

Sharayu Khot.

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

PUBLIC INTEREST LITIGATION NO. 155 OF 2011

WITH

CIVIL APPLICATION (ST.) NO. 13430 OF 2017

AND

CIVIL APPLICATION (ST.) NO. 826 OF 2018

AND

CIVIL APPLICATION (ST.) NO. 1094 OF 2018

Suswarajya Foundation, Satara and Anr. ...Petitioner

Versus

The Collector, Satara and Anr. ...Respondents

WITH

WRIT PETITION NO. 2628 OF 2016

**Solutions Advertising through ...Petitioner
Prop. Mr. Pravin Solanki**

Versus

Thane Municipal Corporation & Ors. ...Respondents

WITH

PUBLIC INTEREST LITIGATION No. 25 of 2013

Mayur Mahesh Pathak ...Petitioner

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Versus

Maharashtra State Environment Authority & ors. ...Respondents

WITH
PUBLIC INTEREST LITIGATION NO. 45 of 2009

Milan Vasant Mhatre ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

WITH
PUBLIC INTEREST LITIGATION NO.77 OF 2014

Ratan Soli Luth ...Petitioner

Versus

State of Maharashtra & Ors ...Respondents

WITH
PUBLIC INTEREST LITIGATION NO.78 OF 2008

Janhit Manch and others ...Petitioner

Versus

State of Maharashtra & Ors ...Respondents

WITH
PUBLIC INTEREST LITIGATION NO. 136 OF 2009

Prabhakar V. Chaudhary ...Petitioner

Versus

Thane Municipal Corporation

...Respondents

WITH
PUBLIC INTEREST LITIGATION NO. 249 OF 2014

Qaneez-E-Fatemah Sukhrani & Ors.

...Petitioner

Versus

The Commissioner, Pune
Municipal Corporation & Ors.

...Respondents

WITH
CONTEMPT PETITION NO.11 OF 2016

High Court on its own Motion

...Petitioner

Versus

Ashish Shelar and others

...Respondents

WITH
CONTEMPT PETITION NO. 210 OF 2018

Qaneez-E-Fatemah Sukhrani & Ors.

...Petitioner

Versus

Kunal Kumar, Municipal
Commissioner, And Ors.

...Respondents

**PUBLIC INTEREST LITIGATION NO. 155 OF 2011 a/w
CAIST/826/2018 and CAST/ 13430/2017 and
CAIST/1094/2018**

Mr. Uday P. Warunjikar, for the Petitioners.

Ms. Nisha Mehra, AGP for the Respondent No.1 and for the Applicant in CAIST/826/2018 and CAST/13430/2017

Mr. A.Y. Sakhare, Senior Advocate a/w Mr. Vinod Mahadik for the Respondent-Mumbai Municipal Corporation.

Mr. Pramod Gokul Kathane for the Respondent No.7.

Mr. Pradeep J. Thorat for the Respondent No. 8

Mr. R.S.Apte, Senior Advocate i/by Mr. N.R.Bubna for the Respondents No.9 and 17.

Mr. A.Y. Sakhare, Senior Advocate a/w Mr. Vinod Mahadik for the Respondent-B.M.C.

Ms. Madhura Deshmukh i/by Mr. Shriram S. Kulkarni for the Respondent No.10

Mr. Shriram S. Kulkarni for the Respondent No. 11.

Mr. A.S. Rao for the Respondent Kalyan-Dombivli Municipal Corporation.

Mr. Sameer Kumbhakoni for the Respondent No.13.

Mr. Prashant P. Jadhav for the Respondent No.15

Mr G.H. Keluskar for the Respondent No.16.

Mr. Ranjeet M. Pawar for the Respondent No.18

Mr. Ajit Hon i/by Mr. Ashwin V. Hon for the Respondent No.21

Ms. Neha Joshi i/b M/s.Vidhii Partners for the Respondent No.31.

Mr. Sandeep V. Marne for the Respondent-Navi Mumbai Municipal Corporation

Mr. Pradeep Rajgopal a/w Drishti Shah for the Respondent-Election Commission of India.

Mr. Ratnesh Dubey I/b Ms. Rutuja Ambekar for the Respondent No.10

Mr. Jitendra Gaikwad for the Respondent-Jalgaon Municipal Corporation

WRIT PETITION NO.2628 OF 2016

None for the Petitioner.

Mr. A.B. Vagyani, G.P. a/w MS. Nisha Mehra, AGP for the Respondent State.

Mr. R.S.Apte, Senior Advocate i/by Mr. N.R.Bubna for the Respondent No.3.

PUBLIC INTEREST LITIGATION No. 25 of 2013

None for the Petitioner.

MS. Nisha Mehra, AGP for the Respondent No.1.

Mr. Pushkal Mishra i/by M.V. Kini & Co. for the Respondent No.2

PUBLIC INTEREST LITIGATION No. 45 of 2009

None for the Petitioner

MS. Nisha Mehra,, AGP for the Respondents No.1, 3 and 4-State.

Mr. R.S.Apte, Senior Advocate i/by Mr. N.R. Bubna for the Respondent No.2.

PUBLIC INTEREST LITIGATION NO.77 OF 2014

None for the Petitioner.

MS. Nisha Mehra, AGP for the Respondent Nos.1, 5 and 7.

PUBLIC INTEREST LITIGATION NO.78 OF 2008

None for the Petitioners.

Mr. A.B. Vagyani, G.P. a/w Ms. Nisha Mehra, AGP for the Respondent Nos.1, 2 and 9.

Mr. M.S. Bhardwaj and Mrs. S.V. Bharucha for the Respondent-U.O.I.

PUBLIC INTEREST LITIGATION No.136 OF 2009

None for the Petitioner.

Mr. R.S.Apte, Senior Advocate i/by Mr. N.R. Bubna for the Respondent No.1.

Mr. A.B. Vagyani, G.P. a/w Ms. Nisha Mehra, AGP for the Respondent State.

PUBLIC INTEREST LITIGATION NO.249 OF 2014 and CONTEMPT PETITION NO.210 OF 2018

Mr. Ravindra S. Pachundkar for the Petitioner.

Ms. Nisha Mehra, AGP for the Respondent State.

CONTEMPT PETITION NO.11 OF 2016

High Court on its own Motion

Mr. Ranjeet M. Pawar for the Respondent No.1

Ms. Nisha Mehra, AGP for the Respondent State.

**CORAM : ABHAY S. OKA AND
RIYAZ I. CHAGLA, JJ.**

DATE : 8 August 2018

ORDER :

1. These disposed of Petitions have been specially assigned to a Bench presided over by one of us (A.S. Oka, J.) for

monitoring compliance with the final Judgment. Today, we are dealing with the compliance by the following Municipal Corporations:-

Aurangabad Municipal Corporation :

2. We have perused the Affidavit of Smt. Manjusha Mutha, Deputy Commissioner of the Aurangabad Municipal Corporation. Taking the averments made in the Affidavit as correct, the Affidavit accepts non-compliance with the various directions issued under the judgment and order dated 31st January 2017. There is a complete defiance of directions contained in clause (a) of the operative part of the judgment. As regards the toll free numbers, reliance is placed on the work which has been done in the year 2013.

3. The Municipal Corporation claims to have made a special drive of removal of the illegal hoardings and banners from 28th July 2018 and 31st July 2018. The details of numbers

of illegal hoardings removed in the special drive are not placed on record. We, therefore, direct the Municipal Commissioner of Aurangabad Municipal Corporation to file his personal Affidavit, firstly setting out compliances made with specific reference to the operative part of the judgment and secondly, explaining and showing the cause as to why an action under the Contempt of Court Act, 1971 should not be initiated against him. He will also disclose the names of the officers, who are responsible for the default. Such an Affidavit shall be filed on or before 12th September 2018. The compliance of which will be considered on 14th September 2018 at 3.00 p.m.

Amravati Municipal Corporation :-

4. As regards the Amravati Municipal Corporation, we have perused an Affidavit of Shri. Shrikant Ishwarsingh Chauhan. If what is stated in the Affidavit is correct, from December 2017, there were only four illegal hoardings erected in the City of Amravati till the date of filing of the Affidavit i.e.

13th July 2018. The learned Counsel appearing for the Petitioners submits that it is impossible to believe that there were only four cases of illegal hoardings from December 2017 till July 2018. The learned Counsel appearing for the Municipal Corporation states that the Municipal Commissioner will file his own Affidavit in support of what is stated in the Affidavit of Shri. Chauhan. We accept the said statement.

5. Such an Affidavit shall be filed on or before 12th September 2018 and the same will be considered on 14th September 2018 at 3.00 p.m.

Nashik Municipal Corporation :-

6. As far as the Nashik Municipal Corporation is concerned, we have perused the Affidavit of Shri. Rohidas Mangu Bahiram, the Deputy Commissioner (Encroachment). The Affidavit sans details. There are no statements made as regards an action taken from January 2018 onwards. The last

Affidavit is of 8th January 2018 which reports action taken only upto 31st December 2017.

7. We, therefore, direct the said officer to file a fresh Affidavit giving all the details. Such an Affidavit shall be filed on or before 12th September 2018.

8. It will be appropriate if the Municipal Commissioner himself looks into the issue of compliance with the directions issued under the final judgment of this Court.

Navi Mumbai Municipal Corporation :-

9. We have perused the Affidavit filed by Shri. Ambarish R. Patnigere, the Deputy Municipal Commissioner (Encroachment) of the Navi Mumbai Municipal Corporation. In paragraph 3 of the order dated 27th April 2018, we have recorded on the basis of the earlier Affidavit of the same Officer that substantial compliance has been made by the Navi Mumbai

Municipal Corporation. Even the Affidavit of the same officer of 14th June 2018 shows that this Municipal Corporation is implementing the directions issued by this Court. Therefore, as of today, we are not issuing any directions as regards of this Municipal Corporation.

Mumbai Municipal Corporation :-

10. As far as the Mumbai Municipal Corporation is concerned, a Chart is tendered across the bar containing the demands of the action taken between April 2018 to July 2018 which shows that the total 3332 illegal hoardings/banners have been removed and in 312 cases, First Information Reports have been registered. It records that during the relevant period, 70 complaints were received. Even ward wise details are also furnished. Those details shall be placed on record along with an Affidavit which shall be filed on or before 12th September 2018. If any particular police officer has neglected to provide police protection to the Municipal staff, the details shall be set out in

the Affidavit.

Shirdi Municipal Council :-

11. We have perused a letter dated 7th August 2018 produced for perusal of the Court by the learned AGP. The letter is addressed to the Director of the Municipal Administration by the Chief Officer of the Shirdi Municipal Council. After having perused the said letter, we find that the Chief Officer has not taken a note of the directions issued by this Court under the final judgment and order dated 31st January 2017 notwithstanding specific observations made as regards the Shirdi Municipal Council in the order dated 13th July 2018. The learned AGP states that a Chart indicating a fresh compliance by the Municipal Council will be produced before the Court. She states that within a period of one month from today, a Chart will be furnished to the learned Counsel appearing for the Petitioners. We accept the said statement. It is made clear that no further time shall be granted.

12. Considering the approach adopted by the Chief Officer of Shirdi Municipal Council, we direct the Chief Officer of the Shirdi Municipal Council to file his personal Affidavit recording compliance with the directions issued by this Court. This order shall be communicated to the Chief Officer by the Director of Municipal Administration.

13. The learned Counsel appearing for the Election Commission of India seeks further time. He assures the Court that a lot of work has been done by the Election Commission of India on this subject.

14. On 31st August 2018, this Court will consider the compliance made by the Election Commission of India and the Shirdi Municipal Council. Compliance Affidavit shall be filed by the Election Commission of India on or before the said date.

15. We direct the State Government to file an Affidavit indicating compliance with various directions issued to

the State Government. Such an Affidavit along with a Chart indicating compliance by the Municipal Councils in the State shall be filed on record on or before 12th September 2018 and copies thereof be supplied on the very day to the learned Advocate for the Petitioners. For considering the compliance by the Municipal Councils and the State Government, the matter shall be listed on 14th September 2018 at 3.00 p.m.

16. We direct the Vasai-Virar Municipal Corporation, Pune Municipal Corporation, Kolhapur Municipal Corporation and Jalgaon Municipal Corporation to file compliance Affidavits of the steps taken till 31st August 2018. Such Affidavits shall be filed on or before 12th September 2018 and copies thereof shall be furnished to the learned Advocate for the Petitioners on or before the said date. Even compliance by these Corporations will be considered on 14th September 2018 at 3.00 p.m.

[RIYAZ I. CHAGLA J.]

[ABHAY S. OKA, J.]