

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

WRIT PETITION NO.168 OF 2018

Supri Advertising and Entertainment
Private Limited & Another Petitioners

Vs.

Municipal Corporation of Greater
Mumbai & Others Respondents

WITH

NOTICE OF MOTION {STAMP} NO.271 OF 2018

IN

WRIT PETITION NO.168 OF 2018

Mumbai Mahanagarpalika Applicant

In the matter between

Supri Advertisement and Entertainment
Private Limited & Anr. Petitioners

Vs.

Municipal Corporation of Greater Mumbai
& Ors. Respondents

Mr. S.U. Kamdar, Senior Counsel with Mr. Gautam
Ankhad, Mr. Ankoosh Mehta, Mr. Srinivas Atreya
Chatti & Mr. Samnith Malladi i/by Cyril Amarchand
Mangaldas for the Petitioners.

Mr. A.Y. Sakhare, Senior Counsel with Mr. Sagar
Patil for Respondent Nos.1 to 3 in the WP and for
the Applicant in the NM.

Ms Jyoti Chavan, AGP, with Mr. B.V. Samant, AGP,
for Respondent No.6.

CORAM: S.C. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.

DATE : APRIL 16, 2018

P.C:

1. By this petition under Article 226 of the Constitution of India, the petitioners are challenging an order of blacklisting, a copy of which is at Exhibit "A", page 31 of the paper-book.

2. The second order that is challenged is passed by the Deputy Municipal Commissioner (Special) on 28-11-2017 and that is to the following effect:-

- "1. Application for renewal of license no.SL/4638/LAD dated 15.7.2011 for 20 bus queue shelter, 40 double sided glow sign boards and 20 double sided cantilevers on Western Express Highway is rejected on account of Advertiser being blacklisted by MCGM and being a frequent offender of MCGM policy guidelines as approved by Hon. High Court Bombay in WP 1132 of 2002.
2. Advertiser is hereby ordered to remove all his Advertisements within 48 hours from receipt of this order failing which the License Department will remove the same by use of such force as necessary.
3. License Department to communicate to the MSRTC and PWD about the said order so that they can proceed with cancellation of their agreement."

3. When this petition was placed on the earlier occasion and today Mr. A.Y. Sakhare, learned Senior Counsel appearing on behalf of respondent Nos.1 to 3, on instructions, states that the Municipal Corporation of Greater Mumbai withdraws the order at page 31 of the paper-book seeking to blacklist the petitioners.

4. That order having been expressly withdrawn, as stated on instructions by Mr. Sakhare, the writ petition to that extent would not survive. We accept the statement of Mr. Sakhare as an undertaking to this Court.

5. Mr. Sakhare has instructions to further inform the Court that as against the second order of 28-11-2017, running pages 32 to 40, the operative directions of which have been reproduced above, the petitioners have forwarded a representation during the pendency of this petition. A copy of this representation is to be found at Exhibit "BB", page 190 of the paper-book.

6. On instructions, Mr. Sakhare says that this representation shall be placed before two Additional Municipal Commissioners or the Municipal Commissioner himself or officials higher in rank to the authority who has passed the above reproduced order at page 40 of the paper-book.

7. Mr. Sakhare says that this representation would be disposed of by these officials, and two in number, within a period of six weeks from today.

8. Mr. S.U. Kamdar, learned Senior Counsel appearing on behalf of the petitioners would submit that the higher authorities would also be influenced by, firstly, the act of blacklisting and secondly, some observations and conclusions in the order of the Deputy Municipal Commissioner (Special) Ms Nidhi Choudhari.

9. We have no doubt in our mind that once the order of blacklisting has been withdrawn by the Municipal Commissioner, then that cannot influence any authority much less higher in rank than the Deputy Municipal Commissioner

(Special). Secondly, these higher officials cannot be influenced by the order and particularly any observations as they are expected to apply their independent mind to the representation, copy of which is at page 190 of the paper-book. More particularly when the petitioners assert in that representation that they had entered into a Tripartite Agreement with the Public Works Department, Government of Maharashtra and the Maharashtra State Road Transport Corporation for the erection of Bus Queue Shelters, Double Sided Glow Boards and Double Sided Cantilevers on the Western Express Highway, and for display of advertisements on these structures for 25 years. This Agreement and given the experience claimed, so also the relevant documents would definitely, therefore, enable the higher authorities to apply their independent mind and which they are expected to apply. This takes care of the apprehension of the petitioners.

10. In view of the fact that the application seeking renewal of the license is pending for a considerable duration, we direct that these higher officials shall pass their orders assigning

reasons as expeditiously as possible and before 16-5-2018.

11. In the light of the above, we see no apprehensions of the Municipal Corporation as well survive. We do not see that we have passed any order influenced by any allegations and particularly made in para 23(t) to which our attention was invited. Those allegations do not survive.

12. With the above observations, the writ petition is disposed of.

13. In view of disposal of the writ petition, Notice of Motion (Stamp) No.271 of 2018 does not survive and it accordingly stands disposed of.

(PRAKASH D. NAIK, J.)

(S.C. DHARMADHIKARI, J.)