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

WRIT PETITION NO. 2448 OF 2007
WITH
NOTICE OF MOTION (L) NO. 775 OF 2015

ICICI Bank Limited & Anr. .. Petitioners
vs.
The Municipal Corporation of
Greater Mumbai & Ors. .. Respondents

Mr. Sachin Chandarana with Mr. Vijayendra Purohit i/b. M/s. Manilal Kher & Ambalal & Co. for Petitioners.
Mr. R. S. Apte – Senior Advocate with Ms K. H. Mastakar for Respondents – MCGM.

CORAM : M. S. SONAK, J.

Date of Reserving the Judgment : 27 January 2016
Date of Pronouncing the Judgment : 22 March 2016

JUDGMENT :-

1] The challenge in this petition is to the notices (Exhibits A-1 to A-7) and the order dated 24 October 2007 (Exhibit I) requiring the petitioners to obtain permission and pay fees for the purposes of displaying illuminated signboards upon the petitioners bank premises, ATM centres, extension counters. The petitioners basically contend that such display does not constitute *'advertisement'* for the purposes of section 328-A of the Mumbai Municipal Corporation Act, 1888 (said Act) and therefore, the insistence on the part of the municipal authorities (respondents) to even regulate the same, is *ultra vires.*

2] The petitioners had initially instituted writ petition no. 2377 of 2002 when when confronted with the notices issued by the respondents in the purported exercise of powers conferred by sections 328 and 328-A of the said Act. This court, by judgment and order dated 8 October 2002, mainly relying upon the decision of the Hon'ble Supreme Court of India in the case of ***Municipal Corporation of Greater Mumbai vs. Bharat Petroleum Corporation Ltd***.[1], had dismissed the said petition. The petitioners, thereupon instituted civil appeal no. 4678 of 2005, which was since disposed of by the judgment and order dated 4 August 2005. This judgment and order is reported as ***ICICI Bank & Anr. vs. Municipal Corporation of Greater Bombay & Ors***.[2].

3] In the aforesaid civil appeal, the Hon'ble Supreme Court upon concluding that the notices / notices of demand cannot be said to have been issued under section 328 of the said Act, directed the respondents to reexamine the issue on the basis that the notices be deemed to have been issued under section 328-A of the said Act. In paragraphs 20 and 21 the Hon'ble Supreme Court has observed thus:

> *"20. From the aforesaid analysis, in all fact situation and circumstances, at the outset it cannot be said that the sign boards indicating ATM centers cannot have commercial*

1 2002 (4) SCC 219
2 (2005) 6 SCC 404

interest but would only tell about the location of the ATM centers to the existing account holders only. Whether signboard of an ATM Centre tantamounts to be an advertisement or not would depend upon the facts of each case, depending on the number of ATM centers established by a particular bank in a particular locality or place or even city, to have the flavour of commercial or business interest of the service provider. In the present case no exercise was undertaken by the municipal authorities or the Bombay High Court before the High Court had reached to the conclusion that the sign boards of the ATM center put up by the ICICI bank at different locations would be an advertisement within the meaning of Section 328A of the Corporation Act. In fact the notices issued by the corporation to the appellant are under Sections 328, 328-A of the Corporation Act. The reach, ambit and scope of these sections are quite different and they operate in different fields. They do not completely overlap. In the circumstances, it was appropriate for the Corporation to issue notices to the appellant either under Section 328 or under Section 328-A of the Corporation Act and notice should not have been issued under both Sections for the same sign board. The Bombay Municipal Corporation Authorities seem to be in a state of doubt and hence the notices clearly do not specify under which section they propose to take action. As we have made it clear that in the present case the sign boards of ATM centers, which are not sky signs, are not covered under the provisions of Section 328 of the Corporation Act, the notices issued shall be deemed to have been issued under Section 328-A of the Corporation Act and the Corporation shall decide the question of advertisement under Section 328-A of the Act after indicating the bank a fresh date of *hearing.*

21. For the reasons stated above the appeal is allowed and judgment and order of the High Court is set aside. Fresh steps can be taken in the light of the observations in this judgment. In the circumstances of the case we do not impose any cost and the parties shall bear their own costs.”

4] In pursuance of the aforesaid, and upon afford of opportunity to the petitioners to submit their say, the respondents, by their impugned order dated 24 October 2007 (Exhibit I) have concluded that the illuminated signboards put up by the petitioners upon their bank premises, ATM centres and extension counters amount to *'advertisement'* for the purposes of section 328-A of the said Act. Aggrieved by such determination, the petitioners have instituted the present petition.

5] Mr. Sachin Chandarana, the learned counsel for the petitioners has submitted that the impugned order is in breach of the specific directions issued by the Hon'ble Supreme Court in the civil appeal instituted by the petitioners, in as much as the respondents have neither undertaken the exercise as directed nor have they examined the factual aspects in the proper perspective. Mr. Chandarana submitted that mere display of name upon the signboard is never regarded as advertisement as per the provisions contained under the said Act. However, if such signboard is illuminated, the respondents treat the same as an '*advertisement*'.

This according to Mr. Chandarana, is clearly an absurd and illogical.

6] Mr. Chandarana further submitted that the sole purpose for display of illuminated signboard or name boards is to assist the customers in determining the location of the bank premises, ATM centres or extension counters, even after day light hours. He submitted that such illuminated display, particularly upon ATM centres, assists, not merely the customers of the petitioners bank but also ATM card holders of other banks. For this purpose, he relied the RBI guidelines which expressly permit use of ATM centres of banks *inter se* between their respective customers. Mr. Chandarana submitted that these aspects have been ignored by the respondents in making the impugned order.

7] Mr. Chandarana finally submitted that the operative portion of the impugned order which purports to bring within the regulatory net of the respondents even illuminated signboards or name boards upon bank premises, ATM centres and extension counters, which were not specifically referred to or included in the impugned notices / notices of demand is clearly *ultra vires* and violates the principles of natural justice and fair play. Mr. Chandarana submitted that since the Hon'ble Supreme Court had directed that each case should be considered upon its own facts, the petitioners were entitled to specific notice, so that the petitioners could place appropriate material to satisfy the respondents that such illuminated display does not constitute *'advertisement'* for the purposes of section 328-A of the said Act.

8] Mr. R. S. Apte, the learned Senior Advocate for the respondents has relied upon a dictionary meanings of the term *'advertisement'* as also certain observations made by the Hon'ble Supreme Court whilst disposing of the civil appeal instituted by the petitioners. Mr. Apte has submitted that the respondents have undertaken the exercise as directed by the Hon'ble Supreme Court and on the basis of the material so collected, have made the impugned order. Prior thereto, full opportunity of hearing/ submission of say was afforded to the petitioners and the petitioners, have availed of the same in ample measure. Mr. Apte submitted that the respondents have applied the correct tests, adverted to the correct parameters and the decision made, was after due compliance with the principles of natural justice and fair play. For all these reasons, Mr. Apte submitted that there is no case made out by the petitioners warranting judicial review.

9] Finally, Mr. Apte submitted that since the material collected pertains to display of illuminated signboard / name boards by the petitioners throughout the jurisdiction of the MCGM, directions have been issued with regard to such illuminated signboards / name boards, even though the same may not have been specifically referred to in the impugned notices. The petitioners have submitted their say in the context of such material as well, without any demur. Mr. Apte submitted that in fact, there is not even a ground raised in the petition, in the context of such inclusion in the impugned order. In the absence of demonstration of any prejudice whatsoever, the petitioners cannot be permitted to raise hyper technical pleas, in the matter of this nature.

10] Rival contentions now fall for determination.

11] There is no merit in the petitioners challenge to the classification of signboard or name boards on the basis whether they are illuminated or not, particularly since the provisions contained in section 328-A of the said Act, which clearly bring about this distinction, have not been challenged. Besides, in the case of *ICICI Bank* (supra) the Hon'ble Apex Court has held that section 328-A of the said Act prohibits without prior permission of the Commissioner, erection, exhibition of advertisement. The advertiser need not ask for permission if the advertisement is not illuminated or is not a sky sign, provided it is exhibited in the window of any building, or relates to trade or business carried on within that land or building or when it relates to sale or letting of that property or in reference to any sale, entertainment or meeting organised therein, or it relates to business of a railway company. The exceptions referred to in the provision clearly have a nexus and relevance to the business or trade or commercial activities.

12] In this view of the matter, the distinction between illuminated and non illuminated advertisements, in the context of the provisions contained in section 328-A of the said Act, will have to be respected. The moot question in this petition however, is whether the display of illuminated signboards or name boards upon the bank premises, ATM centres and extension counters indeed, amounts to '*advertisement*' for the purposes of section 328-A of the said Act.

13] There is no statutory definition of the term *'advertisement'* contained in the said Act and therefore, the term will have to be understood in its natural, ordinary and popular sense. In fact, in the case of *ICICI Bank* (supra), the Hon'ble Supreme Court has specifically approved the application of such principle of interpretation, by reference to Principles of Statutory Interpretation (9th Edition, 2004) by Justice G. P. Singh, Chapter 2, p. 86, which reads :

> *"When it is said that words are to be understood first in their natural, ordinary or popular sense, what is meant is that the words must be ascribed that natural, ordinary or popular meaning which they have in relation to the subject-matter*

with reference to which and the context in which they have bee used in the statute. BRETT, M.R. called it a 'cardinal rule' that "Whenever you have to construe a statute or document you do not construe it according to the mere ordinary general meaning of the words, but according to the ordinary meaning of the words as applied to the subject-matter with regard to which they are used". "No word", says PROFESSOR H.A. SMITH "has an absolute meaning, for no words can be defined in vacuo , or without reference to some context". According to SUTHERLAND there is a "basic fallacy" in saying "that words have meaning in and of themselves", and "reference to the abstract meaning of words", states CRAIES, "if there be any such thing, is of little value in interpreting statutes". In the words of JUSTICE HOLMES : "A word is not a crystal transparent and unchanged; it is the skin of a living thought and may vary greatly in colour and content according to the circumstances and the time in which it is used." Shorn of the context, the words by themselves are "slippery customers". Therefore, in determining the meaning of any word or phrase in a statute the first question to be asked is "What is the natural or ordinary meaning of that word or phrase in its context in the statute? It is only when that meaning leads to some result which cannot reasonably be supposed to have been the intention of the Legislature, that it is proper to look for some other possible meaning of the word or phrase".

14] The Hon'ble Supreme Court, in the case of *ICICI Bank* (supra) has also made reference to the dictionary meanings of the term *'advertisement',* which are incidentally, the very same meanings upon which the respondents have placed reliance in their affidavit in reply. In paragraph 14, the Hon'ble Supreme Court has observed thus:

> *"14. The next question that arises for consideration is whether notices issued by the Corporation to the appellant-ICICI Bank are per se illegal or without authority of law as putting up the sign boards of ATM centers at different places by the bank could out-rightly be said not to be an advertisement and thus does not attract the provision of Section 328A of the Corporation Act. To consider this aspect we have to see what shall be an advertisement for the purposes of Section 328A of the Act. The dictionary definitions of the word 'advertisement' are as under :-*
>
> *BLACK'S LAW DICTIONARY,8TH EDITION*
>
> *Advertising : 1..The action of drawing the public's attention to something to promote its sale. 2. The business of producing and circulating advertisements.*
>
> *LAW AND COMMERCIAL DICTIONARY*
>
> *Advertisement : Notice given in a manner designed to attract public attention. Edwards v. Lubbock Country, Tex Civ. App., 33, S.W.2d 482. Information communicated to the public, or to an individual concerned, as by handbills, newspaper, television, bill-boards, radio. First Nat. Corporation v. Perrine, 99 Mont 454, 43 P.2d 1073, 1077.*
>
> *New Encyclopaedia Brittanica Vol. I*
>
> *Advertising.- the techniques used to bring products, services, opinions, or causes to public notice for the purpose of persuading the public to respond in a certain way toward*

what is advertised. Most advertising involves promoting a good that is for sale, but similar methods are used to encourage people to drive safely, to support various charities, or to vote for political candidates, among many other examples.

Collins' Dictionary of the English Language

Advertisement.- any public notice, as a printed display in a newspaper, short film on television, announcement on radio, etc., designed to sell goods, publicize an event, etc.

Advertising 1) the action or practice of drawing public attention to goods, services, events etc., as by the distribution of printed notices, broadcasting, etc. 2) the business that specializes in creating such publicity, 3) advertisements collectively; publicity.

Chambers Dictionary

Advertisement - the act of advertising; a public notice, usu with the purpose of informing and / or changing public attitudes and behaviour; a short performance recorded for radio, T.V. etc. to advertise goods or services; news.

15] Finally, in the case of *ICICI Bank* (supra), the Hon'ble Supreme Court has held that an advertisement is a matter that draws attention of the public or segment of public to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct intended to promote sale or use of product or range of products. An advertisement is an information that the producer provides about its products or services. An advertisement tries to get consumers to buy a product or a service. An advertisement is generally of goods and services and is an information intended for the potential customers and not a mere display of the name of the company unless the same happens to be a trade mark or trade name. The context in which the term *'advertisement'* has been used in section 328-A of the said Act and in the commercial and ordinary parlance, it must have direct or indirect connection with the business, trade or commerce carried out by the advertiser. It must have some commercial exposition. The advertisement would be for the purpose of directing or soliciting customers to the product or service prominently shown in the advertisement. If such ordinary parlance meaning is not given to the word '*advertisement*', in section 328-A, it will lead to anomalous position in as much as a simple name board put on a house to indicate who is residing in the premises, would also be an advertisement. A name board or signboard of a trader visible to the public or identifying the place of business would also be an advertisement. Therefore, '*advertisement*' within meaning of section 328-A of the said Act must primarily have a commercial purpose and should be indicative of the business activity of the displayer with a view to attract attention of people to its business. Therefore, in order to determine whether a signboard or name board tantamounts to be an advertisement or not would depend upon the facts of each case, depending upon the number of ATM centres deployed by a particular bank in a particular locality or place or even in a city, to have flavour of commercial or business interest of the service provider. Obviously, the parameters suggested are illustrative and not exhaustive.

16] The respondents, in pursuance of a remand by the Hon'ble Supreme Court have now undertaken the exercise as directed. The respondents have offered reasonable opportunity to the petitioners to make their submissions in the context of the exercise undertaken and the material collected. Thereafter, the respondents have determined that the name boards or signboard displayed by the petitioners over their premises, ATM centres and extension counters tantamount to '*advertisement*' for the purposes of section 398-A of the said Act. Since, such advertisements are illuminated, necessary directions have been issued to the petitioners to comply with the regulatory provisions contained in section 328-A of the said Act.

17] Amongst other matters, the respondents in the impugned order, have made reference to information displayed by the petitioners themselves at their website *ICICI Bank.com.* The respondents have adverted to the circumstance that the petitioners have, within the jurisdiction of the Municipal Corporation of Greater

Mumbai (MCGM) not less than 69 branches, 143 ATM centres, 2 extension counters and 28 drop boxes, upon which, the petitioners have displayed such illuminated signboard or name board. The respondents, have taken into consideration the number and density of branches, ATM centres etc. in the context of jurisdictional limits of the MCGM. The respondents have taken into consideration the manner of display, the size of display as well as the impact of such display. The respondents have also made reference to the emphasis upon the name ***ICICI***, particularly in the context of several signboards or name boards displayed by the various businesses undertaken under the name and style of ICICI Lombard, ICICI Prudential and ICICI Mutual Funds and so on, which also have distinct commercial exposition. The respondents have also taken into consideration the size of the signboard or name boards and the frequent circumstance that the word ICICI is displayed in larger letters, as compared to information with regard to the services provided like e.g. '*24 Hour ATM*'. Thus upon cumulative consideration of all facts and circumstances as well as parameters, the respondents, have concluded that signboards and the name boards displayed by the petitioners over their bank premises, ATM centres, extension counters constitute *'advertisement'* for the purposes of section 328-A of the said Act.

18] This is not a case where any irrelevancies can be said to have crept into the decision making process nor is this a case where relevancies can be said to have been ignored. The parameters to which the respondents have addressed, can themselves, not to be said to be irrelevant or extraneous. In fact, the reference to the number of ATM centres established by a particular bank in a particular locality or place or even the city, was one of the parameters suggested by the Hon'ble Supreme Court in the case of *ICICI Bank* (supra). The respondents in making their decision, have offered more than ample opportunity to the petitioners and there is really no scope to interfere with the decision making process on the grounds of lack of procedural fairness or other such reason.

19] The respondents, on the basis of the exercise undertaken by them and the material collected thereby, have rightly held that the purpose of the name board or the signboard in the context of the facts and circumstances is presented was not to merely identify the place or location of the business or to merely indicate the nature of the activity undertaken within but the purpose was clearly commercial exposition of the products and services offered by the petitioners. The purpose was clearly impart information not just to existing customers but also, to potential customers, with a view to increase in business.

20] Considering, the number and density of such signboard and name boards, the manner and size of display, the illumination, the illumination, there is no reason to fault the decision of the respondents that the signboard and name boards displayed by the petitioners are also for the purposes of influencing the prospective customers to make decision about which service provider they may choose. In fact, as observed by the Hon'ble Supreme Court itself in the case of *ICICI Bank* (supra) such signboard or name boards may also be construed to commercial exploitation indirectly, as they may not aim at the existing customers only but also may affect the decision of the prospective customers. They tell the prospective customers that the service of the ATM round the clock is being made available by the bank which would influence the prospective customers to make a decision about which service provider he or she has to choose. The signboard also helps people to find out which bank is offering better services as compared to other banks. The fact that the bank has more ATM centres than other banks, in the competitive trade and business, provides incentive to people to choose that bank. The fact that one bank has so many ATM centres in the given location helps them to get more account holders in that area. This also serves the commercial interest of the bank. In this case, the respondents have taken into consideration all these aspects and accordingly, there is no reason to interfere with the impugned order.

21] In the context of the manner and size of name boards or signboard, this court, in the case of ***Municipal Corporation of Greater Mumbai & Ors. vs. Ratiloku Shetty (Smt.)***[3] has regarded this aspect as relevant and upheld the decision of the MCGM in treating the illuminated neon signboard over the restaurant '*Ashok Restaurant and Beer Bar*' as advertisement within meaning of Section 328-A of the said Act. Upon reference to various dictionary meanings of the term *'advertisement',* the Division Bench of this Court at paragraphs 11 and 12 observed thus:

> *“11. It is important to consider the meaning of the term "Advertisement". The discussion under the heading "ADVERTISING" Encyclopaedia, to be found in Encyclopaedia Britannica, 1969 Edition Vol. I, page 179, read as under:--*
>
> > ***"Advertising*** *: a form of paid public announcement intended to promote the sale of a Commodity or service, to advance an idea or to bring about some other effect desired by the advertiser. It is essentially a form of communication through such divers, media a hand bills, news papers, magazines, billboards, letters, radio and television broadcasts and motion pictures. The term is broad enough to include a wide range of types, from all small two-line entry in a newspaper or magazine to (spread of several full pages, or from a small sign in a shop*

3 2002 (2) Bom.C.R. 501

> *window to a huge bill board with changing designs in coloured lights."*

Similarly in Collier's Encyclopaedia, 1957 Edition, Vol. I at page 107 the following discussion appears:--

> ***"Advertising** : That portion of published information, whether seen or heard, the cost of which is born by business that expect to gain by the spread of the ideas expressed, usually commercial notices of goods and services for sale."*

In Webster's THIRD NEW INTERNATIONAL DICTIONARY the following meanings are to be found given to the very "Advertise" ;

> *la : to make known to (someone) : give notice to : INFORM, NOTIFY ... Obs : WARN, ADMONISH.*
>
> *2 : to make generally known : call attention to : give notice of: a : to give publicity to, b : to make conspicuous, c(1) : to give public notice of: announce publicly esp. by a printed notice or through a radio or television broadcast, (2) : to call public attention to esp. by emphasizing desirable qualities so as to arouse a desire to buy or patronize."*

For the word "advertisement" the said dictionary goes on to indicate the meaning as follows :--

"1 : the action of advertising : a calling attention to or making known : as a obs : WARNING, ADMONITION, b obs : an informing or notifying : NOTIFICATION c : a calling to public attention : PUBLICITY.

2a : archaic : a statement calling attention to something : NOTICE, b : a public notice : esp : a paid notice or announcement published in some public print (as a newspaper, *periodical, poster, or handbill) or broadcast over radio or television."*

12. On a plain construction of Section 328 reproduced (supra) we find that in term permission of the Municipal Commissioner is not required in respect of any advertisement which is not an illuminated advertisement nor a sky-sign and which relates to the trade or business carried on within the land or building upon which such advertisement is exhibited : vide proviso to Section 328-A."

22] The circumstance that the ATM centres of the petitioner bank can be used or are being used by ATM card holders of other banks or the circumstance that the RBI has permitted such *inter se* user, is really not very relevant for determining the issue as to whether the signboards and name boards displayed by the petitioner bank tantamount to '*advertisement*' for the purposes of section 328-A of the said Act. Even though, *inter se* user of ATM centers may be permissible, the circumstance that the petitioner bank has so many ATM centres within the jurisdiction of the MCGM, is undoubtedly a circumstance which provides a competitive edge to the petitioners. As noted earlier, the Hon'ble Supreme Court, in the case of ICICI Bank (supra) has observed that the fact that the bank has more ATM centres than the other banks, in the competitive trade and business, provides an incentive to the people to choose than bank. Accordingly, there is no reason to interfere with the impugned order on the basis of the contention that the circumstance that *inter se* user of ATM centres may not have been specifically considered.

23] In the matters of this nature, the limits of judicial review also have to be borne in mind. This Court, is certainly not called upon to exercise any appellate jurisdiction in a matter of this nature. The power of judicial review in such matters is neither unqualified nor unlimited. It has its own limitations. The scope and extent of the power that is so very often invoked has been the subject-matter of several judicial pronouncements within and outside the country. The Hon'ble Supreme Court, has approved the classic and oft-quoted passage from ***Council of Civil Service Unions vs. Minister for the Civil Service***[4], where Lord Diplock summed up the permissible grounds of judicial review thus:

> *"Judicial Review has I think developed to a stage today when, without reiterating any analysis of the steps by which the development has come about, one can conveniently classify under three heads the grounds on which administrative action is subject to control by judicial review. The first ground I would call 'illegality', the second 'irrationality' and the third 'procedural impropriety'.*
>
> *By 'illegality' as a ground for judicial review I mean that the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it. Whether he has or not is par excellence a justiciable question to be decided,*

4 (1984) 3 ALL ER 935 (HL)

in the event of dispute, by those persons, the judges, by whom the judicial power of the State is exercisable.

By 'irrationality' I mean what can by now be succinctly referred to as 'Wednesbury unreasonableness'. It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it. Whether a decision falls within this category is a question that judges by their training and experience should be well equipped to answer or else there would be something badly wrong with our judicial system... ...

I have described the third head as 'procedural impropriety' rather than failure to observe basic rules of natural justice or failure to act with procedural fairness towards the person who will be affected by the decision. This is because susceptibility to judicial review under this head covers also failure by an administrative tribunal to observe procedural rules that are expressly laid down in the legislative instrument by which its jurisdiction is conferred, even where such failure does not involve any denial of natural justice."

24] In the case of ***Tata Cellular v. Union of India***[5], the Hon'ble Supreme Court in the context of judicial review at paragraph 77 has observed thus:

“77. The duty of the court is to confine itself to the question of legality. Its concern should be :

5 (1994) 6 SCC 651

> *1. Whether a decision-making authority exceeded its powers?*
>
> *2. Committed an error of law,*
>
> *3. committed a breach of the rules of natural justice,*
>
> *4. reached a decision which no reasonable tribunal would have reached or,*
>
> *5. abused its powers.*
>
> *Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under :*
>
> *(i) Illegality : This means the decision-maker must understand correctly the law that regulates his decision- making power and must give effect to it.*
>
> *(ii) Irrationality, namely, Wednesbury unreasonableness.*
>
> *(iii) Procedural impropriety."*

25] In the case of ***Heinz India Private Limited & Anr. vs. State of Uttar Pradesh & Ors***.[6] the Hon'ble Supreme has held that there is almost complete unanimity on the principle that the judicial review is not so much concerned with the decision itself as much with the

6 (2012) 5 SCC 443

decision-making process. (See ***Chief Constable of the North Wales Police vs. Evans***)[7]. As a matter of fact, the juristic basis for such limitation on the exercise of the power of judicial review is that unless the restrictions on the power of the court are observed, the courts may themselves under the guise of preventing abuse of power, be guilty of usurping that power. That the court dealing with the exercise of power of judicial review does not substitute its judgment for that of the legislature or executive or their agents as to matters within the province of either, and that the court does not supplant "*the feel of the expert*" by its own review, is also fairly well settled by the decisions of this Court. In all such cases, judicial examination is confined to finding out whether the findings of fact have a reasonable basis on evident and whether such findings are consistent with the laws of the land. (See ***Union of India vs. S.B. Vohra***[8]***, Shri Sitaram Sugar Co. Ltd. vs. Union of India***[9] ***and Thansingh Nathmal vs. Supdt. of Taxes***)[10].

26] Applying therefore, the aforesaid parameters of judicial review, it can hardly be said that the impugned order made by the respondents warrants interference in the exercise of extra ordinary jurisdiction under Articles 226 and 227 of the Constitution of India. In this case, as noted earlier, the respondents have undertaken the

7 (1982) 3 All ER 141 (HL)
8 (2004) 2 SCC 150
9 (1990) 3 SCC 223
10 AIR 1964 SC 1419

exercise as directed by the Hon'ble Supreme Court in the case of ICICI Bank (supra). The respondents have applied the correct tests and parameters for the purposes of determining whether the name boards or signboard indeed tantamount to '*advertisement*' for the purposes of section 328-A of the said Act. The respondents have afforded an ample opportunity to the petitioners to either place their own material on record or to contradict the material which the respondents had collected for the purposes of determining the issue. Relevant material has been considered by the respondents and it is not a case where irrelevancies have crept into the decision making process. The decision arrived at by the respondents, on the basis of material on record, can hardly be styled as perverse, unreasonable or illogical. For all these reasons, and also, in view of the restrictive parameters of judicial review in the matter of this nature, there is no case made out to interfere with the impugned decision.

27] There is no case made out to interfere the direction in the impugned order in the context of illuminated name boards put up at ATM centres, extension counters, bank branches by the petitioners within the jurisdiction of the MCGM, which may not have been specifically mentioned in the notices issued to the petitioners. The respondents, as noted earlier, have undertaken the exercise as directed by the Hon'ble Supreme Court in the case of *ICICI Bank* (supra). In pursuance thereof, material was collected with regard to the display of illuminated name boards or signboards by the ICICI Bank Limited throughout the territorial limits of the MCGM. The petitioners were offered opportunity to submit their say in the context of such entire material, which opportunity, the petitioners have duly availed. Possibly, this is a reason why the ground now raised by Mr. Chandarana, the learned counsel for the petitioners, does not even find any place in the grounds raised in the petition. The learned counsel however submitted that such ground has been raised in '*affidavit in rejoinder*'. The affidavit in rejoinder is hardly a place to raise substantial grounds. That apart, decisions of this nature, need not be interfered with on the ground of some technical or hyper technical pleas alleging formal failure of natural justice. In this case, principles of natural justice have been complied with, in substantial measure. The element of prejudice is required to be specifically pleaded and made out. The petitioners have failed to do this.

28] For all the aforesaid reasons, there is no case made out to interfere with the impugned notices / order. This petition is therefore dismissed. Interim order, if any, stands vacated. The amounts, if deposited by the petitioners in this court, may be withdrawn by the respondents unconditionally. There shall be no order as to costs.

29] Rule is accordingly discharged with no order as to costs.

30] In view of the disposal of the writ petition, the notice of motion (l) no.775 of 2015 also stands disposed of.

31] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

32] At this stage, Dr. Birendra Saraf, the learned counsel for the petitioners requests for continuation of order dated 8 November 2007 for a further period of twelve weeks. The learned counsel appearing for the respondents objects to the continuation of the interim relief.

33] The interim relief has been in operation since 8 November 2007 and therefore, it would be appropriate to extend the same for a further period of six weeks from today. Accordingly, the interim order to operate for a period of six seeks from today.

(M. S. SONAK, J.)

Chandka