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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 188 OF 2022

Shrihari S/o Anant Shidore ... Petitioner
Versus
The Commissioner / Administrator ... Respondent

**WITH
INTERIM APPLICATION NO. 16240 OF 2024**

GVPR Engineers Ltd Through
the Senior Manager Projects,
G, Mahender S/o Sri. G. Somla .. Applicant
Vs.
Shrihari S/o Anant Shidore .. Respondent

Mr. Amit A. Mukhedkar, for the Petitioner.
Mr. Sachin Deshmukh Amicus Curiae/ Mr. Shambhuraje Deshmukh.
Mr. A.B. Girase, GP a/w Mr. P.P. Kadade, Addl. GP, Smt. G.R.
Rahuwanshi, AGP, for Respondent Nos. 5, 8 to 10-State.
Mr. S.S.Tope, Advocate for the Chhatrapati Sambhajanagar Municipal
Corporation- Respondent No.4.
Mr. Rajendra Deshmukh, Senior Advocate i/b Mr. Vinod Patil, Adv.
Amol G. Vasmatkar, for Respondent -MJP.
Mr. S.B. Deshpande, Senior Advocate i/b Mr. D.S. Manorkar, Advocate
for the Respondent -NHAI.
Mr. Ajay Talhar, the Assistant Solicitor General, for Union of India.
Mr. R.N. Dhorde, Senior Advocate h/f Mr. S.N. Suryawanshi, Advocate
for the Respondent No.15.
Mr. A.S.Bajaj, Advocate for Respondent No.10.
Mr. Anil M. Gaikwad, for MSETLL.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

DATE : 14th FEBRUARY, 2025

P.C. :

HIGH COURT CONSTITUTED COMMITTEE MEETING

1. The learned Government Pleader who is present physically in the Court, tenders the report of the High Court Constituted Committee (HCCC) Meeting dated 06th February, 2025 with a covering letter dated 11th February, 2025. The said compilation of 43 pages along with the covering letter, is taken on record and marked as 'X-51' collectively, for identification.

2. The above stated report is self explanatory and deals with several issues as well as certain compliances to be done in pursuance to the earlier directions of this Court set out in the orders dated 24th January, 2025 and 31st January, 2025. Pertinently, he points out from page 5 of the report with reference to the order dated 31st January, 2025 as regards handing over of 22 ESRs. The project contractor was informed in the meeting that around 22 ESRs should be handed over by March 31, 2025. Presently, 7 ESRs have been handed over and 11 ESRs are at the finished level. It was recorded that it would be possible to the Project Contractor to hand over only 10 ESRs by 31st March, 2025. The learned Senior Advocate Shri Dhorde submits on instructions that 4 more ESRs are likely to be delivered by 30th April, 2025.

3. Shri Tope, the learned Advocate representing the Corporation submits that out of the 7 ESRs handed over to the Corporation, 2 ESRs are in the “no network” area. He submits that the remaining ESRs which are likely to be handed over to the Corporation by 31st March, 2025, are in the network area.

4. In this context, we direct the Corporation as well as the project contractor, to work in co-ordination with the MJP and a full blooded attempt shall be made to utilize all these ESRs, except the two which are in the “no network” zone, for the purpose of storage and distribution of water, to the residents of Chhatrapati Sambhajnagar. We record that, at least in the areas covered and connected with the said ESR, the Corporation should achieve a “*NO TANKER ZONE*”. Shri Tope clarifies that the tankers would not be used in areas where there is a pipeline network for the purposes of distribution of the water even during the summer season. What we mean to indicate or signify is that even in summer, if there is shortage of water, these ESRs should be utilized to their fullest capacity and tankers should be avoided in these areas.

OBSTRUCTIONS DUE TO ENCROACHMENT

5. Shri Girase has then turned to page 6 with regard to the obstructions on account of encroachment by Anand Hotel owner Shri Raju Chavan. Pursuant to the directions of this Court in paragraphs 17 & 18, in the order dated 31st January, 2025, the concerned officers made a visit to the said areas pertaining to the Saibaba Temple and Anand Hotel and a private owner namely Shri Reddy. The contention of the Hotel owner was that NHAI road is actually in his land. We find this difficult to believe for the reason that the road is in existence for years together and till today, the said owner Shri Chavan has never raised any issue with regard to the payment of compensation purportedly for using his land without acquisition. Now the encroachment is to be cleared and for which purpose a counter argument is put forth before NHAI to say that the said portion is not in the ROW, but that, the whole road is in his land.

6. In paragraph 18 of the said order, we have specifically recorded on the basis of the suggestion made by the learned Senior Advocate Shri Dhorde that, the learned Government Pleader Shri Girase, learned Advocate for the Corporation Shri Tope, as well as learned Senior Advocate Shri Deshpande, representing the NHAI would carry their records and their personnel from the concerned departments in

order to measure the road as per the old documents. If the properties or construction of these persons viz. Anand Hotel, owned by Shri Chavan, is found to be in the ROW, the same shall be removed after measurement. If any of his properties are beyond ROW and which land may have to be utilized by acquisition, only if required, we record in this order that if such a right is made out, we would ensure that the said owner gets his full share of the compensation after following the due process.

7. The learned Government Pleader submits that the measurement has been carried out and a small portion of a temporary tin shed and the sign board of Anand Hotel are within the ROW and NHAI has no desire to go beyond the ROW in this project, at least for the present. We, therefore, record that the tin shed and the sign board falling within the ROW, in view of the measurement carried out in the presence of Shri Chanvan, should be removed.

8. With regard to the Saibaba Temple, we appreciate the gesture of Shri Reddy who is the resident of the State of Karnataka and on whose property the Saibaba Temple has been constructed, that he has expressed his willingness to remove the small portion of the compound

wall and a small Lord Hanuman Mandir and relocate it within his own property by ensuring that the path of the project is clear. Such gesture of Shri Reddy is laudable.

9. Shri Girase has also drawn our attention to Annexure -2 of report X-51 at page 21 onwards, which are colour shade charts indicating the progress of the project. In some areas, the progress of the project is appreciable. In some areas, the project work is lagging behind. Shri Dhorde submits that certain priorities have been set by the project contractor to ensure that the Jackwell and Pump House, the Water Treatment Plant etc. which are the heart and soul of the project, are being taken up for early completion and the project contractor is concentrating on achieving certain targets.

REQUEST TO VISIT THE PROJECT SITE

10. Senior Advocates Shri Dhorde, Shri R.S. Deshmukh, Shri Deshpande and the learned Government Pleader Shri Girase, as well as, the learned Amicus Shri Sachin Deshmukh and Shri Tope, learned Advocate for the Corporation, have made a request to the Bench to visit the project site, at the earliest. They remind us of the visit of the Bench at the project site on 14th May, 2024. They submit that a visit would give

the Court an idea as to the stage of the project work and the bottlenecks in the project.

11. Considering the desire to get a feel of the progress of the project, it is decided that one of us [Ravindra V. Ghuge, J.] would visit the said project tomorrow in between 3:00 p.m. and 6:00 p.m.. Learned Government Pleader submits that the Divisional Commissioner who is the Chairman of the High Court Constituted Committee, members of the HCCC, the District Collector, the District Superintendent of Police (Rural), Officials of the MJP and the Commissioner of Corporation etc. would also make themselves available for the site inspection.

OBSTACLES AT BIDKIN AND DHORKIN

12. All the learned Senior Advocates as well as learned Amicus Shri Sachin Deshmukh, have voiced a serious concern about two Sarpanch of Bidkin and Dhorkin, creating obstacles in the path of the project work at the Bidkin and Dhorkin segments. Complaints have also been lodged with the MIDC, Paithan police station. Sarpanch of Bidkin Shri Ashok Dharme and Sarpanch of Dhorkin Shri Vaibhav Vasantrao Mule, are said to be creating obstacles and practically restraining the project work. It is stated that the project has been seriously hampered

and delayed for almost 4 months because of the activities of these two persons who are personally involved in preventing the project contractor from progressing with the project. The Paithan police station has not reacted in right earnest, is the grievance.

13. The learned Government Pleader Shri Girase submits that this project which is the lifeline for Chhatrapati Sambhajinagar residents, is a priority project for the Government of Maharashtra. The Hon'ble Chief Minister has personally intervened in this matter and is also overlooking the progress. If such complaints are made to the police station, the SP (Rural) will deal with them. So also, the District Collector of Chhatrapati Sambhajinagar would also counsel both the Sarpanch and if it is noticed that their behaviour is unbecoming or disgraceful on the part of a Sarpanch holding the said office, appropriate action could also be initiated under the provisions of the Maharashtra Village Panchayats Act, 1959.

14. We call upon the District Collector to invite both these Sarpanch to his office for counselling and apprise them of the importance and significance of this project and caution them that there should not be any obstruction in the path of this project which would

supply water to the residents of Chhatrapati Sambhajinagar. The purpose for which the State Government is spending Rs.2,700 Crores, cannot go a waste if these two persons are creating any obstruction. Let the District Collector inform both of them that they should not invite unpleasant action and they should actually co-operate in advancing this project in their capacity of being the people's representative.

PROJECT MANAGEMENT CONSULTANT

15. Shri Deshmukh, learned Senior Advocate representing the MJP points out, the earlier orders passed recording the unilateral stoppage of work and exit by the Project Management Consultant (PMC). His grievance is that the entire technical data with regard to the project is with the said PMC, whose partner is Shri Sameer Joshi who had addressed this Court physically in the hearing on 24th January, 2025. He is not parting with the technical data thereby creating a serious obstacle in the path of the new PMC who has been handed over the said work.

16. We would call upon the District Collector to invite Shri Sameer Joshi for a discussion and convince him of the importance of handing over the technical data to the succeeding PMC. If he has any

grievance about any of his bills, he may present those grievances before the High Court Constituted Committee in its next meeting scheduled on 20th February 2025. However, Shri Sameer Joshi is expected to, first share the technical data and should not hold lien on the said data, lest we would be constrained to pass certain orders.

SURGE TANKS

17. The learned Advocate Shri Tope for the Corporation submits that insofar as the two portions of land which are in the possession of the Corporation at Dhorkin and Bidkin, arrangements are being made to grant the parcels of land for the surge tanks. This issue is closed since the Corporation has agreed to hand over the said parcels of land.

18. Insofar as the parcel of land required for the third surge tank near the industry namely, Frigorifico Allana, Mr. Tarwinder Singh Mahendra Singh Dhillon, has agreed to donate a parcel of land i.e. 452.925 sq. meters of land for erecting the surge tank subject to payment of compensation. The Corporation is taking a decision with regard to the same.

19. Insofar as the parcel of land which is required for the fourth surge tank at the 33kV Isarwadi sub-station is concerned, it is stated that the Maharashtra State Electricity Transmission Company Limited (MSETCL) is coming up with major projects and will be utilizing most of the land. One small portion of the land which is at a far distance from the pipeline on the east side can be made available. Learned Senior Advocate for the MJP submits that the said parcel of land is inconvenient for the project and it will not be of any assistance. He prays that MSETCL should reconsider the request and realign its upcoming projects so as to ensure that the surge tank, which is technically vital and required to be close to the water supply pipeline, is erected on a parcel which is close to the pipeline.

20. Considering the functional technicalities cited and involved in the operation of the surge tank, we once again appeal to the MSETCL and we expect Shri Anil Gaikwad, learned Advocate to convey these observations to the MSETCL in order to convince it, of the need of a surge tank being close to the pipeline for its functional purpose. Let Shri Gaikwad inform the Court of the decision of the said Company on the next date.

33Kv EXPRESS FEEDER FOR JACKWELL & WTP

21. The learned Senior Advocate for the MJP submits that in the meeting of the HCCC dated 15.10.2024, the Committee had instructed the MJP to cancel the 33 Kv Express feeder tender for the Jackwell at Jayakwadi and the WTP at Nakshatrawadi. He informs that the tender was opened in June, 2024. The L1 bidder is 17% below the price. This is a full deposit work entrusted to the MJP. The GR dated 08.11.2023 is quoted.

Considering that the supply of electricity to the Pump House is vital, we permit the MJP to follow the due procedure laid down in law and proceed with the said tender, if there is no legal impediment.

NEXT DATE OF HEARING

22. Since we have been informed that the High Court Constituted Committee would be having its next meeting on 20th February 2025, we are listing this Petition for further hearing at 2:30 p.m. on 26th February 2025.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)