

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION (L) NO. 93 OF 2016

Mr. Rais Kasam Shaikh .. Petitioner
versus
Municipal Corporation of Greater
Mumbai & Anr. .. Respondents

Mr. Naryan Sahu i/b. Mr. Santosh Pawar for Petitioner.
Mr. S. S. Pakale with Ms. Trupti Puranik for Corporation.
Mr. M. A. Sayyed – AGP for Respondents – State.

CORAM: DR. MANJULA CHELLUR, C. J. AND
M. S. SONAK, J.
DATE : 30 SEPTEMBER 2016

P.C.:

1] The petitioner has approached this court seeking the following reliefs as claimed in the writ petition:

“(a) that the Hon'ble Court be pleased to issue a writ in nature of certiorari or any other appropriate orders / directions under Article 226 of the Constitution of India and call for the records and proceeding of the Respondent No. 1 in connection with the impugned resolution dated 23rd August 2016 and the impugned letter dated 26th July 2016 at Exhibit “B” hereof, and after examining the legality and validity of the impugned resolution and impugned letter be pleased to quash and set aside the same;

(b) that the Hon'ble Court be pleased to issue a writ in the nature of mandamus or any other appropriate orders / directions under Article 226 of the Constitution of India and declare the impugned resolution dated 23rd August 2016 and the impugned order dated 26th July 2016 at Exhibit “B” hereof, are illegal and unconstitutional and be pleased to quash and set aside the same;

(c) that pending hearing and final disposal of the present petition this Hon'ble Court be pleased to pass an order directing the Respondents not to act upon and/or take any steps and/or in any manner implement the impugned resolution dated 23rd August 2016;

(d) for interim and ad-interim reliefs in terms of prayers (c) above;

(e) for costs; and

(f) for such other and further reliefs as the nature and circumstances of the case may require as this Hon'ble Court deem fit and proper."

2] The alleged exercise of power by the respondent authorities seems to be under Section 53 of the Mumbai Municipal Corporation Act having regard to power of the State Government to suspend or rescind any resolution or order of the corporation or any other authority under this Act envisaged under Section 520B, we are of the opinion that before we exercise judicial review in a public interest litigation, the party must exhaust the remedial provisions under the Act as indicated under Section 520B.

3] Once representation is made having regard to the nature of *lis* raised in the writ petition, we direct the respondents – State Government to dispose of the matter within two months from the date of receipt of representation along with the copy of this order.

4] Petition is disposed of accordingly.

CHIEF JUSTICE

(M. S. SONAK, J.)