

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO. 40 OF 2016

Yash Foundation	.. Petitioner
V/s	
Commissioner of Police & ors.	.. Respondents

Mr. Ashish Giri i/b Manoj Harit & Co. for the petitioner.
Ms. Geeta Shastri, AGP for the State.
Mr. Sagar Patil for the Corporation.
Ms. Ketaki Pali i/b Diamondwala & Co. for respondent no.4.
Mr. Ranjeev Carvalho with Ms. Priya Diwadkar and Ms. Akshi Gandhi i/b Manilal Kher Ambalal & Co. for respondent no.6.
Mr. J.G. Reddy for respondent no.6.

**CORAM: DR. MANJULA CHELLUR, CJ. &
G.S. KULKARNI, J.**

DATE : 21st APRIL 2017

P.C.:

The petitioner is before us complaining noise pollution created due to construction activities undertaken by respondent no.5 during night hours. According to the petitioner, the work carried on by respondent nos.4 and 5 during night time affected the normal life of the localities and, therefore, a complaint was lodged with the concerned authorities and in spite of that, no action whatsoever was taken by the respondent authorities. Therefore, the petitioner has approached this Court.

2. On 13th April 2017, respondent no.5 has placed on record the affidavit in reply contending that after going through the contents of the petition, he is filing the sworn affidavit wherein he categorically undertakes to comply with all the formalities including the hours during which the construction work could be undertaken so as to maintain peace and tranquility without disturbing the neighbours. The deponent of the affidavit has made the following statements which we accept.

“3. At the outset I say and submit that Respondent No.5 herein is the contractor appointed by Respondent No.4 herein. The Respondent No.5 is carrying on the construction activity in compliance with the guidelines/Circular No.CHE/DP/ 7749/Gen issued by Municipal Corporation of Greater Mumbai (MCGM) dated 7th June 2016 which modified the condition of an IOD, inter-alia to be read that the work shall be carried out between 6.00 a.m. to 10.00 p.m. only in accordance with Rule 5A(3) of the Noise Pollution (Regulation & Control) Rules, 2000 and the provision of notification issued by Ministry of Environment and Forest Department from time to time. I say that the said Circular No. CHE/DP/ 7749/Gen dated 7th June 2016 is in force and the same is strictly complied with by this Respondent.

4. I say that this Respondent No.5 shall strictly observe and comply with the timelines as stipulated in the Circular No. CHE/DP/ 7749/Gen of MCGM dated 7th June 2016. In view of what is stated by Respondent No.6 as also what is

stated by this Respondent in the present Affidavit, the present petition deserves to be dismissed.”

3. We direct respondent no.5 to keep up and comply with the undertaking given in the affidavit in reply so that the petitioner or anyone else in the locality need not approach this Court. The respondent – Pollution Control Board or other authorities must also make surprise visits to the site to verify whether respondent no.5 is complying with the undertaking given by him or not.

4. With these observations, the PIL is disposed of.

(G.S. KULKARNI, J.)

CHIEF JUSTICE