

Sonali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 5 OF 2022

Swapnil Sadhu Kadam ...Petitioner

V/s.

State of Maharashtra & Ors. ...Respondents

Dr. Uday Warunjikar a/w. Mr. Sumit S. Kate for
petitioner.

Mr. P. P. Kakade, Government Pleader a/w. Mr. B. V.
Samant, AGP for respondent nos. 1 to 3-State.

Mr. Akash Shah a/w. Mr. Bhaskar Udawant for
respondent no.7.

**CORAM: DIPANKAR DATTA, CJ. &
MADHAV J. JAMDAR, J.**

DATE: NOVEMBER 10, 2022

P.C.:

1. This PIL petition is at the instance of a practicing advocate. The concern expressed therein is with regard to dearth of stamp vendors in Mumbai and adjoining areas. Relief claimed is diverse. *Inter alia*, it is prayed that the respondent-State of Maharashtra be directed to consider introduction of e-stamp facility across the State as well as to provide adequate stamp vendors in Mumbai considering the growth of population and litigation. There are also prayers made by the petitioner for directions to conduct inquiry and submit a report into alleged illegal sale and purchase of stamp papers across the State by certain recalcitrant stamp vendors.

2. Reply affidavit has been filed by the State of Maharashtra wherein it has been stated in sub-paragraphs K, L and M of paragraph 10 as follows: -

“(K) With a view to grant permanent stamp vendor licenses to Bar Associations and Advocate Societies, initially amendment in Bombay Stamp Supply & Sales Rules were moved from Respondent No.3 to the Government via Respondent No.2 but as per directions from Law & Judiciary Department, Government of Maharashtra, draft Rules of Maharashtra Stamp Supply and Sales Rules are sent for the further process by Respondent No.3 on 21/10/2021 to IGR Office, Pune. After getting sanction from Government to this draft Rules, the way to grant permanent stamp vendor license to Bar Associations/Advocate Societies will be opened.

(L) It is true that presently stamp vendor licenses in Mumbai City are small in number. But, over a period of time, there is also a decrease in demand for physical stamp paper purchase due to digital options made available to deposit stamp duty in Government Treasury. At present (2020-21) in Mumbai City, out of Rs.9,259/- crore stamp duty, revenue of Rs.9,102/- Crore (98.3%) generated are from e-Challan/GRAS/e-SBTR. Rs.94/- Crore (1.02%) from franking machine and Rs.63/- Crore (0.68%) from physical Stamp Papers. The details are given in a separate chart attached herewith and marked as **Exhibit 4**.

(M) I say that looking to this statistics, it has been seen that gradually dependency on physical stamp paper is reduced due to digital options available and this is also a reason for decline in number of private stamp vendors.”

3. Sub-paragraphs K to M have been dealt with by the petitioner in paragraphs 16 and 17 of the rejoinder affidavit,

reading as follows: -

16. With reference to Para 10(K) of reply, I say that the amendment to the B.S.S. & S. Rules 1934 may not be necessary as the associations are a body corporate and can be appointed through their legal representatives. I say that Section 3(30) of the General Clauses Act, 1977 defines the person as below:

(30) Person.—“Person” shall include any company or association or body of individuals, whether incorporated or not;

I say that the officers on the establishment of the Respondent No.3 have deliberately created controversy by creating a special class in license distribution for the Advocate Associations. The said licenses were issued under the directions of the Hon'ble High Court till the effective mechanism is set up according to the G.R. date 26th March 2004. I say that Respondent No.7 was the only interested party instrumental in interfering with the directions of the Hon'ble Court issued vide Order dated 14th October 2014 in W.P. No.263 of 2013. Hence, the Respondent No.3 has initiated series of communication for no reasons and obstructed the renewal of licenses to Advocate Associations in the midst of corona pandemic.

17. With reference to Para 10(L) and (M) of reply, I say that it is true that the revenue of Rs.94 Crore (1.02%) is generated through franking and Rs.63 Crores (0.68) from physical stamped papers. But the number of buyers is more in the category of the franking and physical stamped papers. For instance, the stamped paper requirement is many times as a single paper of Rs.100/- or Rs.500/- purchased at a time. The buyers have to gather at those few places for buying physical stamped paper which results in long queues (Page 96-109 of Petition). I say that out of the sale of Rs.63 Crore; only 3-4 vendors in Mumbai have sold the stamped paper for more than Rs.26 Crore and a mathematical proposition can be derived that 12 stamped paper vendors are not enough to cater to the need of Mumbai. I say that the need of a physical stamped paper of Rs.100 and/or Rs.500/- is a peculiar one and cannot be equated with

the bulk stamp duty purchase at the time of purchase/sell of the immovable properties.”

4. Having regard to the pleadings, as noticed above, we do not propose to examine the matter in any further depth. After all, a policy decision has to be taken by the State of Maharashtra to address the concerns that the petitioner has brought to the notice of the Court. Whether or not e-stamp facility is to be introduced and/or whether the number of stamp vendors is to be increased are within the exclusive domain of the executive. It would not be proper on the part of the Court to make any mandatory direction in that behalf, particularly in view of the extracted contents from the affidavit in reply and which, the petitioner has not specifically denied.

5. However, considering that dearth of stamp vendors could pose problems for many and also in view of the fact that the petitioner has submitted a representation dated 6th July 2021 on the subject of “allotting new Authorized Stamp Vendor Licenses in Mumbai City (especially in Fort area) for the convenience of the public or starting e-stamp facilities like National Capital Region, Delhi and other States”, we are of the considered view that interest of justice would be sufficiently served if this PIL petition is disposed of with directions that follow.

6. We direct the Additional Chief Secretary, Revenue Department to look into the said representation and take an appropriate decision in accordance with law upon granting opportunity of hearing to the petitioner. At the hearing before the Additional Chief Secretary, the petitioner may supplement

his representation by submission of additional compilation of documents in support of his prayers.

7. We have no doubt in our mind that the Additional Chief Secretary shall make an honest endeavour to look into the concern placed before him by the petitioner and pass an appropriate order disposing of the representation.

8. Let this exercise be completed as early as possible, and preferably within eight (8) weeks from date of receipt of an authenticated copy of this order.

9. We keep all the contentions open for the petitioner to urge before the Additional Chief Secretary for an appropriate decision by him.

10. It is also made clear that the allegations that have been levelled by the petitioner against the respondent no.7 are not examined in this PIL petition. Law provides a forum for redress of the grievance of the petitioner if any stamp vendor has conducted himself/itself contrary to law and is guilty of any penal offence. We may only observe that if there has been any incident in the past giving rise to any penal offence punishable under any existing legislation in force in the State of Maharashtra, of which the petitioner is aware, he may set the criminal law in motion by lodging an appropriate complaint before the appropriate Court whereafter law will take its own course.

11. The PIL petition is disposed of on the above terms. No costs.

(MADHAV J. JAMDAR, J.)

(CHIEF JUSTICE)