

Pdp

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 7 OF 2022

Santosh Harishchandra Kanojia .. Petitioner

Vs.

Municipal Corporation of Greater
Bombay & Ors. .. Respondents

Mr. O. R. Tiwari with Mr. A. R. Kale & Neetu Gupta for
petitioner.

Ms. Kejali Mastakar for respondent nos.1 to 5/MCGM.

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

DATE : OCTOBER 10, 2022

P.C.:

1. By instituting this public interest litigation, the petitioner complains of alleged faulty design in construction of a bridge over Poisar river. Although the writ petition was instituted on 7th December, 2021, no real effort was made by the petitioner to have the same heard. Much water seems to have flown under the bridge since then.

2. We have an affidavit in reply filed by the Assistant Engineer of the Municipal Corporation of Greater Mumbai (MCGM). It appears from paragraph 6 and its several sub paragraphs that presently 95% work of the under-construction bridge is complete and the balance work is proposed to be completed by November, 2022.

3. It is submitted by Mr. Tiwari, learned advocate appearing for the petitioner that it is only after institution of this public interest litigation that the MCGM has proceeded hurriedly to complete the bridge construction work, which started as far back as in 2016-2017. According to him, the bridge is being constructed in such a manner that the same is bound to result in flooding of the river water which is bound to affect the persons residing in the locality.

4. We have looked into the petition memo as well as the prayers therein, whereby the petitioner seeks an order from this Court to dismantle the under-construction bridge and to reconstruct the same.

5. For the purpose of formation of even a *prima facie* view that construction of the subject bridge is proceeding on the basis of a faulty design, there has to be some materials on record before us. However, nothing of substance has been placed on record except a bald assertion of a faulty design and a few photographs. While exercising our power of judicial review, we do not sit in appeal over decisions taken by experts in the field of engineering who, we presume, must have applied their mind for the purpose of construction of the subject bridge. A bald assertion of a faulty design cannot afford reason to interfere. No legal infirmity in the decision-making process has been brought to our notice.

6. To our minds, invocation of the public interest jurisdiction by the petitioner based on incomplete data and facts should not be encouraged. More so, when 95% of the

work is reportedly complete and the balance work is proposed to be completed by November, 2022.

7. We see no merit in the PIL petition. The same stands dismissed. No costs.

(MADHAV J. JAMDAR, J.)

(CHIEF JUSTICE)

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