

8IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1221 OF 2009.

SHRI NILESH PANDURANG KHARBADE AND ANOTHER

VS

GOVERNMENT OF MAHARASHTRA AND OTHERS.

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

Court's or Judge's orders

Shri G. C. Singh, Advocate for the petitioner.
Shri D. B. Yengal, Advocate for R-1 & 3.
Shri L. A. Mohota, Advocate for Respondent no.2.
Shri V. N. Chitnavis, Advocate for Respondent no.4.
Shri S. V. Manohar, Advocate for Respondent no.5.

CORAM : A.H. JOSHI AND
A.R. JOSHI, JJ.

DATE : 19th November, 2009.

1. The petition contains manifold prayers
which could be dealt with as follows :-

Prayer (i):-

(i) Issue writ of mandamus or
any other appropriate directions
or order and be pleased to quash
and set aside the notification
dated 28-5-2008 (Annex.-J.3)
issued by President, Ballarpur
Municipal Council.

[Quoted from page 17 & 18 of writ
petition paper book]

This prayer (i) contains challenge
to the notification inviting from the
members of public at large suggestions or

objections. Thereafter, the matter was to be considered by the Council and final decision under Section 37 of the Maharashtra Regional and Town Planning Act, 1966 is to be taken by the State Government. The challenge to such notification, is therefore, premature.

2. Prayer (ii) :-

*Issue a suitable writ order or ad-interim direction and be pleased to stay the effect and operation of the notification dated 28-5-2008 (Annex.-J.3) during the pendency of the petition issued by President, Ballarpur Municipal Council.
[Quoted from page 18 of the writ petition paper book]*

This prayer (ii) pertains to interim relief and need not be dealt with.

3. Prayer (iii) :-

*(iii) Issue a suitable writ order or direction and be pleased to direct the respondent no.5 to pay all the taxes which are due to the respondent no.4 OR in the alternative, issue a suitable writ order or direction and be pleased to deposit the same in the Hon ble Court.
[Quoted from page 18 of the writ petition paper book]*

As far as prayer clause (iii) is concerned, reply by the Municipal Council that

the question as to assessment is subjudiced, is not disputed by the petitioner by filing a rejoinder or otherwise. It is seen that the the affidavit of the Municipal Council was served on the petitioner way back on 13-4-2009. In absence of traverse, the content of said affidavit needs to be accepted. Moreover, if at all it is found that taxes are still unpaid without any order of stay etc., this issue will always remain open in the event the petitioners or any other persons want to bring such failure to the notice of the authority or the Court.

4. Prayer (iv):-

Issue a suitable writ order or direction and be pleased to direct the respondent no.5 to comply with the directions and order of the respondent no.2.

[Quoted from page 18 of writ petition paper book]

This prayer (iv) pertains to the directions of the Respondent No.2 which are not complied with. It is not shown that which directions are not complied with and effect thereof. The petitioners are free to approach the respondent no.2. At present the prayers as

formulated is vague and cannot be entertained.

5. Prayer (v) :-

Issue a suitable writ order or direction and be pleased to direct the respondents no.1 and 3 to act for the welfare of resident of Ballarpur Municipal Area.

[Quoted from page 18 of writ petition paper book]

This prayer being too general, does not call for any indulgence.

6. In view of above discussion, it is clear that the writ petition does not make out any ground for invoking the jurisdiction under Article 226 of the Constitution of India, and is disposed of as dismissed.

JUDGE

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