

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.**

**PUBLIC INTEREST LITIGATION NO.58 OF 2007
WITH
NOTICE OF MOTION NO.340 OF 2014
AND
NOTICE OF MOTION NO.400 OF 2019**

S.G.P. Barnes

... Petitioner

Vs

Narendra P. Naik
Rationing Officer & Ors.

... Respondents

Petitioner-in-person present

Ms.Uma Palsuledesai, AGP, for Respondent – State
Mr.A.Y. Sakhare, Senior Advocate with Ms.K.H. Mastakar for
Municipal Corporation
Mr.Chetan Mhatre i/b Utangale & Co. for SRA

**CORAM: S.C. DHARMADHIKARI &
R.I. CHAGLA, JJ.**

DATED: DECEMBER 6, 2019

P.C.:

1. The only difference between this Public Interest Litigation and Public Interest Litigation No.73 of 2010 is that in this PIL, the petitioner says that there is an encroachment, right in the middle of the DP road and that prevents the BEST buses which is a mode of public transport from going further and carrying passengers to their

destination. It is an obstruction in the smooth flow of traffic and the Municipal Corporation must remove the same as it is in the middle of the road.

2. The Municipal Corporation on affidavit says that the position is not as projected by the PIL petitioner. The road is a proposed Development Plan road. The encroachment, as the petitioner terms it, is nothing but a construction on a private property. If the proposed DP road or the DP road reservation / designation has to be taken to its logical end and conclusion, then, the Municipal Corporation would have to acquire rights in this property and then alone, lay the complete road and enable the BEST buses and other vehicles to ply by using the same. Presently, the Municipal Corporation cannot term this structure as an encroachment on an already constructed and duly laid DP road.

3. In the circumstances, the Municipal Corporation says that it is obliged to follow the due process of law and would follow it.

4. Once the Municipal Corporation has said that it will follow the process of law and take this designation or reservation to its logical end, then, the PIL has served its purpose. It is disposed of.

5. In view of the disposal of the PIL, Notices of Motion also stand disposed of.

(R.I. CHAGLA, J.)

(S.C. DHARMADHIKARI, J.)