

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAN) NO.112/2017

IN

CONTEMPT PETITION NO.173/2015

IN

WRIT PETITION NO.3681/1997

Sitabuldi Merchants Association, through its Secretary, Sitabuldi, Nagpur
 ..Vs..

Smt. Manisha Patankar Mhaiskar (IAS) and others

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri A.M. Kadukar, A.G.P. for respondent Nos.3 and 5.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH JJ.

DATED : 13.7.2018.

1. After 9th November, 2017 this application was filed on 16th November, 2017. The respondent No.6 has filed reply strongly opposing this application. Similarly, respondent Nos.2 and 4 have also filed their reply.

2. We have heard Advocate Shri T.D. Mandlekar for applicant / petitioner, Advocate Shri S.M. Puranik for respondent Nos.2 and 4 and Senior Advocate Shri M.G. Bhangde with Advocate Shri V.P. Marpakwar for respondent No.6.

3. In application, apart from a prayer seeking to place documents on record there is also a prayer to hold and declare that respondents have committed willful breach, deliberate disobedience of various orders passed by this Court in Writ Petition No.3681/1997 and

Contempt Petition No.15/2003. The documents sought to be placed on record are as under:

Sr. No.	Annexure	Description	Date	Page No.
1	A	Copy of Hawking and Non-Hawking Zone Policy 2001.	23-10-01	43-129
2	B	Photographs depicting display boards of "No Hawking Zone".	14-11-17	130-142
3	C	Copy of file Noting and approval by Municipal Commissioner.	23-10-01	143
4	D	Copy of "Work Order" issued by NMC for maintenance of "Non Hawking Zones".	06-02-10	144-145
5	E	Copy of Resolution and Minutes of Meeting.	07-06-10	146-147
6	F	Copy of Writ Petition No.3974/2012	16-04-12	148-157
7	G	Copy of Municipal Commissioner Affidavit.	17-01-13	158-164
8	H	Copy of order passed by High Court in Writ Petition No.3974/2012.	21-03-13	165-166
9	I	Copy of order passed by High Court in Writ Petition No.3974/2012.	28-06-13	167-168

4. Senior Advocate Shri Bhangde has submitted that there is no Hawking Policy as required by Law and no reasons are spelt out in application explaining why said documents could not be filed earlier. His contention is leave was sought after matter was finally argued and hence, taking advantage of that leave, disputed documents or other documents cannot be placed on record.

5. Advocate Puranik does not dispute the document pertaining to Hawking Zone Policy, 2001. However, he also adopts arguments of learned Senior Advocate insofar as production of other documents is

concerned.

6. According to Advocate Mandlekar Hawking Policy of Nagpur Municipal Corporation cannot be a disputed document and entire litigation is based upon it. He adds, that other documents only attempt to bring on record up to date developments not only on facts but also in field of law.

7. It is, therefore, admitted position that on 9.11.2017 after parties concluded their arguments, we have granted leave to place on record Hawking Zone Policy, 2001 with an application seeking permission. The application seeking permission became necessary because of objection raised by respondents at that stage to belated production of document. Thus, after matter was finally argued only a limited leave to file application seeking permission and document about Hawking Zone Policy, 2001 could have been presented to this Court.

8. The other documents i.e. at serial Nos.2 to 9 therefore, could not have been attempted to be introduced on record with said application. The relevance or otherwise of those documents cannot be the factor germane after parties finally concluded their arguments. Consideration about it is circumscribed by order dated 9.11.2017. No reasons also are assigned for late production of these documents. We, therefore, cannot grant leave to produce documents from serial Nos.2 to 9 on record.

9. Insofar as document No.1 i.e. Annexure A is concerned, it is Hawking Zone Policy, 2001. Though

Nagpur Municipal Corporation has opposed its production on the ground that it is belated, fairly its relevance or then nature is not in dispute. The contempt petition attempts to demonstrate violation of Court orders and, therefore, also centers on this policy.

10. But then as document is relevant and in any case, in dispute of such nature, the Corporation or other respondents ought to have produced it on record to assist the Court in the matter, we are inclined to permit filing of only that document on record.

11. Therefore, civil application is partially allowed and document at serial No.1 (Annexure A) dated 23.10.2001 is only permitted to be placed on record.

12. As the document has come on record today, we list the matter for further consideration on **10th August, 2018.**

13. Needless to mention that it is open to parties to take necessary steps in the meanwhile.

JUDGE

JUDGE