

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

WRIT PETITION NO. 5856 OF 2007
ANANDILAL HAJARIMAL BHUTADA AND ANOTHER
VERSUS
THE SHEGAON MUNICIPAL COUNCIL, AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. F. T. Mirza, Amicus Curiae for the petitioners.
Mr. D. M. Kale, Advocate for respondent no.1
Mrs. B. H. Dangare, Govt. Pleader for respondent nos. 2 to 5
Mr. A. R. Patil, Advocate for respondent no.6
Mr. N. P. Lambat, Advocate for respondent no.9
Mr. S. P. Bhandarkar, Advocate for the applicant/intervener

CORAM : B. R. GAVAI and PRASANNA B. VARALE, JJ.

DATE : OCTOBER 29, 2015.

CIVIL APPLICATION (CAW) NO. 2232 OF 2015

This is an application by the President of the Municipal Council, Shegaon.

Since, this is not an adversary litigation and since we are also of the opinion that presence of the elected representative of the citizens of Shegaon city would assist in resolving the issue in a better manner, the application is allowed.

WRIT PETITION NO. 5856 OF 2007

The present public interest litigation is entertained by this Court so as to monitor the developmental work to be carried out at Shegaon.

On the last date, the learned Amicus Curiae and the learned Government Pleader had informed us that

they would personally visit the city of Shegaon and report to this Court regarding the present status of the work.

The learned Amicus Curiae and the learned Government Pleader, after visiting the city of Shegaon, have intimated to this Court that the developmental work is going on satisfactorily. They, however, submitted that some directions need to be issued in respect of certain works as under :

- 1] The Municipal Council, Shegaon was to construct 10 toilet blocks. However, as of now two blocks are completed and the work of third block is going on.
- 2] Though, fly over is complete, the work of spreading bitumen is not carried out as the Railway authorities have not deposited the amount, which was agreed to be deposited by them.
- 3] Insofar as the work of sky-walk is concerned, the same could not be completed inasmuch as there is an order of injunction granted by the learned Wakf Tribunal, Aurangabad in June, 2014 and though, the issue of jurisdiction has been raised by the State Government before the learned Tribunal, the same is not being decided.

4] As far as the work of beautification of squares is concerned, there was a suggestion by the local Member of the Legislative Assembly in a meeting conducted by the Hon'ble Guardian Minister, that the said work should be carried out by the Municipal Council, instead of Sansthan, to which we had issued directions to do the said work.

In addition to this, Mr. Bhandarkar, the learned counsel appearing on behalf of the intervener - President, Municipal Council, Shegaon, states that the work of testing of underground drainage has not been done prior to connecting said drainage lines to the houses of the citizens. The learned counsel submits that if the testing is not done, a serious problem would be faced by the citizens inasmuch as the sewerage water, so also the sewage from the said line would come on the street.

Insofar as the first work regarding the toilet block is concerned, we direct the Chief Officer of Municipal Council, Shegaon to place on record the present status regarding construction of 10 toilet blocks by filing an affidavit. The Chief Officer should also state in the said affidavit as to why the work of construction of the toilet blocks has not been completed so far and also state as to within how much period the said work would be completed.

Insofar as the work of spreading bitumen on the fly over is concerned, Shri Lambat, the learned counsel for the respondent no.9 in his visual fairness states that the amount as agreed to between the respondent no.9 and the State Government would be disbursed within a short period. We direct the respondent no.9 to deposit the agreed amount within a period of four weeks from today.

Insofar as the work of sky-walk is concerned, it is the contention of the State Government that the learned Wakf Tribunal does not have jurisdiction and the State has already filed an objection raising the issue of jurisdiction. It is informed that the matter is listed before the said Tribunal today i.e. 29.10.2015. We direct the learned Tribunal at Aurangabad to decide the objection raised by the State Government regarding jurisdiction as expeditiously as possible and in any case within a period of six weeks from today.

Insofar as the issue of beautification of squares is concerned, it appears from the minutes of the meeting Chaired by the Hon'ble Guardian Minister, that the Hon'ble Member of the Legislative Assembly of the local area desires that the said work should be carried out by the Municipal Council. We see no difficulty in permitting the Municipal Council to do the said work. We had issued directions to the Sansthan to do the said work, inasmuch as on every date, the grievance raised before the Court by the Municipal

Council was of paucity of funds. Even for carrying out the statutory mandatory duties, we had to issue directions to the State Government to give an amount to the Municipal Council by way of loan. However, if the Hon'ble Member of the Legislative Assembly is of the opinion that the Municipal Council is better equipped to do the said work, nobody should have an objection to it. We, therefore, permit the Municipal Council, Shegaon to do the work of beautification of the squares. If the Hon'ble MLA desires that the said work should be done from his local funds, he is also free to do that.

Insofar as the important issue raised before this Court by the learned counsel Shri Bhandarkar is concerned, we direct the Municipal Council to place on record the status with regard to inspection of drainage line done by it. If it is not already done, the same shall be done on or before the next date.

Stand over after four weeks.

JUDGE

JUDGE

Diwale