

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

WRIT PETITION NO. 2253 OF 2017

Lok Seva Welfare Association ... Petitioner.

Versus

Sr. Inspector of Police
Pydhonie Police Station
and others ... Respondents.

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Mr. Suresh Rajeshwar for the Petitioner.
Mr. G.W. Mattos, AGP for Respondent Nos. 1 to 3.
Ms. Vandana Mahadik for MCGM.
Mr. Ajay Rane, Assistant Engineer, solid waste management
present in the Court.

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

DATE : 17th November, 2017.

P.C. :

By this writ petition, the petitioner-Lok seva welfare association seeks a direction against the respondent Nos. 1 and 2-the police authorities, not to obstruct or stop the construction of toilet facility on the footpath of Mohammad Ali road, opposite Mandavi post office, B ward.

According to the petitioner, the petitioner-association was granted permission by the Corporation authorities to construct a toilet facility on the footpath of Mohammad Ali road, opposite Mandavi post office. It is stated that after the petitioner started

taking steps for construction of the toilet facility at the concerned site, the respondent Nos. 1 and 2-police authorities obstructed the petitioner from constructing the same. It is stated that the action on the part of the respondent Nos. 1 and 2 in obstructing the petitioner-association in constructing the toilet facility is high handed.

On the other hand, it is submitted on behalf of the respondent Nos. 1 and 2 that the petitioner-association is constructing the toilet just in front of the police officers' quarters. It is stated that the family members of the police officers who reside in the quarters would be inconvenienced and embarrassed by the existence of a toilet facility right in front of the police officers' quarters. It is stated that there are two toilets on the opposite side on Mohammed Ali road, one at the distance of 300 metres and the other, merely at the distance of 100 metres. It is stated that since the toilet facility is available in the near vicinity, the respondents have rightly prevented the petitioner-association from constructing the toilet facility right in front of the police officers' quarters.

Ms. Mahadik, the learned counsel for the Corporation states on instructions from the officer who is present in the Court today that the toilet facility is not being constructed by the petitioner in front of the gate of the police officers' quarters but it is in front of the compound of the quarters. It is however not disputed that on the other side of the Mohammed Ali road there are public toilets. It is stated that there appears to be a road divider in the midst of

the Mohammed Ali road and it may not be possible for the pedestrians on one side of the road to easily access to the other side.

On hearing the learned counsel for the parties and on a perusal of the photographs that are annexed to the affidavit in reply and the photographs that are tendered in the Court today for our perusal that the petitioner-association is allotted a site, right in front of the police officers' quarters, for the construction of the toilet facility. A large part of the footpath on the said road would be occupied by the toilet facility which would be constructed in front of the compound wall of the police officers' quarters. We find much substance in the submission made on behalf of the respondent Nos. 1 and 2 that if the toilet facility is constructed right in front of the police officers' quarters, great inconvenience and embarrassment would be caused to the family members of the officers. We also find that the divider between the road is not as high as is sought to be canvassed by the petitioner and the Municipal Corporation. Since it is not disputed that there are two public toilets on the other side of the road, the commuters may not be put to inconvenience if they wish to avail the facility.

At this stage, the learned counsel for the petitioner states that the petitioner has invested a large amount for purchasing Jindal steel made toilet blocks and the petitioner would not insist for this particular site, but the Corporation authorities may permit the petitioner to construct a toilet facility at a convenient place at the earliest so that the petitioner's investment may not be wasted.

In the circumstances of the case, we dispose of the writ petition with a direction to the Corporation to permit the petitioner to construct a toilet facility at an appropriate site where toilet facility would not be easily available for the commuters and least inconvenience would be caused to the residents in the locality. The alternate site should be granted by the Corporation to the petitioner within four weeks. Order accordingly. No costs.

(Riyaz I. Chagla J)

(Smt.Vasanti A Naik, J)