(2013) 10 BOM CK 0225

In the Bombay High Court

Case No : Public Interest Litigation No. 5 of 2013

Nirbhay Foundation APPELLANT

Vs

Nashik Municipal Corporation and Others RESPONDENT

Date of Decision : 25-10-2013

Acts Referred:

Citation : (2013) 10 BOM CK 0225

Hon'ble Judges : M.S. Sonak, J;D.Y. Chandrachud, J

Bench : Division Bench

Advocate : Indrayani M. Koparkar, for the Appellant; R.S. Apte, Mr. Vaibhav P. Patankar for Respondent No. 1, Mr. Jaydeep Deo, AGP for Respondent No. 2 and Mr. N.R. Prajapati, for the Respondent

Final Decision : Disposed Off

Judgement

D.Y. Chandrachud, J.—Admit. Learned counsel for the Respondents waive service. The appeal is taken up for hearing and final disposal, by consent and on the request of the learned counsel. The grievance in the petition which has been filed in public interest, pertains to the execution of a central government assisted scheme called "Provision of Basic Services to the Urban Poor and Housing for the Urban Poor" under Jawaharlal Nehru National Urban Renewal Mission (''JNNURM''). The petition pertains to Nashik Municipal Corporation. The petition seeks compliance of the contract which has been awarded for the construction of houses under the scheme and seeks an account of the money spent and action taken against those officers responsible for the delay in completing the project.

2. By the order of this Court dated 23 August 2013, the Nashik Municipal Corporation was called upon to file its reply setting out a proper account of the monies which have been received from the Central Government for the construction of houses under JNNURM and of the monies which have been expended. An explanation was also called as to how many houses have been constructed and if so of how many houses possession has been given. An affidavit-in-reply has been filed by the City Engineer of the Municipal

Corporation. Though the Court had directed the Municipal Commissioner to file his affidavit, the affidavit has been filed by the City Engineer. Having regard to the comprehensive nature of the affidavit filed, we are not inclined to pursue that aspect of the matter any further.

3. The scheme envisages integrated development of basic services to the urban poor in the cities covered under the JNNURM, insofar as the State of Maharashtra is concerned, in Greater Mumbai, Nashik, Pune, Nagpur and Nanded. The affidavit explains that following a tender process the Corporation had appointed a consultant for preparing a detailed project report and executed an agreement on 8 December 2006. The project report was duly approved by the Municipal Corporation and by the State Government. Thereafter certain sites have been selected for implementing the scheme within the local jurisdiction of Nashik Municipal Corporation. A total of 11,200 dwelling units are to be constructed within Nashik Municipal Corporation area. At present, the construction of 4,908 units has been completed. 2,060 units are ready for occupation. The contribution of the Union Government in the construction of units is 50% while the share of the State Government and of the Municipal Corporation is 30% and 20% respectively. As regards basic services, the share between the Union Government, the State Government and urban local body is 50%, 25% and 25% respectively. At the state level, there is a state level nodal agency which monitors the physical progress. Besides there is also a third party inspection and monitoring agency. The utilization certificate submitted by the urban local body is placed before the central sanctioning and monitoring committee of the Union Government.

4. Though initially it was envisaged that 16,000 dwelling units will be constructed in Nashik, the availability of land not being commensurate, the proposal was scaled down to 11,200 units. It was communicated to and sanctioned by the Central Committee on 19 July 2012. The scheme has now been restricted to those land pockets which are in possession of the Municipal Corporation. This was considered in the 133rd meeting of the Central Committee. As regards the delay in the completion of the work, it has been stated that among the problems which were faced, was the fierce opposition of the local residents. Time for completion of the scheme has now been extended until 31 March 2015. As a result of the reduction in the number of units to 11,200, the total project cost is Rs. 248.44 crores including the share of the Municipal Corporation. The Municipal Corporation has received Rs. 119.97 crores. Upon inviting tenders, the Corporation is bearing an additional cost of Rs. 101.56 crores. It has been stated that both the Central and the State monitoring committees are duly monitoring the work under the scheme. The Court has been informed that in regard to 2,060 dwelling units which are ready for possession, the beneficiaries would be placed in possession within the next three months. Hence, the Court has been assured that possession would be handed over before the end of January-2014 to the beneficiaries of 2,060 dwelling units. We would also expect that due and diligent steps should be taken for the construction of the remaining houses under the

scheme within the time as extended.

5. Having regard to the factual background we do not consider it necessary to entertain the petition which is filed in public interest any further. We accept the assurance which has been furnished to the Court as referred above. Since the Central and the State committees are monitoring the progress of the work and the utilization of funds, no further directions are necessary from this court, save and except to observe that both the monitoring committees shall take due and necessary steps to ensure the proper utilization of funds. The committees shall ensure that proper account of the monies which have been received and expended is submitted. The Court has also been informed that an audit has been conducted by the office of the Accountant General. In view of the above, the petition is accordingly disposed of. There shall be no order as to costs.