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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.155 OF 2011

WITH
CONTEMPT PETITION NO.11 OF 2016 IN
PUBLIC INTEREST LITIGATION NO.155 OF 2011

High Court on its Own Motion	...Petitioners
vs.	
Ashish Shelar and others	...Respondents

WITH
PUBLIC INTEREST LITIGATION NO.25 OF 2013
WITH
PUBLIC INTEREST LITIGATION NO.45 OF 2009
WITH
PUBLIC INTEREST LITIGATION NO.77 OF 2014
WITH
PUBLIC INTEREST LITIGATION NO.78 OF 2008
WITH
PUBLIC INTEREST LITIGATION NO.136 OF 2009
WITH
PUBLIC INTEREST LITIGATION NO.249 OF 2014
WITH
WRIT PETITION NO.2628 OF 2015
WITH

ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO.37 OF 2010

PIL/155/2011

Mr.Siddhesh Pilankar i/b Mr.Uday Warunjikar for the petitioner

Ms M.P.Thakur, AGP for the respondent No.1

Mr.Mahesh Rawool i/b Mr.P.B.Shah for respondent No.2

Mr.Vaibhav Patankar for respondent No.3

Mr.N.R.Bubna for the respondent Nos.9 and 17

Mr.Shriram S. Kulkarni for respondent no.11

Mr.G.H.Keluskar for respondent No.16

MR.J.H.Oak i/b Mr.A.A.Garge for respondent Nos.4 and 69

Mr.A.P.Kulkarni for respondent Nos.6 and 8

Mr.Anil Yadav for respondent No.27
Mr.Samir Kumbhakoni for respondent No.13
Mr.Vishesh Kalra i/b Vidhi Partners for the
respondent No.31
Mr.Ranjeet Pawar for respondent Nos.10 and 16
Mr.A.Y.Sakhare, Senior Advocate a/w Ms Trupti
Puranik for respondent No.5
Mr.Pramod Kathane for respondent No.7
Mr.V.P.Sawant a/w Mr.P.M.Jadhav, Ms Tanaya Patankar,
V. Kakade, Nikhil Patil i/b Prabhakar Jadhav for
Shivsena party

WRIT PETITION NO.2628/2016

Mr.Prashant Jadhav i/b Aparna Bhosale for the
petitioner

PIL/25/2013

None for the petitioner
Mr.Rakesh L. Singh i/b M.V.Kini & Co. for respondent
No.2

PIL/45/2009

None for the petitioner
Ms M.P.Thakur, AGP for respondent Nos.1,3 and 4
Mr.N.R.Bubna for respondent No.2

PIL/77/2014

Ms Sachitta Sridhar i/b S. Mahomedbhai & Co. for the
petitioner
Ms M.P.Thakur, AGP for respondent Nos.1,5 and 7
Mr.Vaibhav Patankar for respondent Nos.2 and 3

PIL/78/2008

None for the petitioner
Ms M.P.Thakur, AGP for respondent Nos.1,2 and 9
Mr.M.S.Bhardwaj and Ms S.V.Bharucha for UOI

PIL/136/2009

None for the petitioner
Mr.N.R.Bubna for the respondent No.1
Ms M.P.Thakur, AGP for respondent No.2

PIL/249/2014

Mr.Ravindra S. Panchudkar for the petitioner
Mr.Abhijit Kulkarni for respondent No.1

OSPIL 37 OF 2010

None for the petitioner
Mr.A.Y.Sakhare, Senior Counsel and Mr.J.Reis, Senior Counsel a/w Ms Trupti Puranik for respondent Nos.1 and 2
Ms Geeta Shastri, Addl.G.P. For respondent Nos.3 to 5
Mr.Sayaji Nangre for respondent Nos.10 and 16
Mr.Amarendra Mishra for respondent No.11
Mr.Rajesh Singh i/b Legal Liaisons for respondent No.12
Mr.Santosh Wagh i/b B.K.Barve and Co. for respondent No.30
Mr.V.P.Sawant and Mr.Prabhakar Jadhav, Ms Tanaya Patankar, Mr.Veerdhawal Kakade and Mr.Nikhil Patil for Shivsena.

CORAM : A.S.OKA, &
R.D.DHANUKA, JJ.
DATE : MARCH 4, 2016

P.C.:

1 These Public Interest Litigations raising the issue of illegal display of hoardings, banners, arches etc have been admitted and interim directions have been issued from time to time running into more than 150 pages. All the Municipal Corporations have made substantial compliance with the directions issued by this Court of setting up Grievance Redressal Mechanism. A provision has been made for receiving complaints including anonymous complaints about illegal hoardings. The complaints can be made by various modes such as by calling on toll free

number, by sending SMS or by sending e-mail etc. As certain Municipal Corporations did not make full compliance with the interim directions issued by this Court, contempt notices have been issued to the respective Municipal Commissioners which are pending for hearing. If the orders passed by this Court from time to time are perused, it can be reasonably said that most of the Municipal Corporations in the State have created a machinery to at least receive complaints regarding the illegal hoardings.

2 The orders passed by this Court and compilation of photographs and affidavits placed on record clearly show that all major violations are by the workers of the political parties during the Ganpati, Navratri and other religious festivals. There are breaches committed not only by the political workers but also by the organizations who conduct or organize the religious functions. The political parties are committing breaches on other occasions as well. After having perused the entire record, prima facie, it can be said that the majority of the illegal hoardings/flexs/arches etc are being erected by the workers/leaders of the political parties. The same is being done on various occasions. Even there were illegal hoardings erected on "Marathi Bhasha Din". Many of the political parties have given undertakings to this Court assuring the Court not to indulge in display of illegal hoardings/ banners. Notwithstanding the undertakings, practically every day, the workers of the political parties are

displaying banners, hoardings etc. They are displaying photographs of their political/national leaders on such illegal hoardings. Therefore, contempt notices were issued to the political workers/leaders. In most of the contempt notices, the contemnors voluntarily paid substantial amounts by way of donation for charitable work and tendered apology. Therefore, the contempt notices issued against some of them were discharged . Even thereafter, large number of instances have been brought to the notice of this Court of display of illegal hoardings/ banners by political workers.

3 Before we proceed to deal with those cases, we must record here that the learned counsel for the political party Shiv Sena has stated that the party has created a facility of toll free number. He stated that on the said toll free number, the complaints can be made as regards illegal hoardings/banners etc displayed by the workers of the said political party. It is stated that on any working day between 11.00 a.m. To 5.00 p.m., on toll free number 1800 228 595, Shri Pradhan can be contacted who will receive the complaints. He assures the Court that as soon as the complaints are received, the same will be looked into and action will be taken. We must note here that this welcome step has been taken by at least one political party. It will be ideal if arrangements are made for receiving complaints on the said toll free number even on Sundays and public holidays as even on many public holidays, illegal display of hoardings is

made. In fact, it will be ideal if all the political parties which are before the Court follow the said example and provide for their own Grievance Redressal Mechanism in the area of each Municipal Corporation. Arrangements can be made for receiving complaints about the illegal hoardings not only on toll free number but also by other modes in terms of the directions issued by this Court against the Mumbai Municipal Corporation and other Authorities.

4 We direct all the political parties who are parties to the petition to respond to this suggestion by filing affidavits. If political parties have already created such mechanism, the details of the same shall be incorporated in the affidavits. The affidavits shall be filed within a period of one month from today.

5 Needless to add that all political parties including Shiv Sena will have to give adequate publicity to the availability of toll free numbers. We may add that the Court Commissioners who are appointed by this Court can also lodge complaints on the toll free number which is already provided as above by Shiv Sena and on toll free numbers which may be made available by the other parties as well.

6 In one of the earlier orders, this Court has made a reference to an incident which took place in the city of Mumbai. The workers of a political party not only interfered with the discharge of duty by the Officers of the Mumbai Municipal Corporation but

even assaulted the Municipal Officers. Today, the learned Additional Government Pleader has tendered across the bar a report dated 4th March 2016 submitted by the Officer in charge of Deonar Police Station. The said report records that on the basis of the CCTV footage, Ravi Gaikwad, Raju Shetty, Babu and Suleman were identified but they have not been arrested as yet. It is stated that investigation is in progress and charge sheet will be soon filed.

7 Prima facie, the said persons viz. Ravi Gaikwad, Raju Shetty, Babu and Suleman who are the workers of the political party- The Republican Party of India have not only committed breach of the order passed by this Court but they have obstructed the Municipal Officers in performing the statutory duty. They have prevented the Municipal Officers from implementing the interim directions issued by this Court. Therefore, a notice be issued to the said persons returnable on 27th April 2016 calling upon them to show cause as to why action under Contempt of Courts Act, 1971 both for civil and criminal contempt should not be initiated against them. The Registry to forward the notices to the Senior Inspector of Police, Deonar Police Station for effecting service. Within a period of one month from today, the Officer in charge of Deonar Police Station shall file a report in this Court setting out the progress made in the investigation and names of all other accused so that notices can be issued against them as well.

8 The Additional Government Pleader has tendered across the bar a report dated 4th March 2016 submitted by the Senior Inspector of Police of Trombay Police station. It is reported that the workers of Republican Party of India (A) obstructed the Municipal Officers while they were attempting to remove the illegal hoardings. The report records that the concerned Municipal Officer was reluctant to record the complaint. It is stated that action of removal of illegal hoardings was sought to be taken without police help.

9 The learned Additional Government Pleader has also tendered on record a letter dated 16th December 2015. The said letter is addressed by the Deputy Commissioner of Police to the Additional Commissioner of Police, Naigaon. There is a report submitted dated 4th March 2016 addressed to the said Deputy Commissioner of Police. The Additional Government Pleader submits that in terms of the order passed by this Court on 26th November 2015, two armed Constables will be provided for the each team of the Officers of the Mumbai Municipal Corporation in terms of directions issued by this Court. The letter records that the Additional Commissioner of Police, Mumbai has addressed a letter dated 17th December 2015 to the Municipal Commissioner of Mumbai Municipal Corporation to appoint an Officer to co-ordinate with the Officer. We direct the Deputy Commissioner of Police to provide a copy of the said letter to the learned counsel for the Mumbai Municipal Corporation. The Commissioner of

the Mumbai Municipal Corporation shall take appropriate action on the basis of the same within a period of one month from today.

10 The learned senior counsel for the Mumbai Municipal Corporation has tendered across the bar a report dated 4th March 2016 submitted by the Senior Inspector (Licence) G/South Ward. The report records that for unauthorised banners, on 3rd March 2016 a letter was sent to the N.M.Joshi Marg Police Station for lodging the FIR. It records that the Officer on duty in N.M.Joshi Marg police station is insisting on the Municipal Officers producing panchnama recording removal of each and every banner by the Mumbai Municipal Corporation. It records that this is not feasible for the staff removing unathorised banners/hoardings to record panchanama. It is stated that the Municipal Officers shall take photographs before the removal of illegal hoardings/banners etc.

11 We direct the Commissioner of Police, Mumbai to look into this aspect. He is directed to evolve a mechanism to deal with the complaints which may be made by the Mumbai Municipal Corporation about the illegal hoardings, banners etc. After evolving a mechanism, necessary communication shall be issued to the Municipal Commissioner. Needless to state that the police cannot expect the Municipal Officers to record panchnama at the time of removal of every hoarding/banner etc.

12 The learned counsel for the Pune Municipal Corporation has tendered across the bar a report dated 20th February 2016 submitted by the Assistant Commissioner of Yerwada to the Deputy Commissioner of the Pune Municipal Corporation. It records that on 18th February 2016, action was taken against the illegal banners/flexes etc. For the purpose of registration of an offence, the Municipal Officers visited the Yerwada Police Station On 18th February 2016 at 5.30 pm. It is stated that as the concerned Police Officer had gone elsewhere, the Officers were made to wait till 8.30 pm. Instead of registering a complaint, the Assistant Inspector of Police handed over a letter addressed to the Assistant Commissioner of Pune Municipal Commissioner recording various requirements for registering a complaint. The letter incorporates a requirement of recording panchnama. The letter provides that the Municipal Officer should point out the name and address of the person displaying the illegal hoardings/banners. It also records that the Municipal Officer who was present at the time of removing the hoardings should attend the police station. It also records that the removed flexes/banners/hoardings shall be brought to the police station. We must note that if this is the approach of the police, criminal law can never be set in motion at the instance of the Municipal Officers against the persons who indulge in display of illegal hoardings. Finding out the names and addresses of the person displaying the illegal hoardings/banners is a part of investigation. Even

recording of panchnama is also a part of investigation. We direct the Commissioner of Police, Pune to look into these aspects. The Commissioner of Police, Pune is directed to evolve a mechanism for dealing with such complaints. This exercise shall be completed within a period of one month from today. Needless to state that immediate instructions shall be issued to the police stations to ensure that when the Municipal Officers in their Official capacity visit the police station, they should not be made to wait for a long time.

13 Writ Petition No.2628 of 2016 has been filed by an Advertising Agency. The case made out in the petition is that the Municipal Corporation of city of Thane has given to the petitioner under the agreement dated 10th June 2013 the sole right of displaying the advertisements on certain bus stops. Yesterday, he tendered a compilation of documents on record showing that on several bus stops which are subject matter of the agreement, political parties/political leaders have displayed illegal hoardings or banners. It is pointed out that the Municipal Officers are not taking cognizance of the complaints made by the petitioner.

14 This Court has already held that action of displaying illegal hoardings/flexes etc without obtaining permission is not only illegal but it amounts to offence under the Maharashtra Prevention of Defacement of Property Act, 1955 (for short "The Defacement Act"). Therefore, apart from what is

provided in the contract, it is the duty and responsibility of the Municipal Officers to ensure that action is taken in respect of the said hoardings/banners as well.

15 Yesterday, photographs showing erection of illegal hoardings were tendered across the bar. The hoardings are at Pune and Mumbai by the political workers. A list of the persons who have indulged in displaying illegal hoardings is taken on record and marked 'E-1' for identification. We, accordingly, direct that show cause notice be issued to Shri Sanket Dilip Chandawadkar, Maruti Dalvi and Sandeep Deshpande at the addresses mentioned in the document at 'E-1' calling upon them to show cause as to why action for committing civil as well as criminal contempt should not be initiated against them. Notice is made returnable on 27th April 2016.

16 The learned counsel for the petitioner in Writ Petition No.155 of 2011 has tendered across the bar photographs which are taken on record and marked 'E-2' for identification. The photographs show that one Mr.Balbhim Baburao Rajguru and Shri Shankarrao Rambhau Mozhe displayed the illegal hoardings near Hanuman Mandir, Yerwada, Pune displaying the photographs of the Guardian Minister of Pune and a local MLA. We, accordingly, issue notice to the said Balbhim Baburao Rajguru, Shankarrao Rambhau Mozhe at Hanuman Mandir, Yerwada, Pune calling upon them to show cause as why action for committing civil as well as criminal contempt should not be initiated

against them. Notices are made returnable on 27th April 2016. Notices be forwarded by the Registry to the Offices of the concerned Commissioners of Police for effecting service.

17 Yesterday, the learned counsel for the petitioner in PIL 155/2011 had tendered a compilation of photographs showing several illegal hoardings. After particulars of the names and addresses of the wrongdoers are furnished, the Court may consider of issuing Contempt Notices to the persons who have indulged in illegality.

18 Apart from other directions, we make it clear that in case of political workers and leaders of those parties which have given undertakings to this Court, a strong action will have to be taken in the event they indulge in committing breaches of the orders passed by this Court.

19 We are conscious of the fact that the Municipal Officers will find it difficult to ensure that police complaints are registered against the political workers/leaders. Therefore, the State Government either through Home Ministry or the Director General of Police will have to issue directions to all police stations across the State directing the police stations to ensure that a prompt action is taken on the basis of the complaints made by the Municipal Officers. Needless to state that the Police Officers will keep in mind that the Municipal Officers are discharging their

statutory obligation and that they are taking steps for implementation of the interim directions issued by this Court.

20 The contempt notices issued earlier and the contempt notice directed to be issued under this order will be heard on 27th April 2016.

21 At this stage, the learned counsel for the Pune Municipal Corporation has tendered across the bar a photo copy of the complaint which is taken on record and marked 'E-3' for identification. The said complaint is made by the Assistant Commissioner of the Pune Municipal Corporation, Tilak Road to the Senior Inspector of Police, Sinhgad Road, Pune for lodging prosecution against the seven persons both under the Defacement Act or the Maharashtra Municipal Corporations Act, 1949. If offence is not yet registered, on production of an authenticated copy of this order, the Officer in charge of the Sinhgad Police Station shall do the same.

22 We direct the office of the Government Pleader to supply copies of this order as well as all relevant interim orders passed by this Court from time to time to the Director General of Police, State of Maharashtra, to the the Commissioner of Police, Mumbai and the Commissioners of Police, Pune and Thane.