

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.11709 OF 2014
WITH
CIVIL APPLICATION NO.565 OF 2018
(FOR INTERVENTION)**

Dilip Vasant Joshi

.. Petitioner

V/s.

The State of Maharashtra & Ors.

.. Respondents

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Mr.S.S.Kanetkar, Advocate for the Petitioner.

Mr.S.M. Gorwadkar a/w. Mr.Venkatesh Shastry, Advocate for the Applicant in CAW 565 of 2018.

Mr.B.V. Samant, AGP for Respondent No.1.

Mr.Abhijeet M. Kulkarni, Advocate for Respondent Nos. 2 to 5.

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**CORAM : S.C. DHARMADHIKARI AND
PRAKASH D. NAIK, JJ.**

DATED : APRIL 2, 2018.

P.C. :

On March 23, 2018, we passed the following order:

“ Learned advocate appearing for the Pune Municipal Corporation was apprised of the communication from the Department of Urban Development, Government of Maharashtra dated 21st March, 2018. A copy of the communication from the State Government to the Commissioner, Pune

Municipal Corporation dated 21st March, 2018, is taken on record and marked "X" for identification.

2 This communication to the Municipal Commissioner of the Pune Municipal Corporation specifically says that the provisions of the Maharashtra Municipal Corporations Control of Hoardings and Advertisement Rules, 2003, are self-explanatory. For displaying of any advertisement or hoarding within the Municipal limits, rates are to be determined by the Municipal Corporation. However, once the determination is done or there has to be a revision in the old rates, then, in terms of the Maharashtra Municipal Corporation Control of Advertisement and Hoarding Rules, 2003, require the permission/approval from the General Body. The communication from the Municipal Commissioner to the State Government dated 19th May, 2014, does not refer to any such approval/permission of the General Body. Therefore, the Municipal Commissioner is directed to place his proposal contained in the letter dated 18th January, 2014, before the General Body and then revert back to the State Government.

3 Mr.A.P. Kulkarni, appearing for the Pune Municipal Corporation presently has no instructions, though he does not deny the issuance of such a communication.

4 He, therefore, seeks time to speak to the Municipal Commissioner and revert back to this Court.

5 We place this petition for passing orders on 2nd April, 2018.”

2 Today, Mr.A.P. Kulkarni has tendered an affidavit of the Deputy Municipal Officer and Head of Sky Sign Department of Pune Municipal Corporation (“PMC”, for short).

3 In paragraph No.6 of the affidavit, the Deponent states that the record indicates that the Standing Committee of the Pune Municipal Corporation has not accepted the decision taken by the Municipal Commissioner of fixing the advertisement fees at Rs.222/- per square feet. The Pune Municipal Corporation administration thereafter had referred to the resolution of the Standing Committee, suggesting 15% increase in the previous rate, to the State of Maharashtra, under Section 451 of the Bombay Provincial Municipal Corporation Act/Maharashtra Municipal Corporation Act, 1949. The earlier communication, which is referred in the above order, has been expressly referred in paragraph 6 of this affidavit. Thereafter, there is an opinion

recorded and possibly of the Municipal Commissioner with regard to which, presently, we say nothing. We are not required to make any observations, leave alone, render any final conclusion as to whether there is any power in the Municipal Commissioner to revise the rates or terms and conditions with regard to payment of fees for display of sky signs and advertisements on the hoarding structures.

4 For our purpose, the statement recorded in paragraphs 7 and 8 of the affidavit would suffice. The Municipal Commissioner has now decided to await the decision of the General Body, though his opinion is otherwise. The matter has now been placed for approval of the General Body of the Pune Municipal Corporation for fixing the rental or fees, as the case may be, for grant of advertisement permission in terms of the Rules of 2003. Till the approval is obtained, on instructions, Mr.Kulkarni states that no sky sign or advertisements or hoarding structures will be disturbed by the Municipal Authorities. Mr. Kulkarni clarifies that none of the structures/advertisements or the sky sign will be disturbed, leave alone, removed or pulled down only for the non-compliance by the applicant, as far as the payment of rental or fees, as proposed by the Municipal

Commissioner are concerned. Merely because the increased rates have not been paid, the above acts, as apprehended by the petitioner or any concerned applicant, would not be carried out by the Municipal Authorities.

5 Once Mr.Kulkarni makes this statement, we have no reason not to accept it as an undertaking given to this Court. Equally, we direct that, until the General Body takes the necessary decision with regard to approval to the revised rental /fees, none of the structures, styled as “hoarding structures”, displaying their advertisements or sky sign or otherwise, shall be pulled down or demolished only because the demand for such rental or fees has not been satisfied. Similarly, they shall not be pulled down or demolished only because the renewal of the permission has not been granted by the Municipal Corporation, solely on the ground of non-payment of such revised rates/fees and determined by the Municipal Commissioner.

6 This order does not in any manner prevent the Municipal Authorities from proceeding against these structures, if they violate the other terms and conditions of the applicable laws. In such case, the Municipal Authorities can proceed against

them in accordance with law and this order shall not prevent them from doing so.

7 Needless, therefore, to clarify that, all contentions with regard to the powers of the Municipal Commissioner or the General Body with regard to the determination of rates or revision thereof, are kept open for being considered at an appropriate stage.

8 We dispose of the petition and the Intervention Application with these directions.

9 We also clarify that, the petitioner or such others, who are aggrieved by the revision in the rates, are free to challenge the same in accordance with law. All contentions in that regard of both the sides are kept open.

(PRAKASH D. NAIK, J.) (S.C. DHARMADHIKARI, J.)