

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 12389 OF 2024

Brihanmumbai Municipal Corporation Petitioner

Versus

Pinky Bhansali and Ors. Respondents

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Mr. Pralhad Paranjpe a/w Mr. Yash Tambe, Adv. R. Y. Sirsikar and
Mr. Pradeep M. Patil, Advocates for the Petitioner.

Adv. G. S. Hegde, Senior Advocate a/w Ms. Rajlaxmi Punjabi,
Advocates for Respondent No.2.

Ms. Snehal Jadhav, AGP, for the State.

Ms. P M. Bhansali- Petitioner No.1, present-in-person.

CORAM : R. M. JOSHI, J.

DATE : 4th SEPTEMBER, 2024.

P.C. :

1. Heard.

2. At the outset, learned counsel for the Petitioner / Corporation raises objection with regard to the maintainability of the proceedings before Human Rights Commission by contending that the subject sought to be taken up before the Commission is not covered by the provisions of the Act.

3. It is his submissions that owing to the definition of Human Rights as contemplated by Section 2(b) of the Act, the jurisdiction of the Commission would be restricted to the Human Rights of an individual. It is his submission that no proceedings in the nature of Public Interest Litigation can be entertained by the Commission for want of statutory or inherent jurisdiction.

4. Learned counsel for the Respondents opposed the said submission by contending that no such issue was raised before the Commission and as such it is not open for the Petitioner to raise the same for the first time in this petition. This Court finds substance in the objection raised by the counsel for the Respondents with regard to the issue of maintainability of the complaint not being raised before the commission and being raised for the first time in this petition. Parties are ad-idem with the fact that the issue can be raised of the maintainability of the complaint and it would be for the Commission to entertain and decide the same.

5. Learned counsel for the Petitioner, on instructions, makes statement that appropriate application shall be filed before the Commission raising the issue of maintainability. It is expected that the Human Rights Commission entertains such objection and decide

the same as preliminary.

6. Insofar as the impugned order is concerned, it is the contention of counsel for the Petitioner that this order is not only in exercise of the jurisdiction under section 17 of the Act, but it decide the issue that the affidavit filed before the Commission is not satisfactory. It is his submission that if this order is permitted to remain on record, prejudice will cause to the Petitioner in pursuing the proceedings before the Commission.

7. Having regard to these aforestated facts, the impugned order is set aside. The Petitioner to file appropriate application raising objection to the maintainability before the next date of hearing.

8. Needless to say that Commission will hear both sides before passing the order on this application.

9. Petition is disposed of in the aforestated terms.

(R. M. JOSHI, J.)