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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION (L) NO. 10685 OF 2019
WITH
INTERIM APPLICATION NO. 1420 OF 2020

Dr. Mahesh Vijay Bedekar

..Petitioner

And

State of Maharashtra & Ors.

..Respondents

Mr. S. M. Gorwadkar, Senior Advocate i/by Ms. Sadhana Mahashabde for petitioner/applicant.

Mr. P. P. Kakade, Govt. Pleader with Mr. M. M. Pable, AGP for State.

Mr. R. S. Apte, Senior Advocate with Mr. Narayan R. Bubna for respondent Nos.4 and 5.

**CORAM: DIPANKAR DATTA, CJ. &
G. S. KULKARNI,J.**

OCTOBER 27, 2020.

P.C.

1. Thane Municipal Corporation proposed to undertake the work of construction of an underground parking plaza at Gaondevi Maidan, Thane (W). Apprehending that the open

space of the said maidan would be affected by reason of such construction, the petitioner instituted this PIL petition praying for, *inter alia*, for the following relief :-

“(A) Restrain the Respondent No.4 and 6, their servants, agents, officers and or employees and or persons claiming through them, from undertaking the work of constructing of Underground Parking Plaza at Gaondevi Maidan, Thane (W).

(B) Restrain the Respondent No.5 from granting tree cutting permission for constructing of Underground Parking Plaza at Gaondevi Maidan, Thane (W).

2. At the hearing, Mr. Gorwadkar, learned senior counsel appearing for the petitioner, fairly submitted that the construction work having commenced, the petitioner would not seek any order from the Court to stall the project of construction of the underground parking plaza, but a statement ought to be made on behalf of the Corporation that the open space of the said maidan shall be restored for the purpose of activities related to sports as well as to maintain good health of the citizens.

3. Mr. Apte, learned senior counsel appearing for the Corporation, has invited our attention to unnumbered subparagraphs of paragraph 4 of the affidavit-in-reply at pages 77 and 78 thereof. We consider it proper to quote relevant portions from such paragraph hereunder:

“ In order to address this and to facilitate citizens in better way without altering the present reservation position of the play ground, the decision has been taken after following the due process to construct underground parking facility. The said construction will not alter the facility of any kid, children, youth or citizens to who are in implied to have their sports activity on the said play ground.

XXXX

XXXX

With respect to para 6 (f), it is most respectfully stated that the Gaondevi Maidan which is reserved for the sports purpose will remain unaffected so as to maintain good health of the citizens.

XXXX

With respect to para 6(g), it is most respectfully stated that, it is reiterated that the open space will remain unaffected.”

4. In view of the clear stand taken by the Corporation, as noted above, we are of the considered opinion that the concerns expressed by the petitioner have duly been addressed.

5. The PIL petition stands disposed of, without order for costs.

6. We record that by filing an Interim Application, the petitioner has sought to raise a broader issue regarding

implementation of the parking policy adopted by the Corporation.

7. Having heard learned senior counsel for the parties on such issue, we are also of the considered opinion that the petitioner/applicant shall be free to institute appropriate proceedings for implementation of such parking policy adopted by the Corporation, if at all the Corporation without valid reason does not proceed to act in terms thereof at any time in the future.

8. The Interim Application stands disposed of, also without costs.

9. This order will be digitally signed by the Sr. Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

Pravin D.
Pandit

G. S. KULKARNI, J.

CHIEF JUSTICE

Digitally signed by
Pravin D. Pandit
Date: 2020.10.27
18:44:32 +0530