

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

WRIT PETITION NO. 172 OF 2017

Harijan Welfare Society

... Petitioner.

Versus

Municipal Corporation of
Greater Mumbai and others

... Respondents.

....

Mr. Mandar Limaye i/b. Mr. S.C. Wakankar for the Petitioner.

Mr. J. Rais, Senior Counsel i/b. Ms. Sheetal Mane for MCGM.

Mr. Rajeshwar Panchal a/w Mr. Mohan Rawat for the Respondent
No.3.

....

***CORAM : Smt.Vasanti A Naik &
Riyaz I. Chagla, JJ.***

DATE : 3rd October, 2017.

P.C.:

By this Writ Petition, the petitioner seeks a direction to the respondents to withdraw and cancel the notice dated 07.01.2016, restraining the petitioner from running the public toilet, which the petitioner was permitted to run since 1997. The petitioner has also challenged the order of the Corporation awarding the contract for running the toilet blocks to the respondent No.3, during the pendency of the Writ Petition.

According to the petitioner, the petitioner was running and maintaining the toilet blocks since the year 1997 without any complaint but on 18.12.2015 a man entered into the womens toilet, as a result of which a complaint was made by Smt. Sunita Chavan

against the petitioner. Since the allegation in the complaint was serious, by the impugned order dated 07.01.2016, the contract awarded to the petitioner to maintain the toilet blocks was cancelled. The present Writ Petition was dismissed for want of prosecution and after the dismissal of the Writ Petition, the contract to maintain the toilet blocks was awarded to the respondent No.3. By amending the Writ Petition after it was restored, the petitioner has challenged the contract awarded in favour of the respondent No.3.

On hearing the learned Counsel for the parties and on a perusal of the order dated 29.07.1997, by which the application made by the petitioner for construction, operation and maintenance of the toilet blocks was granted it appears that the grant of permission was subject to the strict adherence of certain conditions. As per the contract dated 29.01.1997, the Corporation had reserves its rights to revoke the permission at any stage and at any time. The petitioner had accepted the contract with condition No.6 without any demur. It is not disputed by the petitioner that one man had entered into the womens toilet. Since we find that the Municipal Corporation had reserved the right to revoke the permission at any stage and since the reply filed by the petitioner to the show cause notice did not find favour with the Corporation, it would not be proper to interfere with the impugned order of cancellation of the permission dated 29.07.1997, in exercise of the writ jurisdiction. Since we do not find any illegality in the action on the part of the Corporation of canceling the permission, the other prayer for cancellation of the order granting permission to the

Respondent No.3 to maintain and operate the toilet blocks cannot be granted.

Since the relief sought by the petitioner cannot be granted, the Writ Petition is dismissed with no order as to costs.

In view of dismissal of the Writ Petition, the Notice of Motion No.100 of 2017 would not survive and the same also stands disposed of.

(Riyaz I. Chagla J.)

(Smt.Vasanti A Naik J.)