

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIM. PUBLIC INTEREST LITIGATION ST. NO. 42 OF 2019

Himanshu Agarwal.

...Petitioner.

Versus

Commissioner of Police and Others.

..Respondents.

Mr. Y. C. Naidu with Ishan Srivastava i/b Ankul Seth for the
Petitioner.

Mr. Deepak thakare, PP with Mr. A. Sait, APP for the Respondent-
State.

Mr. Atul Nanda, Senior Advocate with Ms. Aishwarya Kantawala
for Respondent No.3.

Coram : RANJIT MORE &
SURENDRA P. TAVADE, JJ.

Date : **December 11, 2019.**

P. C. :

1. Heard the learned counsel appearing for the
respective parties.

2. The Petitioner in above PIL has sought issuance of
directions to Respondent No.1-the Commissioner of Police,
Mumbai and Respondent No.2-Union of India to forthwith
withdraw the security cover to Respondent Nos.3 to 10 and
recover the cost of providing security to them. It is the
contention of the Petitioner that Respondent Nos.3 to 10 are not
entitled to any security cover at the cost of public money.
According to him, there is no real threat to Respondent Nos.3 to

10, and even otherwise the said family can afford private security. According to the Petitioner, the public money is being wasted on the security of private persons when there is shortage of police personnel for maintaining law and order.

3. The Respondent-State opposed the admission of instant PIL and submitted that it is an abuse of process of law; the prayers made therein are wholly misconceived. The contentions of the Petitioner are baseless and PIL needs to be dismissed with cost.

4. The learned senior counsel appearing on behalf of Respondent No.3- private respondent at the outset submitted that private respondents are paying and willing to pay cost for their security; they require highest level of security. He also placed on record the judgment of Hon'ble Supreme Court of India in the matter of State of West Bengal v. Biswanath Mitra [(2015) 14 SCC 599] and another judgment of the division bench of this Court in the matter of Nitin v. Union of India [2013(5) Mh.L.J. 810] wherein similar challenge to the security of CRPF provided to Mukesh Ambani was dismissed.

5. Significantly, another PIL challenging the security cover to one of the Respondents herein has earlier been

dismissed by the judgment in *Nitin's case (supra)*. The co-ordinate bench in Nitin's case also observed that in genuine and deserving cases, the State is bound to provide security cover not only to Ministers, ex-Ministers, bureaucrats, but also to private citizens who have fundamental right to life which includes right of protection of his life.

6. As noted in the aforesaid judgment of the co-ordinate bench in Nitin's case, security was provided pursuant to the threat received from the terrorist organisations. It is trite that it is duty of the State to ensure maintenance of law and order which include providing security to such citizens who require the same to protect their life. The revenue of Reliance Industries Limited Corporation have substantial impact on India's GDP. The threat perception of these private individuals cannot be lightly ignored to deny the protection to their life. Once threat from terrorist organisation has been found by the the Respondent-State and already as noted above in the said earlier judgment of the co-ordinate bench considering existence of such treat perception and likely cascading effect thereof, private respondent's family members to have security protection of the highest category to protect their life and limb cannot be alleged

as lacking in substance.

7. The law regarding necessity to provide or grant of security cover to the citizens is well settled in a challenge filed by the West Bengal Government to the directions issued by the High Court to provide armed security at the cost of State in Biswanath's case (supra). The Hon'ble Supreme Court was pleased to issue following directions :

"11. Based on the factual position noticed above, we are satisfied in disposed of the present appeal, with the following directions:

11.1. It shall be open to the Respondent to furnish further details of the police authorities insofar as the threat perception to his life is concerned. This liberty shall be available to the Respondent, as and when he perceives of such threat. When such a representation is made by the Respondent to the police authorities, the same shall be examined and a decision shall be taken thereon within one week of the receipt of such representation. In case, it is concluded that there is threat to the life and liberty to the Respondent, he shall be provided free protection.

11.2. Irrespective of what has been directed by us hereinabove, and irrespective of the conclusions drawn by the Police Department, it shall be open to the Respondent to claim police protection based on his own threat perception. In case he chooses to do so, the police authorities shall provide police protection to the Respondent, and charge him for the same."

. Thus, the ratio is laid down that if the police is satisfied about the existence of threat to the life and security of citizens shall be provided free security. Irrespective of the

satisfaction of the police, the citizen can claim protection based on his own threat perception by paying cost for the same.

8. The private respondents herein are not desirous of any security at the State expenditure for protection of their lives. They are themselves bearing the cost for security provided by the Respondent-State. The private respondents herein are willing to further bear the cost of availing the highest level of security. We find no error in private respondent's family seeking and availing the Z+ security in the above facts and circumstances.

The judgment of Hon'ble Supreme Court in *Biswanath (supra)* is binding throughout the territories of India. We are of the view that the Commissioner of Police, Mumbai and other respondents have no option but to ensure that the highest level "Z+" security is provided to these private respondents to protect their life and liberty, irrespective of whether any individual or any authority is convinced about the existence or otherwise of real threat to their life or liberty, particularly when in terms of the ratio laid down by the Hon'ble Supreme Court in *Biswanath's case (supra)*, these private respondents are willing to bear the entire cost for said security to protect their lives in view of their own grave threat perceptions.

9. We are unable to find any merit in the contention of the PIL petitioner. Thus the PIL is dismissed with costs.

[SURENDRA P TAVADE, J.]

[RANJIT MORE, J.]