



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

PUBLIC INTEREST LITIGATION NO.65 OF 2012
WITH
PUBLIC INTEREST LITIGATION NO.52 OF 2017

Dhantoli Nagrik Mandal, Nagpur Thr. President Swanand Laxman Soni

-vs-

State of Maharashtra, Thr. Secretary, Dept. of Home, Mantralaya, Mumbai and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and the Registrar's orders.

Court's or Judge's Orders.

Shri Ashwin Deshpande, Advocate for petitioner in PIL/65/2012
Shri A. C. Dharmadhikari, Advocate for petitioner in PIL/52/2017
Shri D. P. Thakare, Additional Government Pleader for respondent Nos.1, 2, 4 to 7.
Shri J. B. Kasat, Advocate for respondent No.3/NMC.
Shri Anand Parchure, Advocate for respondent No.8 in PIL/65/2012.
Shri B. G. Kulkarni, Advocate for Intervenor in in PIL/65/2012.
Shri R. J. Mirza, Advocate for Intervenor in in PIL/65/2012.
Shri A. S. Agrawal, Advocate for Intervenor in in PIL/65/2012.
Shri S. P. Bhandarkar, Advocate for Intervenor in PIL/65/2012.
Shri S. N. Bhattad, Advocate for Intervenor (CAO/712/2024) in PIL/65/2012.
Shri H. V. Thakur Advocate for Intervenor (CAO/867/2024) in PIL/65/2012.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : July 24, 2024

Civil Application (CAO) No.867/2024

1. Heard the counsel for the parties.
2. The application is disposed of with liberty to the applicant to canvass the grievance in separate petition which shall be considered and decided on its own merits without being influenced by the orders passed in this petition.

Civil Application (CAO) No.712/2024

3. Heard.
4. Considering the nature of grievance made, the applicant is at liberty to exhaust the remedy by taking recourse to filing appropriate legal proceedings. As such, the application is not pressed.
5. Civil Application is disposed of.

Public Interest Litigation Nos.65/2012 and 52/2017

6. In compliance with the order dated 26/06/2024, the Additional Municipal Commissioner (General) has placed on record an affidavit thereby certifying the action of the Assistant Municipal Commissioners in relation to 22 establishments wherein either the parking area was encroached and/or unauthorised constructions were carried out.

7. Shri J. B. Kasat, learned counsel appearing for the respondent/Corporation submits that action taken against other 46 and 34 i.e. 80 structures is under evaluation and verification of the Additional Municipal Commissioner (General). He seeks initially time of four weeks to submit an affidavit thereby certifying that the action as was taken by the respective Assistant Commissioners was in tune with not only sanctioned permission but also within Building Control Regulations.

8. As far as aforesaid submissions are concerned, the counsel for the petitioner submits that the action taken by the respondents warrants verification by an independent Committee which can be constituted after receiving the suggestions from the stakeholders viz. Municipal Commissioners, registered body of the doctors and the representative of the residents of the area i.e. Ramdaspath and Dhantoli.

9. We shall delve on the aforesaid issue on the next date of hearing as the respective counsel appearing for the respondents can have their say on the aforesaid suggestion.

10. We grant initially time of four weeks to the Additional Municipal Commissioner (General) to place on record the report of verification along with affidavit in relation to 80 unauthorised structures as referred to herein above.

11. As far as the affidavit placed on record by the Deputy Commissioner of Police (Traffic) is concerned, a counter to that is placed on record by the petitioner thereby stating that even though there is a notification under the provisions of the Maharashtra Police Act, 1951 thereby restricting the use of streets for parking and commuting, still there is no effective implementation/execution of the same. Reliance is placed on certain photographs which are enclosed with the affidavit.

12. Since the copy of aforesaid affidavit is received by the learned Additional Government Pleader Shri D. P. Thakare during the course of hearing, he seeks time to verify and file a further counter thereby demonstrating the statistics about the action taken against the violators not only under the provisions of the Motor Vehicles Act, 1988 but also the other allied Acts.

13. We grant time of four weeks to the Deputy Commissioner of Police (Traffic) to file affidavit dealing with the same disclosing the statistics and also about the action taken.

14. In the meantime we would suggest if the suggestion made by the counsel for the petitioner for constitution of the Committee verifying whether the action taken by the Municipal Authorities is in accordance with what has been stated before this Court, the respective counsel may come up with suggestions with the name of experts on their behalf including that of the petitioner.

15. Stand over to 21/08/2024.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J.)