

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

WRIT PETITION NO.2269 OF 2015

Bihari Front through its President
Sanjay Nirupam

Petitioner

versus

The Collector, Mumbai Suburban District
and others

Respondents

Mr.A.A.Garge with Mr.Kashyap Bhalerao for Petitioner.
Ms.Geeta Shastri, Additional Govt.Pleader for Respondents 1 and 4.
Ms.Surekha Sonawane for Respondent nos.2 and 3.

CORAM : S.C.DHARMADHIKARI AND
B.P.COLABAWALLA, JJ.

DATE : 23 October 2015

PC :

1. This petition under Article 226 of the Constitution of India is filed by an organization styled as "Bihari Front" through its president Mr.Sanjay Nirupam.

2. The Petitioner seeks a writ of Mandamus or any other writ, order or direction in the nature of Writ against Respondent no.1 to grant permission for performing Chath Puja behind Pramgroh Hotel, Juhu Chowpati, Santacruz (West), Mumbai-400

054 at least one month before the actual festival of Chath Puja by making necessary modifications in the order dated 19 October 2006 passed by this Court in Writ Petition No.2731 of 2006 and permit the Petitioner to erect one platform of reasonable size (more than 10 feet x 15 feet having height of 4 feet) for performance of the rituals required for Chhat Puja. Second prayer sought is also against Respondent no.1 Collector, Mumbai Suburban District directing him not to impose the conditions mentioned at serial number 7 regarding dry zone and serial number 8 regarding invitation to the celebrity in the letter dated 27 October 2014.

3. After hearing Mr.Garge at great length and perusing with his assistance the petition and the annexures thereto, so also the affidavit-in-reply of Ms.Shradha Chavan, Niab Tahsildar (Land) working in the office of Collector, Mumbai Suburban District, filed on behalf of Respondent no.1 Collector and the State of Maharashtra, so also the additional affidavit of Mr.Sanjay Nirupam filed on the earlier occasion on 1 October 2015 and on 20 October 2015, we are of the opinion that the Petitioner cannot insist on a permission being granted absolutely or unconditionally. It cannot insist only on imposition of such conditions as the Petitioner or the President of the front deems fit or reasonable. The application seeking permission is dated 9 October 2015, which stood received by the Respondent no.1 on 12 October 2015, and the Collector, Mumbai Suburban District has yet not disposed off the said application. In such circumstances, the petition is essentially premature. We do not find that the Petitioner's request

that it should be granted permission by relaxing the order passed by this Court, should be considered at this stage. The Collector will have to take into consideration all such provisions of law including the orders passed by this Court from time to time while considering the application. The Collector shall endeavour to consider the application of the Petitioners in accordance with law and shall communicate his decision to the Petitioners as expeditiously as possible and on or before 5 November 2015.

4. In the event the President of Petitioner no.1 desires to attend the office of the Collector and to apprise him of the facilities and services which the Petitioner intends to offer at the site, the Petitioners are free to point out the same to the Collector. However, the Collector, Mumbai Suburban District shall decide the application strictly in accordance with law including the order that has been passed by this Court in Writ Petition (L) No.3021 of 2015 today.

5. The petition is disposed of with no order as to costs.

(S.C.DHARMADHIKARI, J.)

(B.P.COLABAWALLA, J.)