

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

PUBLIC INTEREST LITIGATION NO. 58 OF 2013

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Madan Anandrao Purekar
Age – 45 years, Occ. Kumbhar Work,
R/O. 1027 E, Shahupuri 9th Lane,
Dist. Kolhapur

... Petitioner

Versus

1. Kolhapur Municipal Corporation
Through its Commissioner,
KMC Building, 'C' Ward, Kolhapur

2. Medical Officer of Health,
Kolhapur Municipal Corporation,
KMC Building 'C' Ward, Kolhapur

3. State of Maharashtra
Through Principal Secretary,
Mantralaya, Mumbai

4. Maharashtra Pollution Control Board,
Kalpataru Point, Sion Circle,
Sion (East), Mumbai

... Respondents

.....
Mr. Rahul Walvekar a/w Kunal Nalawade for the for the Petitioner.

Mr. Sagar A. Mane a/w Rushikesh D. Jagdale for the Respondent Nos.1
and 2.

.....

Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.

Date : December 18, 2025.

ORAL JUDGMENT (M.S. Karnik, J.)

1. Heard learned counsel for the petitioner.
2. The PIL petition which was filed in the year 2013 seeks ,
following reliefs :-

"a. That Rule be kindly issued;

b. That record be kindly called for and after going through the same this Hon'ble Court by issuing writ of mandamus or order or direction in the nature of writ be kindly be pleased to direct the Respondents to take effective measures to collect the garbage from various places and to segregate the biodegradable and non-biodegradable solid waste at dumping site with immediate effect;

C. That record be kindly called for and after going through the same this Hon'ble Court by issuing writ of mandamus or order or direction in the nature of writ be kindly be pleased to direct the Respondents No. 1 and 3 to appoint permanent Medical Officer at Health Department, Kolhapur Municipal Corporation;

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Amendment carried as per Hon'ble Courts Order dated 25th August 2014 R In para 12 after prayer clause (c) add para c-i & c-ii.

c-i. That this Hon'ble Court by issuing appropriate writ or direction and order in the nature of writ be pleased to quash and set aside the impugned sanction bearing No. BO/MSWA/B-331 dated 22/01/2014 granted by Respondent No. 4 in favour of Respondent No. 1;

c-ii. That this Hon'ble Court be please to restrain the Respondent NO. 1, its agents, servants and representatives by an order of permanent injunction from using the Takala as Scientific Sanitary Landfill site and from dumping the solid wastes any form at Takala site;

d. That pending the hearing and final disposal of the present petition direct the Respondent No.4 to conduct the survey of solid waste and discharge of sewage in the river Panchganga and inspect the water treatment plant installed and submit the fact finding report of the same to this Hon'ble Court;"

3. Some of the reliefs were amended during the pendency of this petition. It is the contention of the learned counsel for the petitioner that the authorization, which is granted by the Maharashtra Pollution Control Board (for short "MPCB"), dated 22nd January 2014, which is at page 33A is violative of Schedule III of the Municipal Solid Waste (Management and Handling) Rules 2000, which provide specifications of landfill sites. Clause 8 of the Schedule provides that landfill site shall be away from habitation clusters, forest areas, water bodies monuments, National Parks, Wetlands and places of important cultural, historical or religious interest. Learned counsel submitted that the present landfill site is right in the middle of habitation cluster. The landfill site is defined by the said rules, to mean the disposal of residual solid wastes on land in a facility designed with protective measures against pollution of ground water, surface water and air fugitive dust, wind-blown litter, bad odour, fire hazard, bird menace, pests or rodents, greenhouse gas emissions, slope instability and erosion. In the present case, the landfill site which is proposed and for which authorization has been granted by the MPCB is at Takala lake, near

Rajarampuri, Kolhapur. It is submitted by the learned counsel for the Corporation that the said site which is selected was originally a quarry. It is submitted that during rainy season water accumulates and at present there are patches of water. In this context, the stand of the Municipal Corporation would be relevant. The additional affidavit-in-reply filed is affirmed by Paritosh Ravindra Kankal, serving as the Deputy Commissioner of Municipal Corporation with the respondent No.1 – Municipal Corporation , the relevant portion reads thus :-

"2. I say that by the amendment in the petition, the Petitioner has challenged the order dated 22.1.2014 granted by the Respondent No. 4 permitting to set up and operate a Scientific Sanitary Landfill Site at Takala Lake, Near Rajarampuri, Kolhapur [herein after referred to as "Landfill Site" for the sake of brevity and convenience]. I say that in the light of the said permission granted by the Respondent No. 4, the Petitioner has prepared the detailed Draft Project Report [herein after referred to as "DPR" for the sake of brevity and convenience]. The said Project Report was submitted by the Company, namely, M/s. Fortress Infrastructure Advisory Services. I say that as per the said DPR of the Landfill Site, the Respondent No. 1 Municipal Corporation had floated tender to make necessary constructions and alternations in the said site and to make it usable for the said purpose.

*3. I say that as on today the Respondent No. 1 Corporation has made substantial changes in the said site by making constructions and alternations as required according to the said DPR. The Respondent No. 1 Corporation has spent approximately 4.32 Crores in making the said constructions. I say that the recent photographs of the said Landfill Site and the constructions made therein, a copy of which is hereto annexed and marked as **EXHIBIT-A**. At the outset, I say that the present site will be used for dumping of the inert material. The inert material which is a form of solid waste. I say that the inert material is basically a material which is left out and which cannot be recycled or decomposed. This is a material which mainly consists of road side*

sand dust and drainage waste which cannot be further recycled or decomposed. I say that using the said site for dumping of the inert material will not cause damage to the air, soil, water quality of the area surrounding to the said site. I say that the Respondent No. 1 Corporation will be using the said site in a Scientific/prescribed method to dump the said inert material. I say that by using the said site for dumping of the inert material there is no harm in any manner to the residents residing in the surrounding of the said site.

*4. I say that the said sanctioned site is duly examined by the experts and thereafter according to their recommendations, the constructions as mentioned above is carried out by the Respondent No. 1 Corporation. I say that at present, the work of constructing leachate collection pipe and the retaining wall is completed. The provision for collection of leachate is also made on the site. I say that the relevant extracts of the DPR which describes the manner in which the construction of retaining walls and layout of leachate collection pipe, a copy of which is hereto annexed and marked as **EXHIBIT - B**.*

*5. I say that the process of dumping the inert material is a complex process in which there will be several layers of the inert material, sand, gravel and the other waste which would be dumped in layers. I say that once the site is filled with the layers of the inert material and the other material it will be covered as per the DPR. The Respondent No. 1 Corporation has proposed to develop a garden after the fully covered. Hereto annexed and marked as **EXHIBIT - C** is the copy of the said DP Plan which has reserved for the said site as public park.*

6. I say that as on today the Respondent No. 1 Corporation has spent more than 4.5 Crores approximately for making the said site usable for dumping the inert material. I say that presently there is no other site available with the Municipal Corporation to dump the generated inert material. At present there is approximately 2500 Metric Tonnes of the inert material which is lying on the recycling site at Kasaba Bawada. I say that if the present site is used for dumping the inert material, the entire inert material 4500 Metric Tonnes will be Scientifically dumped in the present site, which would provide additional space for the Municipal Corporation at Kasaba Bawada recycling site.

7. I say that if the site at Takala is used for dumping the inert material it would approximately accommodate 4500 Metric Tonnes of the inert waste. I say that deducting the present quantity of the inert waste, the Respondent No. 1 Corporation would be able to use the said site to dump the inert material which would be produced in the next 2.5 to 3.00 years. Hence it is necessary for the Respondent No. 1 Corporation to immediately start use of the said site for the purpose of dumping of the inert material. I say that the Respondent No. 1 Corporation has proposed and planned to use the present site to dump only the inert material. The present site would not be used to dump any other waste which would damage the air, soil and water quality of the surrounding area. At the cost of repetition, it is submitted that the present site will be used only for dumping of the inert material.

8. I say that initially there was a system of placing big garbage containers around the corners for collection of garbage. I say that in the light of the Swachha Bharat Mission being introduced by the Central Government, the garbage containers placed in public areas are removed by the Respondent No. 1 Corporation. I say that at present there are no garbage containers placed in public in the Corporation limits of Kolhapur Municipal Corporation. I say that the photographs relied by the Petitioner at EXHIBIT-A are old photographs and at present there is a change in the garbage collection system. I say that the Respondent No. 1 Corporation is now collecting the garbage from the residential areas and commercial areas by providing door to door pick up policy. I say that at present there are 240 garbage pick-up vans which worked on double shifts to collect the garbages from the residential areas. The Respondent No. 1 Corporation is also having a separate collection system of the waste generated from the slaughter houses. There is also a separate collection system of medicinal /bio waste and there is a separate treatment plant for the said waste. I say that at present there are 03 Sewerage Treatment Plants [STPs] which are running around the clock to treat 106.00 MLD sewage water and improve the quality of the water which is left in the Panchganga River.

9. I say that the permission granted by the Respondent No. 4 to use the site of Takala Lake as a Landfill Site is validly granted and there is no illegality in the said permission. I say that considering the dire urgency and necessity of the Landfill Site for

dumping of the inert material, the Respondents are in urgent need of the present site at Takala. I say that there is no alternative site available with the Respondent No. 1 Corporation.

10. I say that it is important to take into consideration that the Respondent No. 1 Corporation has already spent an amount of Rs. 4.50 Crores in developing the said site and marginal amount of Rs. 150 Lakhs would be required to effectively utilize the said site as the landfill site. I say that if the said permission is not continued and if the Respondent No. 1 Corporation is not allowed to use the said site then the Respondent No. 1 Corporation will be suffering heavy monetary losses. In addition to it, the Respondent No. 1 Corporation will have to search for another site and spend /money out of the Public Exchequer to again the said site usable for dumping. I say that considering the above factual position and considering the fact that if the dumping site at Takala is permitted to be used as the Landfill Site for the inert material, there is no loss or damage caused to the people living around the Landfill Site. It is therefore, prayed that the Respondent No. 1 Corporation may be allowed to use the said dumping site strictly in the Scientific manner as provided by the norms of Swachha Bharat Mission and the other relevant provisions."

4. It would be pertinent to refer to paragraph No.1 of the order dated 20th June 2024 passed by this Court, which reads thus :-

"1. We have perused the detailed affidavit-in-reply dated 22nd April 2014 filed by Shri Suryakant S. Doke, the Regional Officer of the Maharashtra Pollution Control Board, Kolhapur. Very serious breaches of law on the part of the Kolhapur Municipal Corporation have been set out in the said affidavit-in-reply. Various non-compliances on the part of the Kolhapur Municipal Corporation have been pointed out in the said affidavit-in-reply. At this stage, there is no reason to doubt the correctness of the factual statements made in the said reply. If this is the state of affairs in the Municipal Corporation, even the State Government will have to examine whether the action under the various provisions of the Maharashtra Municipal Corporations Act, 1949 deserves to be initiated against the first Respondent Kolhapur Municipal Corporation."

5. It can thus be seen from the aforesaid affidavit that the site at Takala is to be used to dump inert material and it would approximately accommodate 4500 M.T. of the inert waste. It is further stated that the entire inert material will be scientifically dumped in the said site, which would provide additional space for the Municipal Corporation at Kasaba Bawada recycling site. The respondent No.1 – Municipal Corporation has proposed to develop a garden once the site is fully covered. The process of dumping the inert material is a complex process in which there are 7 layers of the inert material, sand, gravel and other waste which would be dumped. It is thus seen that a garden is to be developed ultimately which will benefit the residents.

6. Learned counsel for the MPCB has filed an affidavit-in-reply on their behalf. Learned counsel submitted that authorization dated 12th March 2024 has now been granted which is valid for the period upto 31st March 2028 to set up the said facility to operate the Scientific Sanitary Landfilling at Takala. In paragraph No.5, it is stated that the site was granted renewal of MSW Authorization at Takala and the present status of the site, as mentioned in the affidavit reads thus :-

"5. I say and submit that, the site was granted renewal of MSW Authorization at Takala Site Rajarampuri Kolhapur and present status of said site is as below..."

i. Board Office has granted Authorization under Solid Waste Management Rules 2016 obtained on 12.03.2024 valid till

31.12.2028 for 40.00 MT/ Day Scientific Sanitary Landfilling.

ii. The Municipal Corporation has not submitted Bank Guarantee of Rs. 25 Lakhs for the operation and maintenance of the sanitary landfill site as per the guidelines.

iii. As per Authorization granted by Board Office the KMC has not carried out Scientific Landfilling.

iv. The said site is not found in operation / use and not found any type of waste.

v. Presently, small shrubs/trees are found on the site. The internal road found only stone metals in scattered manner.”

7. The affidavit also refers to the status of the sites at Mouje Top, Tal. Hatkanagle and (Zoom Site) Kasba Bawada. Tal. Karvir, Dist. Kolhapur. It is further submitted that the MPCB has visited the sites from time to time and as per non-compliance observed, the Board official issued several notices to ensure the compliance of various provisions of the Water (Prevention & Control of Pollution) Act, 1974 and of the Air (Prevention and Control of Pollution) Act, 1981, Solid Waste Management Rule, 2016 and other provisions.

8. Learned counsel for the MPCB submitted that it is only after the MPCB is satisfied that the landfill site is compliant with the provisions of law, that the permission would be granted by the MPCB under the authorization to start the operations.

9. This petition was filed as far back as in the year 2013. There was no interim order passed by this Court restraining the respondent No.1

– Municipal Corporation from setting up of landfill site in accordance with the authorization. The concern mainly was that the landfill site should comply with the terms and conditions set out in the authorization and that same should be compliant with the statutory scheme. The construction of the landfill site, which is being proceeded with scientifically as per the affidavit filed by the Corporation, is on the quarry which is unused.

10. It is always open for the PIL petitioner to challenge the permission granted by the MPCB if the landfill site starts operating in violation of the provisions of law or if the same is not compliant with the terms and conditions of the authorization granted by the MPCB.

11. Considering the growing needs of the city and the lack of space, it may not be possible for us to restrain the Corporation from constructing the landfill site in accordance with authorization granted by the MPCB.

12. Hence, keeping the liberty open, the PIL Petition is disposed of.

[Ajit B. Kadethankar, J.]

[M. S. Karnik. J.]