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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLANT JURISDICTION**

**INTERIM APPLICATION NO. 1219 OF 2024
IN
PUBLIC INTEREST LITIGATION NO. 3 OF 2024**

Sanjay Shankar Kokate .. Applicant

In the matter between:

Sanjay Shankar Kokate .. Petitioner

Versus

**The Municipal Corporation of
Greater Mumbai & Ors.** .. Respondents

**WITH
PUBLIC INTEREST LITIGATION NO. 3 OF 2024**

Sanjay Shankar Kokate .. Petitioner

Versus

**The Municipal Corporation of
Greater Mumbai & Ors.** .. Respondents

Mr. Rahul R. Tiwari a/w Ms. Sheetal D. Parmar for
applicant/petitioner.

Mr. A. R. Patil, APP for State.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE: 27th MARCH, 2024

P.C.:

INTERIM APPLICATION NO. 1219 OF 2024:

1. This Interim Application has been moved for restoration of the PIL petition which was dismissed for non-prosecution vide an order dated 22nd February, 2024.

2. Cause shown in the Interim Application, seeking restoration of the PIL petition, is sufficient.

3. Accordingly, interim application is allowed. The order dated 22nd February, 2024 is hereby set aside and the PIL petition is restored to its original number.

PIL No. 3 of 2024:

4. Heard the learned counsel representing the petitioner in support of the PIL petition.

5. The petitioner is said to be President of a Charitable Trust which, according to the petitioner, is engaged in various welfare activities for needy persons. The petitioner also describes himself to be a social worker who is working for betterment of downtrodden and weaker sections of the society. It is also stated by the petitioner that the instant PIL petition has been filed to prevent corruption in the society by public servants.

6. The prayer clause of the PIL petition reads as under: -

"a) That this Hon'ble Court be pleased to issue a Writ of Mandamus or any other appropriate Writ, order, or direction in the nature thereof, to Appoint Central Bureau of Investigation for Investigate Corruption Committed by the Respondents officer.

b) Issue any other appropriate writ, order or direction as the nature and circumstances of the present case may require."

7. From a perusal of the prayer clause, as quoted above, it appears that the instant PIL petition, ostensibly filed in public interest, seeks a direction to be issued by this Court to appoint Central Bureau of Investigation (CBI) to investigate the alleged corruption said to have been committed by the respondents-officers. None of the officers, however, have been

impleaded as party-respondents in this PIL petition; instead it is the Municipal Corporation of Greater Mumbai, through its Commissioner, Assistant Commissioner, "A" Ward of the Corporation and the Commissioner of Police as also the Additional Commissioner of Police, Anti-Corruption Bureau have been impleaded as respondents.

8. The PIL petition, though runs into 12 paragraphs containing narration of facts and six grounds in support of the petition, however, from a perusal of the averments made in the PIL petition it is apparent that the petition is full of bald allegations without any supporting document or material to substantiate the allegations. The PIL petition, in fact, only speaks about lodging of several complaints by the petitioner on the letterhead of the Charitable Trust, "Manav Seva Dham". In a series of such complaints it appears that certain allegations have been levelled against the officers of the MCGM, however, even the said complaints do not contain any material to substantiate the same.

9. Learned counsel for the petitioner relies upon a First Information Report (FIR) bearing No. 21 of 2023 which has been lodged on a complaint made by one Mr. Pavan Manoj Dhotre, who is said to be a businessman and is a resident of 83 Sadbhavana Building, 3rd Floor, Room No. 313, Fanaswadi, Thakurdwar, Mumbai 400 002. According to the learned counsel for the petitioner the complaint made by Mr. Pavan Manoj Dhotre on the basis of which FIR has been lodged though contains allegations against various officers, however, only one officer has been made an accused in the FIR. It is, thus, the submission of the learned counsel for the petitioner

that the aforesaid FIR is not being investigated appropriately as a result of which the "corruption" amongst the officers of MCGM is unabated.

10. As already observed above, except for various representations made by the petitioner on the letterhead of "Manav Seva Dham", there is no other material which has been brought to our notice on this PIL petition substantiating the allegations.

11. So far as FIR is concerned, it has been lodged by the complainant Mr. Pavan Manoj Dhotre and it is for him to pursue the said FIR and in case there is any lacuna in arraying accused persons in the FIR, it is for the complainant to raise the grievance. Even otherwise, the FIR is under investigation and hence any observation made in regard to the subject matter of said FIR by this Court at this juncture is completely unwarranted.

12. It is settled law that ordinarily investigation of a reported crime is to be conducted by the local police. In very exceptional circumstances, the Court while exercising its jurisdiction under Article 226 of the Constitution of India, may transfer investigation of any offence to CBI, however, before passing such an order for transferring investigation to CBI, this Court needs to be satisfied that there are circumstances which exist warranting transfer of investigation to CBI. Such transfer of investigation of offences is ordinarily permissible in case the reported offence has any inter-State or all India repercussions. In the present PIL petition nothing has been brought to our notice so as to persuade us to transfer the investigation to CBI.

13. For the reasons aforesaid, we are not inclined to entertain the PIL petition, which is hereby dismissed.

14. However, we make it clear that any observation made by us in this order will have no impact whatsoever on the investigation of the FIR No. 21 of 2023, dated 7th May, 2023 being conducted by the investigating authority/officer.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)

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signed by
PRAVIN
DASHARATH
PANDIT
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