



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

PUBLIC INTEREST LITIGATION NO. 38 OF 2025

Kiran s/o Gulabrao Kale,
Age: 41 years, Occu: Social Worker
R/o B-74, Mahesh Colony,
Near Sugandh Kirana Stores,
Bhutkarwadi, AHILYANAGAR,
Dist. AHILYANAGAR.
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...PETITIONER

VERSUS

1. The State of Maharashtra
Through its Principal Secretary
Urban Development Department,
Mantralaya, Mumbai-32.
2. The Additional Chief Secretary
Home Department (Law and order),
Mantralaya, Mumbai-32.
3. The Additional Chief Secretary
Higher and Technical Education Department,
Mantralaya, Mumbai-32.
4. The Dy. Director
Higher and Technical Education
Divisional office, Nashik Division,
Nashik.
5. The Director General of Police,
Government of Maharashtra,
Mumbai.

6. The Additional Director General of Police
Anti-corruption Bureau,
Government of Maharashtra,
Mumbai.
7. The Superintendent of Police
Ahilyanagar, Tal & Dist- Ahilyanagar
8. The Deputy Superintendent of Police
Anti-corruption Bureau,
Ahilyanagar, Tal & Dist- Ahilyanagar
9. The Ahilyanagar Municipal Corporation,
Ahilyanagar,
Through its Commissioner
Head Office- Near Pawan Ganpati Mandir,
Aurangabad road,
Tal & Dist- Ahilyanagar,
10. The Deputy Commissioner
Public Works Department
The Ahilyanagar Municipal Corporation
Ahilyanagar, Tal & Dist- Ahilyanagar,
11. The City Engineer
Public Works Department
The Ahilyanagar Municipal Corporation
Ahilyanagar, Tal & Dist- Ahilyanagar,
12. Government Polytechnic, Ahilyanagar
Burudgaon road,
Ahilyanagar-414001.
Through its Principal

.....RESPONDENTS

Mr. Abhijit C. Darandale, Advocate for Petitioner
Mr. A. B. Girase, Government Pleader for respondent-State

**CORAM : Smt. Vibha Kankanwadi &
Hiten S. Venegavkar, JJ.**

DATE : 27th February, 2026

JUDGMENT (PER : Hiten S. Venegavkar, J.) :-

1. Rule. Rule made returnable forthwith. With the consent of the learned counsel appearing for the parties, the petition is taken up for final disposal at the stage of admission.

2. The present Public Interest Litigation is instituted seeking multiple directions against the State authorities, the Ahilya Nagar Municipal Corporation and the concerned Government Institute in relation to alleged forged and fabricated test reports and third-party test reports said to have been used in respect of road works undertaken within the municipal limits of respondent No. 9 Corporation from the year 2016 onwards. The petitioner has prayed that this Court should direct the State Government to appoint an independent inquiry committee, direct submission of the inquiry report before this Court, compel initiation of civil as well as criminal action against the concerned officers, employees, contractors and other persons, direct blacklisting of contractors and sub-contractors, require recovery of amounts allegedly released on the basis of such forged reports, and further direct respondent No. 12 to produce the enquiry report dated 27.06.2023 referred to in its communication dated 28.06.2023.

3. The case as pleaded by the petitioner is that respondent

No. 9 Corporation, being a statutory municipal body, is under an obligation to maintain public streets and roads and to ensure orderly and safe passage for vehicular and pedestrian traffic. According to the petitioner, the residents within the municipal limits have long suffered on account of poor road conditions, potholes, absence of proper maintenance and lack of scientific methods in road construction and upkeep. The petitioner alleges that in several cases road works were either shown only on paper or were executed by using inferior quality material, and yet bills came to be sanctioned and disbursed by the Corporation. The further allegation is that officers of respondent No. 9 Corporation, in connivance with contractors and with officers connected to respondent No. 12 Government Institute, prepared and utilized false and fabricated test reports and third-party test reports so as to falsely certify quality and thereby facilitate release of public funds. The petitioner relies upon a series of representations, RTI applications, complaints and agitations undertaken by him and asserts that despite his persistent efforts, no effective legal action was initiated against the responsible persons. The petitioner specifically pleads that an enquiry committee was eventually constituted by respondent No. 12; that the said committee submitted its report on 27.06.2023; and that by communication dated 28.06.2023, it was intimated that out of the reports received from the Corporation, a very large number of test

reports and third-party reports were not issued by the said Government Institute at all. On this foundation, it is contended that a serious fraud upon public revenue and public administration stands disclosed.

4. The learned advocate appearing for the petitioner submitted in considerable detail that the issue raised in the present P.I.L is not a private dispute, but a matter of grave public importance involving alleged fabrication of official quality-control documents in relation to civic road works and consequential siphoning of public money. He submitted that the petitioner has not approached this Court in haste. On the contrary, according to him, the record demonstrates that for years together the petitioner pursued every available administrative channel. He submitted that the petitioner made repeated representations to the Corporation, sought criminal action against the concerned officials, invoked the Right to Information Act, obtained copies of test reports and third-party reports, approached respondent No. 12 Government Institute, demanded enquiry, participated in meetings convened by police authorities, and thereafter also approached the Anti-Corruption Bureau. He submitted that the material obtained by the petitioner under Right to Information Act (for short "**RTI**") was sufficient to create more than a mere suspicion and that the matter stood fortified when respondent No. 12 itself constituted a five-member enquiry committee and the said committee,

upon verification of the record, found that a substantial number of test reports and third-party reports were not issued by the institution in whose name they were purportedly generated. Learned counsel contended that once such a finding had emerged from the very institution whose seal, signature and authority were allegedly misused, the matter transcended the stage of preliminary complaint and entered the realm of clear fraud, forgery, misuse of public office and misappropriation of public funds.

5. Learned counsel for the petitioner further argued that despite the gravity of the matter, and despite the assurance allegedly given by officers of the Corporation in meetings that legal action would be taken, no meaningful criminal prosecution had been initiated against the officers, contractors and others involved. He submitted that this inaction itself indicates collusion and institutional protection being extended to the wrongdoers. He contended that the forged reports were not innocuous documents, but formed the very basis on which quality of work was certified and bills were released. According to him, if the quality certification process itself is fabricated, then the resultant disbursement of public money is tainted at its origin. He urged that road works within a municipal corporation are directly connected with public safety, mobility, and civic administration, and that inferior or non-

existent work on roads has serious consequences for citizens at large. He therefore, submitted that this Court, in exercise of jurisdiction under Article 226 of the Constitution of India, ought to step in and issue directions for a fair, independent and comprehensive enquiry, for initiation of criminal action, for recovery of funds, and for blacklisting of contractors found to be involved. He would submit that unless this Court monitors the matter, the authorities who are themselves under a cloud cannot be expected to proceed against their own officers or associates. He, therefore, pressed for issuance of positive directions in the larger public interest.

6. Per contra, the learned Government Pleader appearing for the State opposed the petition. He submitted that the principal relief as to enquiry has already worked itself out in as much as the record itself shows that an enquiry has been conducted and a report has been submitted. According to him, therefore, the prayer for directing constitution of an enquiry committee does not survive. He further submitted that in so far as the grievance regarding criminal action is concerned, the law is well settled that this Court, in writ jurisdiction, does not ordinarily issue directions for registration of F.I.R at the behest of a litigant, especially when the statute itself provides an efficacious remedy before the jurisdictional Magistrate. He submitted that if the

petitioner is of the view that cognizable offences are disclosed and yet the police are not acting, it is always open to the petitioner to take recourse to the statutory remedy by approaching the Magistrate. The learned Government Pleader also submitted that the materials and the enquiry report are under consideration and scrutiny by the concerned authorities and that the complaints made by the petitioner have already engaged the attention of the Anti-Corruption Bureau and the police machinery. According to him, therefore, it cannot be said that the matter has been ignored altogether or that the authorities are wholly inactive. He submitted that the petition seeks very wide and omnibus directions of civil, criminal, administrative and contractual character, all on disputed factual allegations spread over several years, and that such a P.I.L is not the proper procedural vehicle for grant of those reliefs. He therefore, submitted that no case for interference is made out and that the petition deserves dismissal.

7. We have considered the submissions. We have also perused the pleadings and documents placed on record. At the outset, one aspect stands out from the petitioner's own case. The petitioner's grievance pertains to road works undertaken between the years 2016 and 2020. The petition itself recites that repeated representations were made by the petitioner; that documents were called for; that respondent No. 9

Corporation addressed communications in the matter; that respondent No. 12 Government Institute sought certified copies of the reports; that a five-member enquiry committee was constituted by respondent No. 12; that the said committee submitted its report on 27.06.2023; that the principal of the institution, by communication dated 28.06.2023, informed the Corporation of the result of the enquiry; that the communication was also forwarded to the police machinery; and that the petitioner thereafter also approached the Anti-Corruption Bureau. Thus, the matter cannot be viewed as one where no authority has taken cognizance at all. The petitioner's own pleadings show that the issue has entered the administrative and investigative domain and is not lying in a state of total official neglect.

8. Once that position is clear, the first and foremost prayer for constitution of an independent enquiry committee does not survive in its original form. An enquiry has already been conducted by respondent No. 12 through a committee constituted for that purpose. Whether the enquiry is adequate, whether it should lead to departmental action, whether further technical verification is required, and against whom exactly consequential proceedings should be commenced, are all matters lying within the statutory and administrative field. This Court, while exercising jurisdiction under Article 226, does not ordinarily create

parallel fact-finding structures merely because the petitioner considers the existing enquiry insufficient, particularly when the existing process has already generated material now available to the competent authorities. A writ court is not expected to supervise every stage of administrative examination or to substitute itself for the competent departmental and investigative machinery in matters involving disputed facts, authorship of documents, role attribution, and evidentiary verification.

9. The more substantial relief pressed before us is the prayer for direction to register criminal offences and initiate criminal action. On that aspect, the legal position is no longer *res integra*. In ***Aleque Padamsee v. Union of India***, (2007) 6 SCC 171, the Hon'ble Supreme Court made it clear that where a person has a grievance that the police have not registered an FIR, the course available is the one prescribed by the Code and not the invocation of writ jurisdiction as a matter of routine. In ***Sakiri Vasu v. State of U.P.***, (2008) 2 SCC 409, the Hon'ble Supreme Court held that if the police station does not register the F.I.R, the aggrieved person may approach the Superintendent of Police; and if that also does not yield a satisfactory result, the remedy lies before the Magistrate under Section 156(3) Cr.P.C, who can direct registration of F.I.R and proper investigation and can even monitor the investigation to

ensure its fairness. The Court further observed that High Courts should ordinarily not encourage petitions under Article 226 or Section 482 in such situations because an efficacious alternative remedy is already available under the criminal procedure law. In ***Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage***, (2016) 6 SCC 277, the Hon'ble Supreme Court reiterated that when a person has grievance that his F.I.R has not been registered or proper investigation is not being done, he should avail the remedy under Section 156(3) before the Magistrate and should not rush to the High Court under Article 226. In ***M. Subramaniam v. S. Janaki***, Criminal Appeal No. 102 of 2011, decided on 20 March 2020, the Hon'ble Supreme Court once again restated the same position and held that if a person has a grievance either about non-registration of F.I.R or improper investigation, it is open to such person to move the Magistrate under Section 156(3) Cr.P.C. Further, in ***Priyanka Srivastava v. State of U.P.***, (2015) 6 SCC 287, the Hon'ble Supreme Court emphasized that an application under Section 156(3) must be supported by an affidavit, thereby ensuring that criminal process is not casually invoked and that the applicant remains accountable for the allegations made.

10. The principle flowing from these decisions is clear. The High Court, in exercise of writ jurisdiction, does not ordinarily issue directions

for registration of F.I.R merely because the petitioner asserts commission of cognizable offences. The statutory architecture itself provides the channel for redress. The Magistrate is not a helpless or ornamental forum in this regard; the Magistrate is the legally designated judicial authority empowered to examine the grievance, assess the supporting material, and direct registration and investigation where the case so warrants. If the allegations are serious, supported by documents, and disclose cognizable offences, the statutory remedy is not illusory. It is precisely designed for such situations. Therefore, the relief sought by the petitioner for a writ directing criminal prosecution cannot be granted in the teeth of the settled law declared by the Hon'ble Supreme Court.

11. Even otherwise, the prayers in the present petition travel much beyond the permissible limits of writ adjudication. The petitioner seeks blacklisting of contractors, recovery of amounts already disbursed, civil action, criminal action, inquiry into assets of officers, and attribution of liability to several named and unnamed persons over a span of years. These are not merely consequential or ministerial directions. Each of these reliefs would require a separate factual foundation, identification of the precise contractual work, determination of actual execution or non-execution, examination of measurement books, bills, tender documents, test records, administrative approvals, individual role of officers, extent

of knowledge and participation of each contractor or official, and observance of *audi alteram partem*. Such reliefs cannot be granted in a P.I.L in a broad and generalized manner on the assumption that everyone connected with the process stands equally liable. Writ jurisdiction, especially in a P.I.L, is intended to remedy demonstrable public law wrongs. It is not intended to short-circuit the procedural and evidentiary safeguards that accompany penal, departmental, recovery, and blacklisting proceedings.

12. There is yet another aspect. The petition is framed as a public interest litigation, but the primary operative directions sought are criminal law directions against specific alleged wrongdoers. The criminal justice system is governed by a complete code. Once the complaint is that identifiable persons have committed offences of forgery, fabrication, cheating, criminal misconduct, or other allied offences, the matter necessarily enters the criminal law domain. The jurisdictional Magistrate is the proper judicial forum to consider whether the material discloses commission of a cognizable offence and whether investigation by the police should be directed. To entertain a P.I.L for such relief and to directly command criminal action would be to bypass the statutory discipline repeatedly insisted upon by the Hon'ble Supreme Court.

13. We may also note that the petition itself indicates that the police authorities and the Anti-Corruption Bureau have already been approached and that the matter has not remained wholly unattended. Whether the progress is satisfactory or not is a different matter. Dissatisfaction with the pace or outcome of administrative or investigative action does not automatically justify issuance of a writ for registration of F.I.R. The law expects the aggrieved person to activate the statutory remedies. In the present legal regime, after coming into force of the Bharatiya Nagarik Suraksha Sanhita, 2023 with effect from 01.07.2024, the equivalent present remedy continues under the new procedural framework as well.

14. For all these reasons, we are of the considered view that no writ of the nature prayed for can be issued in the present petition. This conclusion, however, does not mean that the petitioner is remediless. If the petitioner is of the opinion that the material in his possession discloses commission of cognizable offences and that the police authorities have failed to take action in accordance with law, it shall be open to him to avail the statutory remedy before the jurisdictional Magistrate by instituting appropriate proceedings in accordance with law. If such proceedings are instituted, the Magistrate shall consider the same on their own merits and in accordance with law, uninfluenced by the

dismissal of this P.I.L. Similarly, it remains open to the competent administrative and statutory authorities to take such action on the basis of the enquiry report and the record as may be permissible in law.

15. In the result, the Public Interest Litigation stands dismissed. Rule is discharged. No order as to costs. Liberty as aforesaid is reserved in favour of the petitioner.

(Hiten S. Venegavkar, J.)

(Smt. Vibha Kankanwadi, J.)

B. S. Joshi