



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

PUBLIC INTEREST LITIGATION (L) NO. 15255 OF 2024

Gorai Villagers Welfare Association .. Petitioner

Versus

**Hydraulic Engineer, Municipal
Commission of Greater Mumbai
& Ors.**

.. Respondents

Mr. Mohammad Abdi for petitioner.

Mr. Anil Singh, Senior Advocate with Ms. Oorja Dhond and Mr. Aadarsh Vyas i/by S. K. Sonawane for respondent-BMC.

Mrs. P. H. Kantharia, Govt. Pleader with Mrs. Jyoti Chavan, Addl. Govt. Pleader with Mr. Vishal Thadani, Addl. Govt. Pleader and Mrs. Fatima Lakdawalla, AGP for State.

Ms. Rupa Mandaokar, Assistant Engineer (Water Works) R/Central Ward present.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE: 8th MAY, 2024

P.C.:

- 1.** Issue notice to the respondents.
- 2.** On behalf of the respondent nos.1 to 5, Mr. Anil Singh, learned Senior Counsel, assisted by Ms. Oorja Dhond, has put in appearance and waives service of notice. The learned Additional Government Pleader has put in appearance on behalf of respondent no.5 and waives service of notice.
- 3.** This Public Interest Litigation petition raises the issue of scarcity of drinking water in the locality known as "Gorai" situated in the North Western part of Mumbai. Highlighting the

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plight of the residents of the said area, it has been stated in the PIL petition that at least 2005 families in the area are having no access to clean drinking water.

4. Mr. Anil Singh, learned senior advocate representing the BMC has stated that the Corporation is making all possible endeavours to provide drinking water to the residents; however, at present, on account of construction of underground tank and suction pump, some difficulty has arisen. He further states that construction is likely to be completed by the end of the year. It is also stated that once the said construction is completed, the difficulties/problems being faced by the residents for having access to potable water may be reduced.

5. After insertion of Part IX-A in the Constitution of India with effect from 1st June, 1993, the Municipalities have assumed a constitutional status. Article 243-W (a) (ii) of the Constitution of India not only vests certain powers and authority to the Municipalities, but it also casts certain responsibilities in relation to the matters listed in the Twelfth Schedule. Article 243-W of the Constitution of India is reproduced hereinbelow:

"243-W. Powers, authority and responsibilities of Municipalities, etc.- Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow –

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to-

(i) *the preparation of plans for economic development and social justice;*

(ii) *the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;*

(b) *the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule."*

6. The Twelfth Schedule lists certain responsibilities constitutionally cast on the Municipalities. Entry 5 listed in the Twelfth Schedule is as under: -

"5. Water supply for domestic, industrial and commercial purposes."

7. Accordingly, it is the duty of the Municipalities as mandated by the Constitution that all the Municipalities shall ensure water supply for domestic, industrial and commercial purposes.

8. We are concerned in this PIL petition not with industrial and commercial water supply but supply of potable water for domestic use to which, in our opinion, highest priority has to be given by the Municipalities.

9. In tune with the said constitutional provisions, the State Legislature has also provided by enacting Section 61 (b) of the Mumbai Municipal Corporation Act, 1888 that it shall be the duty of the Corporation to construct and maintain the work and means for providing supply of water for public and private purposes. Thus, a distinct duty constitutionally as well as statutorily has been cast on the Municipal Corporation to ensure that the residents within its limits are provided with

adequate and proper access to potable water to be used for domestic purposes. No Municipal Corporation, in view of the aforesaid provisions, can shirk its shoulder from the said responsibility and duty cast on it.

10. We have been informed by Mr. Singh, learned senior advocate that to overcome the difficulties being faced by the residents, four water tankers are employed to provide potable water to the residents. In our opinion, the quantity of water needed for domestic purposes being provided by utilizing four water tankers for a population of more than 2000 families is not sufficient.

11. Accordingly, we direct that till completion of the construction as aforesaid, the BMC shall provide potable water and also water for domestic use to the residents of the area by employing 10 water tankers a day, each having a capacity of 10,000 liters (Ten Thousand Liters). The said water supply shall uninterruptedly be ensured. The quality of the water to be supplied shall also be ensured and only properly and appropriately treated water shall be supplied.

12. We also hope and expect that the construction of underground tank and suction pumps shall be expedited.

13. The respondents, including the respondent no.6, shall file their affidavits-in-reply within six weeks. Two weeks' time thereafter shall be available to the petitioner to file rejoinder-affidavit, if any.

14. Stand over to **3rd July, 2024**.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)