

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

**Writ Petition No.5856 of 2007**

(Anandilal s/o. Hajarimal Bhutada and anr. vs. The Shegaon Municipal Council, Shegaon and Ors.)The  
Court on its own motion .vs. The Union of India, Ministry of Public Health, New Delhi and Ors.)  
with

**Writ Petition No.2563 of 2015**

(Prakash s/o. Ramniranjan Goenka and Ors. vs. State, through its Secretary, Urban Dev. Deptt.  
Mumbai and ors.)

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

Court's or Judge's orders

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Writ Petition No.5856 of 2007 :

Mr.F.T.Mirza, amicus curiae.  
Mr.D.M.Kale, Adv. for respondent no.1.  
Mr.D.P.Thakare, AGP for respondent nos. 2 to 5.  
Mr.A.R.Patil, Adv. for respondent no.6.  
Mr.N.P.Lambat, Adv. for respondent no.9.  
Mr.S.P.Bhandarkar, Adv. for the applicant/Intervener.

Writ Petition No.2563 of 2015 :

Mr.S.P.Bhandarkar, Adv. for the petitioner.  
Mr.D.P.Thakare, AGP for respondent nos. 1 to 4.  
Mr.N.R,Saboo, Adv. for respondent no.5.

**CORAM : B. R. GAVAI AND  
P. N. DESHMUKH, JJ.**

**DATE : 3.12.2015.**

Heard the learned Counsel for the respective parties.

In pursuance of the order passed by this Court dt.29.10.2015,  
respondent no.1/Municipal Council, Shegaon has filed an affidavit. In the  
affidavit, it is specifically stated that, out of 10 toilet blocks, four are  
functional and one would be made operational within thirty days. A further  
statement is made that all the ten blocks would be constructed within a  
period of four months from today. We treat the said statement as an

undertaking on behalf of the Municipal Council.

Insofar as the work of beautification is concerned, it is stated in the affidavit that the Municipal Council has resolved to do beautification work and the same would be started within a short time.

Another issue was with regard to payment to be made by the Railway Authorities of their share insofar as construction of fly over is concerned. Mr.N.P.Lambat, learned Counsel appearing on behalf of the Railways states that since Completion Certificate is not issued by the Public Works Department, the payment is not made by the Railway Authorities.

Mr.D.P.Thakare, learned A.G.P. makes a statement that the Completion Certificate would be issued within a period of three weeks from today. On issuance of Completion Certificate, the payment would be made by Railway Authorities within eight weeks from the date of receipt of Completion Certificate.

Insofar as Civil Application No.2426 of 2015 filed in Writ Petition No.5856 of 2007 for intervention is concerned, Mr.J.B.Gandhi, learned Counsel for the applicants submits that the area of 12 acres is being acquired for parking purposes. He, however, submits that earlier it was proposed to acquire the Khadwadi area, which is only admeasuring 1.5 acres. Learned A.G.P. to file response of the State, to the said Civil Application within three weeks from today.

Insofar as inspection of sewage line is concerned, though it is stated in the affidavit on behalf of the Municipal Council that inspection has been done in presence of various Authorities, the outcome thereof is not stated in the said affidavit. It will, therefore, be appropriate for the Municipal Council to file the report of inspection. We make it clear that if inspection is not done in accordance with the terms of Contract, the same shall be done in terms of the Contract and the report thereof be submitted

to this Court within two weeks.

Mr.F.T.Mirza, learned amicus curiae submits that, in pursuance of the directions issued by this Court, he himself along with the learned A.G.P. have visited the Shegaon town and have also attended the meetings of the Committee so that the work of development can progress satisfactorily and the Court be kept informed about the progress of the work. It is submitted that, however, a complaint is filed against the learned Government Pleader alleging therein that she has taken personal interest in demolishing the construction of the petitioners (in Writ Petition No.2563 of 2015).

In the recent past, we have come across various such issues wherein some of the Lawyers find pleasure in making complaints against the Judges, Lawyers and other constitutional functionaries. Be that as it may, if such a Lawyer or citizen finds pleasure in doing so, they may continue to do so. We are sure that the appropriate Authorities concerned would take note of the same and if deemed appropriate, take such steps as are necessary. However, merely because such complaints are made, the Judges and Lawyers cannot be deterred from discharging their duties.

We find that, if such a complaint is made against the learned Government Pleader, prima facie, the same would amount to interference in the administration of justice. When the Lawyers including the Government Pleader are acting under the orders of this Court, they need to be protected by this Court.

Needless to state that this Court has time and again taken a stern stand in issuing directions in respect of the constructions which are coming in the way of development. Time and again we have also said that such of the constructions which are coming in the way of expansion of roads should be demolished by the Authorities. A reference to one of such orders could be made in Writ Petition No.5856 of 2007, dt.29.10.2014.

Insofar as Writ Petition No.2563 of 2015 is concerned, it was filed after the area of the petitioners therein was ear-marked for expansion of the road. Mr.J.B.Gandhi, learned Counsel, who was appearing for the petitioners, had made a categorical statement before the Court on 17.6.2015 to the effect that the petitioners would demolish the part of construction which falls in the area which is acquired by the State for widening of the road. The Court granted four weeks' time so as to enable the petitioners to demolish the part of the structure and for strengthening the remaining part of the structure. Vide said order, we had also directed the State to pay the amount awarded to the petitioners as compensation without prejudice to their rights to challenge the Award in reference. In view of the specific statement made by the petitioners, this Court directed the State not to demolish the construction until further orders.

Surprisingly, when the matter was listed before this Court on 30.7.2015, the order which was passed by this Court is not reflected in the ordersheet. We distinctly recollect that Mr.Gandhi, learned Counsel, upon instructions from one of the petitioners, who was present in the Court, had made a statement before this Court that the petitioners could not demolish the structure on account of non-availability of masons since it was a 'Ramzan' period. We had, therefore, specifically observed that sufficient period was given to the petitioners to demolish the structure on their own. We had further observed that if the petitioners fail to do so, the State would be at liberty to demolish the structure. However, surprisingly, note of the order dt.30.7.2015 would show that what is written is “S.O. to 27.8.15 at the request of Adv.J.B.Gandhi, delinked”. Mr.Gandhi, learned Counsel also confirmed that no such order of delinking was passed by this Court on that day.

Thereafter, the matter was listed from time to time before the Bench, of which one of us – Gavai, J was not a party. Most of the earlier

orders were passed by the Bench presided over by one of us – Gavai, J. It, thus, appears that subsequently this error could not be noticed by this Court. We, therefore, clarify that the demolition which is carried out by the State subsequent to 30.7.2015 was as per the permission granted by this Court.

Stand over to 17.12.2015.

JUDGE

JUDGE

*\*jaiswal*