



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO.155 OF 2011
WITH
CIVIL APPLICATION NO.36 OF 2019
WITH
CIVIL APPLICATION STAMP NO.826 OF 2018
WITH
CIVIL APPLICATION STAMP NO.1094 OF 2018
WITH
CIVIL APPLICATION STAMP NO.28641 OF 2018**

Suswarajya Foundation, Satara & Anr. ...Petitioners
Versus
The Collector, Satara & Anr. ...Respondents

**WITH
CONTEMPT PETITION NO.11 OF 2016
WITH
INTERIM APPLICATION NO.18076 OF 2022**

High Court on its own Motion ..Petitioner
Versus
Mr. Ashish Shelar & Ors. ..Respondents

**WITH
CONTEMPT PETITION NO.210 OF 2018**

Qaneez-E-Fatemah Sukhrani ..Petitioner
Versus
Saurabh Rao,
Municipal Commissioner & Ors. ..Respondents

**WITH
WRIT PETITION NO.13726 OF 2018**

Mr. Imtiyaz Mahiboob Bagwan ..Petitioner
Versus
The Chief Executive officer,
Karad Nagarparishad & Ors. ..Respondents

Dr. Uday P. Warunjikar a/w Mr. Sumit Kate a/w. Siddhesh A.
Pilankar & Mr. Dattaram R. Bile & Ms. Sonali R. Chavan for
Petitioner in PIL/155/2011.

Mr. Ravindra S. Pachundkar for Petitioner in CP/210/2018.

Mr. Manoj Shirsat a/w. Ms. Deepika N. Mule i/b. Mr. Manoj Kondekar in IA/18076/2022 for Intervenor.

Mr. Manoj Shirsat i/b. Ms. Pushpa Thapa in CAI/36/2019 for Intervenor.

Dr. Birendra B. Saraf, Advocate General with Ms. Neha S. Bhide GP a/w O.A.Chandurkar Addl.GP and Mrs. G.R.Raghuwanshi AGP for State of Maharashtra-Respondent No.1.

Ms. Shraddha Pawar i/b. Mr. Dilip Bodake for Resp. No. - 1 in WP/13726/2018.

Mr. Sarvesh Gawade a/w Ms. Krutika Joshi i/b. Mr. Sandip Ghogare for Respondent in CP/11/2016--

Ms. Vidhi Jain i/b. Prafulla Shah for Respondent No.2. (Satara Municipal Council)

Mr. Rohit Sakhadeo for Resp. No. - 3. (NMC).

Mr. Tejes Dande, for Respondent No.4.

Adv. T.J. Pandian a/w Mr. Gautan Modanwal & Noorjahan for Resp. No. - 5 in CP/210/2018.

Mr. Pramod G Kathane a/w. Ms. Muzayyana B. Shaikh a/w. Mr. Amol Ghurde for Resp. No. - 7(Amaravati Municipal Corporation) and Bhatkali Nagarpanchayat and Swaygao Nagarpanchayat.

Ms. Aditi S. Naikare a/w. Mr. Rushikesh S. Kekane i/b. Mr. Pradeep J. Thorat for Resp. No. 8 in PIL/155/2011 (Aurangabad Municipal Corporation)

Mr. Manish K. Vig a/w. Gaurav Ugale i/b Mr. Shriram Kulkarni for Resp. No.11 (Ahemadnagar Muncipal Corparation).

Mr. Rajat V. Dighe i/b. A.S.Rao for Respondent No. 11 (KDMC).

Adv. G. H. Keluskar for Resp. No. 15 and 16.

Mr. Abhijit Adgule for Resp. No. 18 (Kolhapur Municipal Corporation).

Mr. Akshay Bhalerao a/w. Mr. Shahid Ali Ansari for Respondent No.20 (Nanded Municipal corporation)

Mr. Shantanu Patil i/b. Ms.Pooja Joshi Deshpande for Resp. No.21(Ulhasnagar Municipal Corporation).

Ms. Stefy J Dias i/b. Mr. Umesh R. Mankapure for Respondent No. - 24.

Mr. Yuvraj Narvankar for Respondent No.25.

Ms. Kavisha Khanna for Respondent No.26.

Mr. Rajesh G. Singh Proposed of M/s Legal Laisons for Resp.No.27.

Mr. Jitendra Gaikwad, for Respondent No.32 (Jalgaon Municipal Corp.)

Mr. Vishwanath Patil a/w Mr. Kedar Nhavkar For Respondent (Solapur Municipal Corporation)

Mr. A.Y. Sakhare, Senior Advocate a/w Mr. R.Y. Sirsikar a/w. Mr. Om Suryanwanshi i/b. Komal Punjabi For the Respondent MCGM.

Mr. Anil Kate Supdt. of Licence(BMC) and Mr. Jaydeep More, Asstt. Commissioner "A" Ward.

Mr. Aditya Raktade a/w. Mr. Dnyanesh Patil, for Latur Municipal Corporation and Ichalkaranji and Satara Municipal Corporation.

Mr. Aniruddha Arun Garge for Respondent No. 69 - (Lonavala Municipal Corporation).

Mr. Hamid Mulla For (Mangalwedha Municipal Council, Dist. Solapur)

Mr. Shantanu Gurav i/b. Mr. Sarang S. Aradhye for Respondent.
(Pandharpur Municipal Council, Saswad Municipal Council,
Dhule Municipal Council, Jejuri Municipal Council, Panvel
Municipal Corporation)

Mr. Vinod Sangvikar for Ichalkaranji Municipal Corporation.

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

Mr. Abhijit P Kulkarni a/w Mr. Abhishek Roy with Mr. Gaurav
Shahane a/w. Shreyas Zarkar a/w. Krishna Jaybhay a/w. Ms.
Sweta Shah For PMC

Ms. Swati Sagvekar, for Vasai Virar City Municipal Corporation.

Mr. P.M. Patil a/w. Mr. P.B. Gole, for Cheif Executive Officer Roha
& Shreewardhan Municipal Council, District Raigad.

PSI Vishwanath Chavan, DCP Operation C.P. Office Mumbai.

**WITH
CONTEMPT PETITION NO.82 OF 2010
(ORDINARY ORIGINAL CIVIL JURISDICTION)
IN
PUBLIC INTEREST LITIGATION NO.37 OF 2010
WITH
NOTICE OF MOTION NO.269 OF 2018**

Society For Fast Justice & Ors. ..Petitioners

Versus

Brihanmumbai Municipal Corporation & Ors. ..Respondents

Mr. A.Y. Sakhare, Senior Advocate a/w. Ms. Oorja Dhond i/b.
Ms. Komal R. Punjabi, for Respondent Nos.1 & 2(B.M.C.)

Mr. Milind More, Addl.G.P. for Respondent Nos.3 to 5 (State)

**WITH
PUBLIC INTEREST LITIGATION (L) NO.26763 OF 2023
(ORDINARY ORIGINAL CIVIL JURISDICTION)**

Aniruddh Naraya Malpani ..Petitioner

Versus

The Municipal Corporation of Greater Mumbai ..Respondent

Ms. Mohini Priya (Through V.C.) for Petitioner

Ms. Oorja Dhond i/b. Ms. Komal R. Punjabi for Respondent
(B.M.C.)

Mr. Milind More, Addl. G.P. a/w. Mr. Manish Upadhye, AGP for
the State.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ &
AMIT BORKAR, J.**

DATE : 18th DECEMBER, 2024

P. C.

1. The Court is dealing with the allegations of non-compliance, deliberate defiance and contempt of the final judgement and order dated 31st January 2017 passed by the Court in a bunch of petitions, leading petition being PIL/155/2011.

2. After the contempt petitions were filed, the Court, having regard to the nature of compliances which are required to be made by the authorities including the authorities of the Municipal Corporations, Municipal Councils, the district administrations, the police administration and the different concerned departments of the State Government, again reiterated and issued directions for effective compliance of the said judgement dated 31st January 2017. However, there is consensus at the Bar that the directions issued by the Court in

its judgement dated 31st January 2017 have not been complied with; rather such directions have been continuously allowed to be flouted.

3. The subject matter of the judgement dated 31st January 2017 is the illegal and unauthorized hoardings, banners, flags, flexes, posters etc. which are a common sight on the streets of entire Maharashtra. Such erection of such illegal and unauthorized hoardings, banners, flags, flexes, posters etc. is not confined to the Mumbai city.

4. Yesterday, certain photographs were tendered to the Court which were also furnished to the learned counsel representing the BMC as also to the learned Additional Government Pleader which depict clear violation of the orders of the Court as the photographs show illegal and unauthorized hoardings, banners, flags, flexes, posters etc. large in number on the streets of Mumbai.

5. Today again, a bunch of photographs has been submitted at the Bar, a copy of the same has been furnished to Mr.Sakhare, learned senior advocate representing the BMC and to the learned Advocate General as well. These photographs are testimony to the complete apathy and indifference on the part of the authorities who are not only statutorily mandated to check the menace of illegal and unauthorized hoardings, banners, flags, flexes, posters etc., but are also under the mandate of this Court in terms of the directions contained in the judgement dated 31st January 2017 and several other orders passed thereafter in these contempt proceedings.

6. On our request, learned Advocate General has appeared and stated that measures are being taken by the authorities

including the State authorities, however, we find that whatever measures have been taken for ensuring compliance of the Court's orders as also the statutory mandate, are not only insufficient and inadequate, but lack the necessary resolve on the part of the authorities concerned to check the menace of illegal and unauthorized hoardings, banners, flags, flexes, posters etc.

7. It is needless to observe again that illegal and unauthorized hoardings, banners, flags, flexes, posters etc. have potential to cause environmental hazardous and damage. It also create a situation which is dangerous for the pedestrians and other commuters on the roads and streets.

8. In one of our earlier orders we had cautioned the political parties who have already filed undertakings to this Court to refrain from putting illegal and unauthorized hoardings, banners, flags, flexes, posters etc., however, despite such undertakings tendered before the Court, the number of illegal and unauthorized hoardings, banners, flags, flexes, posters etc. coming up almost on daily basis on the roads and streets in the State of Maharashtra has not gone down; rather it appears that the said number has been increasing in geometric progression. Despite repeated concerns expressed by the Court, the authorities appear to be unmindful of the directions issued by the Court, as a result of which, the menace of the illegal and unauthorized hoardings, banners, flags, flexes, posters etc., which many a times are comprised of non-biodegradable substances, remains unchecked.

9. Though the learned Advocate General has stated that primary role in ensuring that illegal and unauthorized

hoardings, banners, flags, flexes, posters etc. do not come up on the streets and the roads is that of the municipal bodies, however, considering the enormity of the problem and considering the fact that the problem is State-wide, the State Government, in our opinion, is not bereft of adequate powers to compel the authorities including the municipal authorities to ensure compliance of the orders of the Court so that some check on illegal and unauthorized hoardings, banners, flags, flexes, posters etc. may be applied.

10. At this juncture, learned Advocate General has assured that he shall accordingly advise different departments of the State Government so that some more effective and adequate steps are taken for ensuring compliance of the Court's orders.

11. Mr. Sakhare, learned senior advocate representing the BMC has stated that he has personally taken up the matter with the Municipal Commissioner who is determined to take more stringent and appropriate action in the matter.

12. Despite the aforesaid assurances given by the learned Advocate General and Mr. Sakhare and various other counsels representing the different other Municipal Corporations and Municipal Councils, the Court needs to be more assured of effective actions which are not only preventive, but also punitive in terms of the law applicable to such preventive measures.

13. Accordingly, we issue the following directions: -

- (a) All Municipal Corporations/Municipal Councils shall revisit their SoPs and policy decisions for implementing the directions issued by the Court vide its judgement and order dated 31st January 2017 within a period of two weeks from today.

- (b) The State Government in the Department of Urban Development shall convene a meeting of Municipal Commissioners of all the Municipal Corporations and the Chief Executive Officers of all the Municipal Councils of the State of Maharashtra and issue appropriate directions for ensuring various statutory compliances required to check illegal and unauthorized hoardings, banners, flags, flexes, posters etc. and for taking appropriate action therefor including the punitive action which may be permissible under law.
- (c) The Executive heads of the Municipal Corporations and the Municipal Councils shall also issue appropriate executive circular fixing the personal accountability and responsibility of the officers if any violation of the statutory provisions or the orders passed by this Court on 31st January 2017 and subsequent orders is noticed.
- (d) As already directed by the Court in its judgement dated 31st January 2017, the District Collectors of each district shall be responsible for enforcement of the provisions of the Maharashtra Prevention of Defacement of Property Act, 1995 and the Rules framed thereunder.
- (e) The District Collectors and the District heads of the police administration of the respective districts shall extend their fullest cooperation in relation to removal and prevention of erection of illegal and unauthorized hoardings, banners, flags, flexes, posters etc.
- (f) The Director General of Police of the State is directed to issue a circular forthwith directing the respective heads of the police administration in the districts to provide adequate police force to the Municipal authorities whenever the same is needed and demanded for ensuring compliances of the directions issued by the Court in its orders as mentioned above.

14. We, in our earlier orders, have already noticed the undertakings given by the political parties. It appears that these political parties have not come true to the undertaking given before the Court and accordingly, we issue notice to respondents 24 to 30 requiring them to show cause as to why appropriate action for defiance of the judgement of the Court dated 31st January 2017 may not be taken under the Contempt of Courts Act, 1971 and Article 215 of the Constitution of India.

15. If we find any deficiency in the measures to be taken and efforts to be made by the municipal authorities and the authorities of district and police administration in the State, we may be compelled to issue contempt notices to the executive heads of the Municipal Corporations/Municipal Councils and also to the District Collectors and District police heads on the next date of listing.

16. By the next date of listing, an affidavit shall be filed by all Municipal Corporations and Municipal Councils giving details of the steps which may be taken for ensuring compliance of this order. An affidavit shall also be filed on behalf of the Additional Chief Secretary/Principal Secretary, Department of Urban Development, which shall contain the steps taken at the end of the State Government for ensuring compliance of the order dated 31st January 2017 and all subsequent orders passed by the Court.

17. Stand over to **27th January 2025 (High on Board)**.

JAYANT
VISHWANATH
SALUNKE

Digitally signed
by JAYANT
VISHWANATH
SALUNKE
Date: 2024.12.19
19:23:56 +0530

[AMIT BORKAR, J.]

[CHIEF JUSTICE]