire pipelines and presently the water supply scheme is implemented by the said authorities i.e. respondent Nos.4, 5 and 8. He would seek time to place on record the details as regards the water which is lifted and supplied to citizens residing in municipal area and whether such water is supplied on daily basis and the period for which supplies are effected. We expect the respondents to submit their reply on or before 01-4-2024.

10. We also expect that respondent No.9 to place on record the present status of the implementation of the water supply scheme particularly laying down of water supply lines in the town and the maintenance of the same. The said Officer shall also deal with the present status of the tarring and maintenance of the roads which were dug up for laying down such pipelines.

11. We are shocked to notice that the contract is awarded by the State Government to respondent Nos.10 and 11 and the State has chosen not to file reply but have directed the Jeevan Pradhikaran to file reply in the matter on its behalf.

12. In the background of what has been observed hereinabove, we deem it appropriate to refuse such permission to the State Government thereby authorising Jeevan Pradhikaran to file reply.

14. We direct the Principal Secretary, Water Supply Department, Mantralaya, Mumbai to file affidavit on or before 01-4-2024.

15. Since the Public Interest Litigation is pending since 2019, we are of the view that the learned Additional Government Pleader Mr. D.P. Thakare who is appearing in the matter, shall communicate this order personally to the Principal Secretary, Water Supply Department, Mantralaya, Mumbai.

16. Stand over to 03-4-2024.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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