

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO. 71 OF 2013
WITH
CHAMBER SUMMONS NO. 107 OF 2014

High Court on its own Motion .. Petitioner
V/s
State of Maharashtra & Ors. .. Respondents

Mr. J.K. Mistry, Amicus Curaie present.

Mr. A.B. Vagyani, Government Pleader with Mr. P.G. Sawant, AGP for the State.

Mr. A.Y. Sakhare, Senior Advocate with Ms. Trupti Puranik for the Corporation.

Mr. R.S. Apte, Senior Advocate with Mr. Mandar Limaye for Thane Municipal Corporation.

Mr. Advait Sethna with Mr. Dhanesh Shah for Union of India.

Mr. G.W. Mattos for MMRDA.

Mr. Sarang Aradye for Pandharpur Municipal Council, Satara Municipal Council, Vasmat Municipal Council, Karmala Municipal Council, Dhule Municipal Corporation and Panvel Municipal Corporation.

Mr. Akshay Kapadia i/b M/s J. Shekhar & Co. for Nashik Municipal Corporation, Tasgaon Municipal Council and Shinola Municipal Council.

Mr. Prafulla Shah for Wai Municipal Council.

Mr. Yashodeep Deshmukh for Malvan Municipal Council.

Mr. Sanskar Mrathe for Lanja Municipal Council.

Mr. A.M. Kulkarni for Male Municipal Council.

Mr. Harshad Bhadbhade for Chiplun, Khed, Guhagar and Deorukh Municipal Council.

Mr. Akshay P. Shinde for Ichalkaranji Municipal Council, Kurundwad Municipal Council, Malkapur Municipal Council, Murgud Municipal Council, Vadgaon Municipal Council, Panhala Municipal Council,

Gadhinglaj Municipal Council, Hupari Municipal Council, Vengurla Municipal Council and Kankavli Municipal Council.

Mr. Mayur Yadav i/b Mr. Sachindra Shetye for Uran Municipal Council and Rajadur Municipal Council.

Mr. Amit Munde for Naigaon Nagar Municipal Council and Himayat Nagar Municipal Council.

Ms. Aparna Devkar i/b Mr. Rakesh Sawant for Wardha Municipal Council and Mohadi Nagar Panchayat.

Mr. Mandar Limaye for Shirur Municipal Council.

Mr. Rupesh Bobade for Uran-Islampur Municipal Council.

Mr. Ajit Hon for Akkalkot Municipal Council and Shirdi Nagar Panchayat.

Mr. Rakesh Bhatkar for Ratnagiri Nagar Parishad.

Mr. Dinesh Adsule for Kulgaon-Badlapur Nagar Parishad.

Mr. Vikas Kolekar for Palus Nagar Parishad, Sangli.

Mr. P.A. Naik i/b Mr. Umesh Mankapure for Malkapur Nagar Panchayat and Tasgaon Nagar Panchayat.

Mr. B.A. Lawate i/b Mr. Ravindra Pachundkar for Dahiwadi, Patan, Meda, Koregaon and Khandara Nagar Panchayat.

Ms. Priyanka Bhadrashete i/b Mr. N.N. Bhadrashete for Sawantwadi Municipal Council, Kasai Dodamarg Nagar Panchayat, Kudal Nagar Panchayat, Vaibhavwadi Nagar Panchayat and Devgad Jamsand Nagar Panchayat.

Mr. Ajay Fernandes for respondent no.8.

Mr. Kamal Katha with Mr. Ruchit Thakar i/b Rustamji & Ginwala for respondent nos.10 and 11.

Mr. Prashant Chavan i/b Ms. Reshmarani Nathani for respondent no.13.

Mr. I.M. Khairdi for respondent no.25 – Solapur Municipal Corporation.

Mr. Manoj Sawardekar i/b Mr. Pramod Kathane for respondent nos.30 and 31.

Mr. Vishesh Kalva i/b Vidhi Partners for respondent no.31.

Mr. Amit Sale for respondent nos. 74, 77 and 153.

Mr. M.I. Dhattrak for respondent nos. 37, 93, 94, 98, 113 to 124, 126, 127, 144, 145, 146, 148, 149, 200, 204, 210, 211, 213, 217, 368, 369, 370, 373, 375 and 382.

Mr. U.M. Maske-Patil and Mr. R.Y. Naiknaware for respondent nos.40, 42, 45, 48 and 255.

Mr. Kalpesh Patil for respondent nos. 46,47 and 49.

Mr. Vinayak S. Bedre for respondent no.50.

Mr. S.S. Kulkarni i/b Mr. R.B. Somani for respondent nos. 54 to 59.

Mr. Tejesh Dande with Mr. Krupanshu Nndu i/b Tejesh Dande & Associates for respondent no.85.

Mr. B.S. Chondhekar for respondent nos. 154 and 156.

Mrs. Shakuntala Wadekar for respondent nos. 281, 284 and 340.

Mr. Vishwanath Talkute for respondent no.361.

**CORAM: DR. MANJULA CHELLUR, CJ. &
M.S. SONAK, J.**

DATE : 8th NOVEMBER 2017

P.C.:

Report of the Member Secretary, Maharashtra State Legal Services Authority, is taken on record. Affidavit of the Corporation is taken on record.

2. Note put up by the Prothonatary & Senior Master shows that many notices are yet to be served to different Municipal Council/Local Bodies in terms of the order dated 28th September 2017.

3. Vide order dated 3rd August 2017 at para 4, the Member Secretary of the Maharashtra State Legal Services Authority has been appointed as Nodal Officer to whom the grievance, i.e. information with all details, indicating the potholes or bad unusable roads can be

intimated. It is unfortunate that only 180 representations are received till date by the Nodal Officer. This is after giving a wide publicity in local newspapers in Marathi, Hindi, Gujarati and English.

4. We direct the Member Secretary, Maharashtra State Legal Services Authority to place copy of the public notice given in local newspapers as indicated in the order dated 3rd August 2017.

5. Looking at the number of complaints received so far, probably one has to form an opinion that public have no time to read the newspaper or they have no time to bother about the safety of users of the roads. We expected lot of apathy in the form of response to the public notice. That apart, we are also of the opinion that the officer in-charge of each ward of the Local Authority of entire State of Maharashtra must inspect and place on record the potholes or bad roads, which require repairs, in the form of information in writing addressed to the Nodal Officer. Other than this, any person and every citizen of this State is entitled to bring to the notice of the Nodal Officer the information either with regard to potholes or bad roads.

6. Practically to hear all the Local Authorities and the representations by the Court, it would consume many judicial hours. Entire process of collecting information and also rectifying the roads as an obligation on the part of the Local Authority have to be done as

a duty. If the said duty is not discharged, then the Court has to interfere and compel the Authorities to discharge their responsibility / duty. Collection of information has to be done by the Committee as constituted in the order dated 3rd August 2017. Instead of matter coming up before the Court, if a Committee consisting of two Judges of this Court is appointed, they can give directions to the Nodal Officer from time to time as to what should be done. After completing the collection of entire material and also directions to repair the potholes and roads, a report can be submitted to the Court in a comprehensive and consolidated manner so that the Court can finally dispose of the matter on merit by giving directions, if necessary, compelling the Authorities to discharge their duty / responsibility.

7. We appoint a Committee consisting of Hon'ble Mr. Justice K.R. Shriram and Hon'ble Mr. Justice G.S. Kulkarni. The Member Secretary, Maharashtra State Legal Services Authority and the Registry are directed to bring to the notice of the Committee the earlier orders as well as the present order so that they would be able to proceed with the matter.

8. We are of the opinion that if information from public is encouraged by advertising in Doordarshan Sahyadri (Marathi Channel) and F.M. Radio, we hope that some response from the public would be received.

9. We direct the Member Secretary, Maharashtra State Legal Services Authority to repeat the public notice as directed in the order dated 3rd August 2017.

10. List the matter on 28th November 2017.

(M.S. SONAK, J.)

CHIEF JUSTICE

