

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7796 OF 2024

Municipal Corporation Of Greater Mumbai Through
Assistant Commissioner 'L' Ward ...Petitioner

Versus

Gaurav Gadkari And Anr. ...Respondents

Mr. Prahlad Paranjape (through VC), Ms. Trupti Puranik, Mr. Amol Diwate and Mr. R.Y. Sirsikar, for Petitioner.

Mr. S.U. Kamdar, Senior Advocate a/w. Ms. Silpa Nair, Mr. Amogh Singh, Ms. Bhavi Vora, Mr. Uttam Shukla, Mr. Ankit Pandey i/b. Jeet Gandhi, for Respondent No.1.

Mr. H.D. Mulla, AGP for Respondent No.2.

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CORAM : M.M. SATHAYE, J.

DATED : 29 MAY 2024

(VACATION COURT)

P.C. :

1. Heard learned counsel for the parties.
2. By this Petition, the Municipal Corporation of Greater Mumbai is challenging an order dated 08.05.2024 passed by the Maharashtra State Human Rights Commission in KKT / Case No. 1979/13/16/2024. The Municipal Corporation is also seeking urgent *ad-interim* stay to the said order.
3. Learned counsel for the Petitioner Municipal Corporation has invited this Court's attention to the operative part of the order in

which the Human Rights Commission has advised the Municipal Corporation to revoke an order dated 24.02.2023, pay compensation of Rs. 50,000/- with interest @ 8% p.a. in case of default and to take appropriate departmental action against the concerned officer issuing the said order. The impugned order also directs that the plot owner and occupiers visitors are permitted to access site from the DP Road called Kajupada Road without any restriction and the order also directs the police authority to provide necessary protection.

4. Learned senior Advocate Mr. Kamdar appearing for the Respondent No.1/original Complainant submits that the Complainant has filed the complaint on behalf of his employer namely M/s. Piramal Realty Pvt. Ltd. in whose favour the carriage way permission was granted on 20.01.2023, which is unilaterally revoked by the Municipal Corporation on 24.02.2023, which was impugned before the Human Rights Commission. He submitted that public road cannot be blocked under the garb of cancellation of permission.

5. This Court is called upon during vacation to consider urgent *ad-interim* relief.

6. Perusal of the complaint by Respondent No. 1 shows that it is not filed by the entity namely M/s. Piramal Realty Pvt. Ltd. whose permission is revoked/ cancelled. Though it is asserted by the Complainant/ Respondent No.1 that he is undertaking the project on behalf of the employer, it is not understood at this stage, why the developer itself has not come forward. Additionally, the revocation of

carriage way licence or its cancellation can also be challenged either under the Mumbai Municipal Corporation Act or under common civil law remedy, is the submission of the Petitioner-Municipal Corporation. Learned Senior Advocate Mr. Kamdar submits that approaching the Human Rights Commission is also one of the remedies and the employee of the developer has chosen that remedy and no fault can be found with that. He also submits that there is political influence at work in this case. He relies upon para 7 & 8 of the complaint in support thereof. Learned counsel for the Petitioner submits that this case is never made out. Perusal of said paragraphs do not indicate case of political influence.

7. Be that as it may. From the nature of averments and the directions issued under the impugned order, it is obvious that the matter will have to be heard in detail. Considering the disputed factual aspects involved and legal issue as to whether really any human rights violation issue is involved, in my *prima facie* opinion, the impugned order needs to be stayed till the matter is taken up by the regular Court for hearing on merits.

8. Hence, place this Petition for admission and further orders on **18.06.2024** before the regular Court.

9. Till the next date, there shall be *ad-interim* relief in terms of prayer clause (c) which reads thus:

“(c) During the pendency of the hearing and final disposal of the present Writ Petition, this Hon’ble Court may kindly be pleased to stay the effect, execution,

operation and implementation of Order dated 8 May 2024 passed by the Maharashtra State Human Rights Commission.”

10. All contentions of the parties are kept open.
11. All concerned to act on authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)