

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.32 OF 2017

Milan Vasant Mhatre ...Petitioner
Versus
The State of Maharashtra and Ors. ...Respondents

**WITH
PUBLIC INTEREST LITIGATION NO.3 OF 2016**

Mahendra Lorik Yadav ...Petitioner
Versus
The State of Maharashtra and Ors. ...Respondents

Ms.Neeta Karnik for the Petitioner in PIL/32/2017.

Mr.Uday Warunjikar i/b Mr.A.A.Deshmukh, for the Petitioner in PIL/3/2016.

Ms.M.P.Thakur, A.G.P for the Respondent-State.

Mr.N.R.Bubna for the Respondent-Corporation.

**CORAM : DR. MANJULA CHELLUR, C.J. &
M. S. SONAK, J.**

DATE : 17th NOVEMBER, 2017

P.C. :

1. Public Interest Litigation No.3 of 2016 came to be filed

indicating the deficits in the hospital run in the name of 'Bharat Ratna Pandit Bhimsen Joshi Hospital' the legendary musician. According to the petitioner, till the facilities and deficiencies in the said hospital, are completed or rectified, the hospital should not be functional. The inauguration of the hospital was scheduled on 10th January, 2016. Subsequent to the issuance of notice in terms of our directions, the Additional Civil Surgeon, Thane, Dr.N.P.Mokashi, on 29th January, 2016 submitted a detailed inspection report of 'Bharat Ratna Pandit Bhimsen Joshi Hospital of Mira-Bhayander Municipal Corporation. In terms of the said report, the following facilities and arrangements for treatment of the patients visiting the hospital are in existence as on the date of inspection made by the Additional Civil Surgeon, in terms of our directions. At the end of the report, he had clearly opined that (a) adequate infrastructure required to run 100 bed hospital is available; (b) civil work of ground plus first and second floors is completed, except lifts work which is in progress; (c) necessary equipments and machines required to run 100 bedded hospital was available at the premises; (d) stock of medicine and consumable required to run 100 bedded hospital was also available, and (e) total medical and paramedical staff required to run 100 bedded hospital is about

96 as per the norms of the Government but total 83 staff was available on permanent and contractual basis. Apart from this, in general Out Patient Department (OPD), Casualty, Laboratory and minor emergency surgeries, General Medicine, Paediatrics and Maternity Services with requisite medicines are made available in the hospital which is adequate to run 100 bedded hospital. Subsequent to this report being placed on record, it was brought to our notice that even the work of lifts is completed, however, the petitioner has not contradicted this statement. Therefore, factually the deficit infrastructure facilities as indicated in the petition seems to have been complied with and the hospital functioning and maintenance is the responsibility of the State Government and not Mira-Bhayander Municipal Corporation.

2. We also have on record another Public Interest Litigation No.32 of 2017 filed subsequent to filing of Public Interest Litigation No.3 of 2016. In this petition, the petitioner brings out on record several litigations filed in respect of this hospital right from 2006 onwards. Initially, it was called as Primary Health Centre, Temba, in Bhayander. The series of directions passed in the earlier litigation is also made part of the

record. No doubt, there was some controversy with regard to who is to run the hospital. At one point of time, the Government indicated that necessary funds are made available to run the hospital by the Corporation in question. Therefore, the Corporation was directed to set-up the said hospital. Subsequently, for reasons mentioned in the Notification and other Government Resolutions when Mira-Bhayander Municipal Corporation was not in a position to maintain and keep the hospital functional, having named the hospital after the legendary figure Bharat Ratna Pandit Bhimsen Joshi, probably the State Government in order to pay homage and respect to the great personality took over to run the hospital and have complied with all the facilities as indicated above pertaining to Public Interest Litigation No.3 of 2016.

3. Learned Counsel appearing for the petitioner in Public Interest Litigation No.32 of 2017 strenuously states before us that the hospital in question must be run only by the Mira-Bhayander Municipal Corporation and not the State Government. Since the Corporation was not able to run and maintain the 100 bedded hospital, after all the infrastructure stated above is provided and inspected by Additional Civil Surgeon, is functioned

by the Government, including the staff. Therefore, we fail to understand that as long as the hospital is functional which extends health benefits to the general public, whether it is run by the Corporation or by the State Government should not become the concern of the petitioner or any other citizen. For that matter, if there are deficits in running the hospital, it can become a public cause and a PIL in that direction can be filed. Who should run the hospital, according to us, cannot be a cause to be adjudicated in the PIL, unless there is shirking of responsibility on the part of the State Government to run the hospital. When the State Government has volunteered to take the responsibility to run the hospital which was earlier run by the Corporation, public should welcome the move of the State rather than finding fault with the State Government or the Corporation. In the Government Resolution dated 30th November, 2016 impugned in PIL No.32 of 2017, the Government has given detailed reasons as to why it has taken up this responsibility.

4. In that view of the matter, we are of the opinion that both the Public Interest Litigations deserve to be disposed of, in the light of the above observations. It is made clear that if there are any deficits in future in

running the hospital or the facilities extended, anyone can move the Court seeking proper directions.

5. Both the Public Interest Litigations are, accordingly, disposed of.

M. S. SONAK, J.

CHIEF JUSTICE