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

WRIT PETITION (L) No. 616 OF 2017

Procam International Pvt. Ltd. ... Petitioners
Vs.
State of Maharashtra & Ors. ... Respondents

Mr. Virag Tulzapurkar, Sr. Counsel a/w Bindi Dave & Raghav Gupta
i/b Wadia Ghandy & Co., for the Petitioners.

Mr. Asif Patel, Addl. Govt. Pleader for the Respondent – State.

Ms. Trupti Puranik a/w Shobha Ajit Kumar, for the Respondent –
BMC.

Mr. Rajan Jaykar, Member of the Committee – present.

CORAM : V. M. KANADE, &
P. R. BORA, JJ.

DATE : MARCH 1, 2017

PC.

1. Heard Mr. Virag Tulzapurkar, learned counsel appearing on behalf of the Petitioners, Mr. Asif Patel, Additional Government Pleader appearing for the Respondent – State, Ms. Trupti Puranik, appearing for the Respondent – BMC and Mr. Rajan Jaykar, Member of the Committee, appointed by this Court in Writ Petition Nos. 2197/1998 and 1963/2000. By this petition, which is filed under

Article 226 of the Constitution of India, the Petitioner is seeking an appropriate writ, order and direction for setting aside the decision of Respondent No. 2 – Collector, Mumbai directing the Petitioner to approach Respondent No. 3 Mr. M. G. Gaikwad Committee, and also for an appropriate writ order and direction for setting aside an order of Respondent No. 3 Committee dated 22nd February, 2017 and for other consequential reliefs.

2. The Petitioner is a private limited company, and it conducts various sports events and also promote sports events of various types. The Petitioner, therefore, decided to organise the event of P1 Powerboat - “Indian Grand Prix of the Seas [P1 Event]” at the Marin Drive bay. For the purpose of organising the said event, it was necessary to construct a temporary jetty structure at the Chotta Chowpatty beach so that participants would walk and go to the power boats, and also to provide space for parking the power boats.

3. It is the case of the Petitioners that they have obtained permissions of most of the authorities, including the Government of Maharashtra, Maharashtra Tourism Development Corporation (MTDC), Maharashtra Maritime Board, Yachting Association of India,

Indian Navy and the Mumbai Port Trust. On 9th January, 2017 the Petitioners sought to use Chotta Chowpatty beach for the said event and accordingly addressed a letter to Respondent No. 2, seeking permission of the Collector.

4. Thereafter, the Division Bench of this Court by an order passed in Writ Petition No. 2197/1998 and 1963/2000 and 2445/2000 had constituted a Committee i.e. Respondent No. 3 for ensuring the preservation and beautification of Chowpatty beach. The Division Bench by an order dated 16th March, 2001 laid down guidelines for beautification and preservation of Chowpatty. At the relevant time there were number of stalls. Some of them were illegal and the Division Bench passed an order to streamline the said condition and ensure that stalls are installed in accordance with the directions given by this Court and also to ensure that scheme does not affect those structures. Accordingly, the guidelines were given in para 11 of the said order, and it is not necessary to reproduce the said directions. The principal intention was to ensure that Chowpatty area is to be used only after taking prior permission of the Committee for the future sports activities on the beach.

5. Thereafter second order was passed on 13th October, 2005 and the Monitoring Committee had brought to the notice of the Court that despite orders of this Court, encroachment was found on the beach and this was happening on the regular basis. Taking into consideration the report submitted by the Committee and the proposals given by the Monitoring Committee, the Court accepted the guidelines, which were proposed by the Committee.

6. The Petitioners, in view of the order passed by the Division Bench of this Court, approached the Committee seeking its no objection. Initially, the plan which was submitted by the Petitioners was to erect a jetty on the beach itself, as can be seen from the sketch which is Annexure "A" (page 34) to the petition. This proposal was sent to the Committee and the Committee was of the view that since this jetty was sought to be constructed on the beach, it did not accept the proposal.

7. The Petitioners thereafter revised their proposal and according to the revised proposal, which is at Exhibit "B" to the petition, they had proposed to construct a temporary jetty in the sea consisting of small passage admeasuring 5 x 80 meter for the purpose

of parking powerboats.

8. The MTDC had made recommendation to the Committee that in view of the change in the proposal, permission should be granted by the High Power Committee. However, the Committee by its letter dated 22nd February, 2017, which is at page 67 to the petition, informed the MTDC that since there was no change of circumstance, there was no need to construct jetty. Being aggrieved by this order, the Petitioners have approached this Court. It is submitted that the event is being held in the open sea and not on the Chowpatty. Secondly, it is submitted that what the Petitioners propose is to construct a temporary jetty only for a couple of days in order to ensure that the participants can go to the powerboats. Thirdly, it is submitted that the permissions from all the authorities were granted. The only structure, which they want to construct at Chowpatty is a temporary structure where medical aid would be given in the event it is needed. It is submitted that several events are taking place in the city of Mumbai, viz. sports events, marathon which is held in the month of January every year, and that time also temporary stalls are erected for the purpose of providing medical aid. Similarly, the stalls, which would be constructed there, would be demolished / removed within 24

hours, after the event is over. The said event is scheduled to be held from 3rd to 5th March, 2017.

9. Mr. Rajan Jaykar, the learned member of the Committee has informed us that they are interested only in compliance of the orders passed by this Court. It is submitted that they are of the view that certain no objection certificates of the authorities have not been obtained. On 27th February, 2017 the Collector of Mumbai again informed the Petitioners that they should again go back to the Committee. A representation was made by the Petitioners on 25th February, 2017 to the Committee to grant its NOC. However, thereafter there was no correspondence from the Committee.

10. After having heard all the counsel, we are of the view that directions / guidelines which have been given / framed by this Court in order dated 16th March, 2001 will not and should not come in the way of the Petitioners in constructing the temporary jetty in the Marine Drive bay. The structure which they propose to construct is of temporary nature. If such a temporary structure is constructed, no damage will be caused to the Chowpatty. Even the temporary structure in the form of tent / porta cabin, which is a movable

structure, used for the purpose of providing medical aid, will also not cause any damage to Chotta Chowpatty beach.

11. We must express our appreciation to the efforts taken by the Committee in ensuring that the directions which are given by this Court are complied. We must express our sense of appreciation to the concern expressed by the Committee and the constant efforts on their part to ensure that the directions given by this Court are followed.

12. Upon a careful reading of the directions which were given by this Court in the earlier petitions, we are of the view that these directions will not come in the way of the Petitioners in holding the event in the Marine Drive bay. It is a matter of common knowledge that such events are organised all over the world, and this is the first time when such an event is taking place in the city of Mumbai. It is also not in dispute that the Government of Maharashtra and the MTDC also plan to have such events in Maharashtra for the purpose of promoting tourism in the State of Maharashtra. We are informed that even the Government of India also proposes to construct various sites on the sea front for the purpose of promoting tourism, which would be a principal source of attraction for attracting the

tourists all over the world. At the same time, a care has to be taken that the beaches are not spoiled and the directions given by this Court are not violated as a result of social and sports activities. We are satisfied that in the present case all precautions have been taken by the Petitioners and all NOCs / permissions are taken from various authorities / departments. We, therefore, grant permission to the Petitioners to conduct the event from 3rd to 5th March, 2017 and permit them to construct temporary jetty and temporary porta cabin on Chotta Chowpatty. We further direct the Petitioners that they shall dismantle temporary jetty and porta cabin within 48 hours after the said event is over. They shall ensure that view of the Chowpatty is not blocked after construction of the said temporary jetty. Looking at the map and plan submitted by the Petitioners, we find that these structures will not spoil the nature of Marine Drive in any way. We, therefore, direct the Collector, Mumbai and the State of Maharashtra not to obstruct / prevent the event or any other activities of the Petitioners. Writ petition is, therefore, allowed in terms of prayer clauses (a) to (d) and is accordingly disposed of.

Sd/-
[P. R. BORA, J.]

Sd/-
[V. M. KANADE, J.]