

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6074 OF 2016

Shri Swami Samarth Enterprises
Omshanti Apartment Dhule through
its Proprietor Maya Sharad Pawar .. Petitioner

Versus

Indian Medical Association, Sitaram
Pant Smriti Dhule and others .. Respondents

Shri S. R. Barlinge, Advocate for the Petitioner.
Shri Y. G. Gujrathi, Advocate for the Respondent No. 1.
Shri Amol S. Sawant, Advocate for the Respondent No. 2.
Ms. Sarika D. Deshpande, Advocate for the Respondent No. 3
Shri A. B. Chate, A.G.P. for the Respondent No. 1.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVALA, JJ.**

DATE : 22ND APRIL, 2019.

FINAL ORDER :

. The petitioner has filed present writ petition with following prayers :

A. By a writ of mandamus, or any other appropriate writ, or order or directions in the like nature, the respondent No. 1 be restrained from raising its project for disposal of bio-medical waste.

B. By a writ of mandamus, or any other appropriate writ, or order or directions in the like nature, the respondent No. 2 be directed to allow the petitioner to complete its term of twenty years for collection, transportation and disposal of biomedical waste.

2. The question of prayer clause B would arise if the apprehension of the petitioner with regard to prayer clause A subsists. The Maharashtra Pollution Control Board has filed affidavit. Para 10 of the affidavit reads thus :

"10. With reference to para 8 of the petition, I say and submit that Respondent No. 1-Indian Medical Association has not submitted any proposal for setting up their own Common Bio-Medical Waste Treatment & Disposal Facility to the Maharashtra Pollution Control Board, therefore, there is no question of giving permission to the Respondent No. 1-Indian Medical Association for setting up Common Bio-Medical Waste Treatment & Disposal Facility in Dhule District."

3. As the respondent No. 1 has not yet applied to the pollution control board for necessary permission, the apprehension of the petitioner and relief sought with regard to the prayer clause A would not be necessary to be dealt with.

4. In the light of the above, as the respondent No.1 has not yet applied to the pollution control board, the apprehension raised by the petitioner in the present petition cannot be said to be eminent apprehension.

5. The petitioner may take up recourse to the judicial proceeding as may be permissible in law, if the respondent No. 1 applies for start of the project and the same would be in conflict with the project of the petitioner.

6. In case such occasion arises, the contention of respective parties on merits are kept open. The writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/April 19