



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

PUBLIC INTEREST LITIGATION (PIL) NO.13 OF 2025

[Janmanch through its President Shri. Rajiv Jagtap .vs. Nagpur Municipal Corporation
and Others]

Office Notes, Office Memoranda
of Coram, Appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Mr M. Chakravorty, Advocate for Petitioner.
Mr J. B. Kasat, Advocate for Respondent No.1.
Mr G. A. Kunte, Advocate for Respondent Nos.2, 9 and 10.
Mr P. V. Navlani, Advocate for Respondent No.3.
Mr A. A. Kathane, Advocate for Respondent Nos.4 and 11.
Mr S. M. Uke, AGP for Respondents/State.

CORAM: ANIL L. PANSARE AND RAJ D. WAKODE, JJ.

DATE : 09-12-2025.

. Heard.

2. Counsel for petitioner has placed on record an additional affidavit dated 08.12.2025 showing the status of the service road as on 24.11.2025 at Gondkhairi Flyover, Talegaon Flyover and Rahatgaon Flyover. The photographs annexed to the additional affidavit indicate that the construction work is in progress.

3. In this regard, on 19.11.2025, the counsel appearing for National Highway Authority of India (NHAI) had submitted that the work would be completed within one month. He submits that the assurance so given will be honoured. This would mean that by 19.12.2025, the work on the side roads at the above locations will be completed in all respects and in terms of the work contract.

4. In this regard, we would request the parties to place before us the period during which the condition of the service

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road was not in accordance with the work contract. We may then consider reducing the period of toll collection proportionately. The NHAI shall accordingly place before us the scope/conditions governing the collection of tolls, which shall include all relevant details, including the cost of the work, the period for which the contractor is permitted to collect toll, and the commencement and concluding dates of toll collection.

5. At this stage, counsel for NHAI submits that the work of the flyovers has been allotted to another agency, namely M/s Shri Swami Samarth Engineers Limited in joint venture with M/s Jandu Construction India Private Limited, which, according to NHAI, is permissible under the mode of Engineering Procurement and Construction (EPC). We are informed that in such cases, the department first offers the work to the agency that has constructed the road under the DBOFT model and is collecting the toll. Upon its refusal, the contract is awarded to another agency, as has been done in the present case. Thus, it appears that the work of the three flyovers has been given to another agency.

6. The question, however, is the inconvenience caused to the public at large, who are paying toll with the legitimate expectation of travelling on a properly constructed road. In these circumstances, if the toll-collecting agency is not responsible for these hindrances, we may consider compensating it for the reduced period of toll collection by deducting the corresponding amount from the agency constructing these three flyovers.

7. Accordingly, the petitioner shall add joint venture of M/s Shri Swami Samarth Engineers Limited with M/s Jandu

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Construction India Private Limited as respondent No.12. This amendment shall be carried out forthwith. Issue notice to newly added respondent, returnable on 23.12.2025.

8. We direct National Highway Authority of India to file affidavit on the points noted above.

9. Another concern put forth by the petitioner is the work of storm-water drain constructed alongside the service road. The covers of the side storm-water drain have been broken at multiple places, thereby posing a life-threatening risk to the citizens. The NHAI shall address this issue as well.

10. On the issue of the effect of poorly maintained roads and the fatal accident that occurred due to ongoing road construction at the Besa-Pipla area, we had called upon the Public Works Department to file an affidavit. Learned A.G.P. submits that the affidavit is ready and will be filed within couple of days. Be filed.

11. The petitioner has filed photographs of the place where the fatal accident occurred. The photographs show that the cement road is under construction, and that to match the level of the existing ground with that of the constructed road, a slope has been created using water-bound macadam. The slope is substantial and may cause a traffic hazard. The counsel for the petitioner submits that the slope had been not properly maintained earlier and that was the cause of the fatal accident.

12. Learned A.G.P. submits that a First Information Report, in this regard, has been lodged against the car owner who was allegedly responsible for the accident. The First Information Report is lodged by one Mr. Sham Nagdeve, who was riding the two wheeler on which the deceased was a pillion rider. The FIR

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was lodged on 06.11.2025 i.e. immediately on next day of accident.

13. We have gone through the FIR which indicates that the accident indeed occurred due to alleged rash and negligent driving of the four-wheeler bearing No.MH-49-BW-2742. Thus, *prima facie*, it appears that although the road condition was poor, the accident occurred because of the alleged rash and negligent driving of the said four-wheeler.

14. We are therefore not inclined to direct the P.W.D. to compensate the family of the deceased in this case. However, we would maintain that if, during the course of construction—whether by the P.W.D., NHAI, or any other department—an accident occurs and is attributable solely to the road conditions under construction or maintenance, the department concerned will be held liable to compensate the family of the deceased. We propose a one-time compensation of Rs.10 lakhs for the loss of life, which, though incapable of being adequately compensated in monetary terms, may provide some solace to the family. This amount will be in addition to any compensation to which the family of the deceased may be entitled under other statutory provisions.

15. As regards the landing portion of the flyover near University campus square, the learned A.G.P. submits that the said patch has been repaired to ensure smooth movement. An affidavit to that effect has been filed.

16. Another concern brought to our notice is the status of road near Gajanan Maharaj Temple situated on the road from Dharampeth Science College to Ambazari overflow spot, where

one half road is constructed with cement concrete while the other half has been constructed with paver blocks. The level between the two surfaces is not maintained, resulting in multiple accidents, though fortunately none have been fatal. The concerned Department shall take corrective measures immediately and shall ensure that this level at all locations is maintained properly. Periodical inspection shall be carried out and necessary steps taken wherever and whenever required. Learned A.G.P. and learned counsel for N.M.C. shall take instructions on this point and shall file affidavit.

17. It also transpired that there is slow progress of ongoing works, the reason as stated by respondent No.5 is extremely low budgetary allocation and the poor financial condition of the contractor. In fact, we were informed that one of the contractors namely Shri. P. V. Verma alias Munna Verma, proprietor of Shri Sai Associates, allegedly committed suicide due to non-release of funds in time. Counsel for the petitioner seeks time to collect details in this regard. Time granted.

18. We may take judicial notice of the fact that the low budgetary allocation is not only affecting the contractors but is also affecting the progress of various works and even the work relating to the High Court Bench at Nagpur is being adversely affected on this count. It includes, repair work of Court Building, Bungalows earmarked for Judges of the High Court and repair work of Judicial Officers Training Institute etc. The learned A.G.P. shall, in this regard, take instructions on the following points:

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- a) The total number of works allotted to various agencies;
- b) The date of commencement of each work;
- c) The status of each work;
- d) The cost of each work;
- e) The budgetary allocation made for each work;
- f) The expected date of completion and reasons for delay.

19. Since these works are being undertaken by the P.W.D., Nagpur, the petitioner shall forthwith add the Chief Engineer, P.W.D., Nagpur, as respondent No.13. Issue notice to respondent No.13. Learned A.G.P. waives service. He shall take instructions and file affidavit.

20. Stand over 23.12.2025.

(JUDGE)

(JUDGE)

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