



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL SUO-MOTO PUBLIC INTEREST LITIGATION NO.
NO.1 OF 2024**

Through Amicus Curiae

...PETITIONER

VERSUS

The Union of India
and others.

...RESPONDENTS

...

Mr. Aniruddha A. Nimbalkar Advocate, Amicus Curiae for
Petitioner.

Mr. A.G. Talhar, D.S.G.I. for Resp. Nos. 1 and 2.

Mr. A.B. Girase, Public Prosecutor for Resp. Nos. 3 and 4.

Mr. A.B. Kadethankar Advocate for Resp. No.5.

Mr. V.D. Salunke Advocate for Resp. No.6

...

**CORAM: SMT. VIBHA KANKANWADI AND
ROHIT W. JOSHI, JJ.**

DATE OF RESERVING ORDER : 20th DECEMBER 2024

DATE OF PRONOUNCING ORDER : 9th JANUARY 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. We have heard learned Amicus Curiae Mr. Aniruddha Nimbalkar, learned Public Prosecutor Mr. Girase for respondent Nos.3 and 4, learned Advocate Mr. Kadethankar for respondent No.5.

2. In pursuant to our orders dated 4th October 2024 and 26th November 2024, affidavit-in-reply has been filed by Mr. Pravin Ramrao Pawar, the Commissioner of Police, Chhatrapati Sambhajinagar, on behalf of respondent No.3. Affidavit-in-reply cum - compliance report has been given by Mr. Dhananjay Achyut Deshpande, the learned Registrar (Legal and Research), High Court, Bombay on behalf of respondent No.5. No affidavit-in-reply has been filed on behalf of respondent No.1, Union of India and on behalf of respondent No.6, Bar Council of Maharashtra and Goa.

3. Before we consider the affidavits, we are taking note of the decision by the Division Bench at Principal Seat in ***Public Interest Litigation No.156 of 2011 along with companion matters in Mumbai Grahak Panchayat and another vs. State of Maharashtra and others, 2017, SCC OnLine Bom.726***. Various issues were considered in the said Public Interest Litigation in respect of infrastructure as well as the security. As regards the present Public Interest Litigation is concerned, we have restricted it to the issue of security. Certainly directions those were given in the said Petition are binding and hope those have been complied or the State is under obligation to comply with those directions in

respect of infrastructure, maintenance of Court complexes etc. When we are restricting ourselves to the security point, we would like to reproduce the directions those were given in the said Public Interest Litigation in respect of security to the Court complexes and residential quarters, which are thus:-

“ N] The directions regarding security to the Court Complexes and Residential Quarters:

(a) It is the duty of the State to provide round the clock security in the form of police protection to all the Court Complexes and residential quarters of the Judicial Officers in the State;

(b) We direct the District Superintendent of Police as well as the Commissioners of Police to convene meetings of the learned Principal District Judges or Principal Judges of various Courts in their respective jurisdictions within a period of three months from today for ascertaining security requirements of Court Complexes and residential premises of the Judicial Officers. The Court Complexes will include (i) all Civil and Criminal Courts, (ii) Co-operative Courts and the Co-operative Appellate Courts, (iii) Industrial and Labour Courts, (iv) Offices of the Charity Commissioners, Joint Charity Commissioners, Deputy Charity Commissioners and Assistant Charity Commissioners (v) Motor Accident Claims Tribunals including the Motor Accident Claims Tribunal in Mumbai, (vi) all Family Courts in the State and (vii) the State Commission as well as District Fora under the said Act of 1986. Needless to add that if the Court premises are in private properties and if Judicial Officers are residing in private properties, police protection shall be provided wherever it is necessary. After holding meetings as aforesaid within a period of three months from today, the District Superintendent of Police and/or Commissioner of Police, as the case may be, shall take appropriate decision of providing adequate police protection to the Court Complexes as well as residential premises of the Judicial Officers including the police protection of armed constables wherever it is necessary. After taking appropriate decision within a period of three months from today, necessary police protection shall be provided by the the District Superintendent of Police and/ or Commissioner of Police, as the case may be, within a period of one month from the date of taking such decision. If any additional

protection is required due to any exigency or due to temporary need such as, hearing of any sensitive cases, on the requisition made by the learned Principal District Judges or Principal Judges of various Courts in the State, the District Superintendent of Police or Commissioner of Police, as the case may be, shall provide additional police protection. We make it clear that the police protection already granted will not be withdrawn without concurrence of the learned Principal District Judges or Principal Judges of respective Courts and Tribunals. The District Superintendent of Police and/or Commissioner of Police shall hold yearly meeting in every June with the Principal District Judges/Principal Judges for review of the security arrangements. "

4. In connection with this, we would now taking the help of affidavit-in-reply by the learned Registrar (Legal and Research) of this Court. He has collected the data under five categories, (i) data received from the Principal Seat (ii) data received from Aurangabad Bench, (iii) data received from Nagpur Bench, (iv) data received from the High Court of Bombay at Goa and (v) data received from the District Courts, Subordinate Judiciary and Family Courts. It appears from the communications received by the learned Registrar (Legal and Research) from various authorities when he collected the data, that at the Principal Seat the sanctioned category wise strength / provision of manned security is provided under two Government Resolutions i.e. first Resolution dated 14th July 2007 and second Resolution dated 15th June 2011. The number of police personnel made available under both the Government Resolutions was 21 and 275,

respectively. But then the existing category wise strength is stated to be 8 officers and 145 police naik / police havildar / police constables. The data also states as to how many metal detectors are installed, how many arms have been provided. The separate chart is also given by giving the various Government Resolutions, whereby police persons approximately 737 in numbers have been made available for the security at the residence of the High Court Judges and the other Judges and also the Court complexes. However, that data is given by Senior Police Inspector, Security Division, Mumbai. Whether that is sufficient as regards the City Civil Court complexes in Mumbai, Small Causes Court and various Metropolitan Magistrates Courts all over Mumbai, is not forthcoming.

5. As regards the security at High Court of Bombay, Bench at Aurangabad is concerned, the sanctioned strength appears to be in the category of Police Inspector/Assistant Police Inspector/constables/lady constables and total is 3 Police Inspectors + 184 constables. The existing strength is only 2 i.e. one Police Inspector and one Police Sub Inspector + 132 constables. There are 15 gunman provided and in addition to that 14 guards are at the residence. The required strength or the

strength which is short is 52 policemen. Now the CCTV cameras are installed all over the premises i.e. old as well as new complex, walkie talkies have been provided. However, in respect of all categories it is said that more CCTV cameras are required to be installed as well as more bag scanner machines and then gate pass system needs to be introduced. The data also shows that various communications were made on behalf of the administration at Aurangabad Bench to various Government authorities in respect of the security i.e. in respect of additional police staff, scanning machines, metal detectors, construction of five fire posts etc., however only response is given for the fire posts and the CCTV cameras to be installed. Even the High Court Security Branch, Chhatrapati Sambhajanagar has also made communication to the Commissioner of Police regarding the difficulties the security branch is facing.

6. As regards the High Court complex at Nagpur Bench, the sanctioned strength is 103 i.e. one Police Inspector, 4 Police Sub Inspectors and 98 constables/lady constables. As against this, existing strength is one Police Inspector, only three Police Sub Inspectors and only 49 constables. It appears that the administration at the High Court, Bench at Nagpur feels that

additional number of security personnel are required to be deployed under the command and control of the senior level police officer not below the rank of Assistant Commissioner of Police. There is also need for more police persons for the night security. There is also suggestion for procurement of baggage scanner machines, watch towers, trolley mirror, CCTV cameras of high resolution with storage capacity of minimum three months, CCTV monitoring room, face recognition system, bar code identification stickers for vehicles, ambulance facility, zigzag barricading etc.

7. The communication from the High Court of Bombay at Goa would show that there is no sanctioned category wise provision and there is no sanctioned security systems, arms etc.

8. Data from all the Districts in the State of Maharashtra and Goa as well as Union Territory of Daman and Diu, Dadra and Nagar Haveli has also been collected, which is in tabular form. It will not be possible to refer the said tabular form, but certainly it can be said from the data that has been given, there is no fixed sanctioned strength category wise and at some places no armed police staff is provided, no metal detectors are provided at many

Court complexes and it appears that whatever police security has been provided, it is at the head quarters. Only in few Taluka Courts there is a provision for armed police force for night duty.

9. It also appears from the affidavit-in-reply of learned Registrar (Legal and Research) from the information which he has received that District Courts at Solapur, Sangli, Yavatmal, Latur, Pune, Chief Judicial Magistrate Court, Mumbai and Small Causes Court, Mumbai have made correspondence with the Maharashtra State Security Corporation for employing security personnel for their respective Courts. Proposals of Chief Judicial Magistrate Court, Mumbai and District Courts, Latur and Pune are pending with the Government, whereas the Maharashtra State Security Corporation is providing security to the District Courts at Yavatmal, Solapur and Sangli. As regards Small Causes Court, Mumbai is concerned, the process of execution of agreement with the Maharashtra State Security Corporation is in progress. Thus, it can be seen that now there are two agencies which are providing security to the Court complexes in the State. We had, therefore, called the data from the District Courts at Solapur, Sangli and Yavatmal, but it was told that at Yavatmal there is no such arrangement and the services of Maharashtra

State Security Corporation are not pressed into service. The data which we are receiving in respect of security arrangements at Solapur District and Sessions Court is that around 178 security personnel provided by the Maharashtra State Security Corporation (hereinafter referred to as "the Corporation" for the sake of brevity) at the Court complex and residential complex. As per the report of Superintendent of Police, Solapur (Rural), there is requirement of 447 police personnel (135 for Court building and 312 for residential quarters at Taluka places in Solapur District) and therefore, he has requested the Director General of Police to provide 447 security personnel through the Corporation and the said subject is pending. As regards the security arrangement at Sangli District and Sessions Court is concerned, the Corporation has deployed 39 security personnel.

10. Taking into consideration all this data that has been provided, we are of the opinion that there is absolutely no uniformity. Taking into consideration the directions those were given in ***Public Interest Litigation No.156 of 2011*** (supra), as aforesaid, still when there is disparity in respect of security, we are of the view that those directions are now required to be channelized further. When we are getting the figure as aforesaid,

which is in fact restricted to High Court complexes and only two District Courts, the final figure that can be arrived at would be huge and for that purpose we are of the opinion that the State Government should now take the policy decision. Even in our order dated 26th November 2024, it was noted that the statement was made by the learned Public Prosecutor that even at the end of the Government there will be collection of data regarding the existing provision that has been made for the security throughout the Courts i.e. Principal Seat, Benches of this Court, District Courts, Taluka Courts as well as Family Courts. The learned Public Prosecutor made a statement that he would file comprehensive affidavit in reply touching all the aspects and on behalf of the State he assured that every effort will be done to provide security arrangement in the Courts in the State of Maharashtra. He also assured that the road map or policy in that behalf would be discussed by the Chief Secretary, Principal secretary of Home Department and the Principal Secretary of the Law and Judiciary Department in that behalf. Such comprehensive affidavit is certainly awaited. There is utmost need of such road map and the policy decision taking into consideration the disparity in respect of the present arrangements for security.

11. Earlier we had taken note of the incident that was reported to Pundliknagar Police Station, Chhatrapati Sambhajinagar vide Crime No. 473 of 2024 and we had directed the Commissioner of Police to file detailed affidavit. As aforesaid, he has filed the affidavit on behalf of respondent No.3. He informs that the investigation of the said crime, which came to be registered for the offence under Section 303(2) of Bharatiya Nyaya Sanhita, has been transferred to Police Inspector, Crime Branch and during the said investigation, eight persons have been detected as accused, out of which five have been arrested. The stolen articles have been seized. We are satisfied with the progress.

12. The Commissioner of Police, Chhatrapati Sambhajinagar accepts that the sanctioned man power for Bench at Aurangabad is 187 (184 + 3), however, total actual man power deployed is 137 (134 + 3). Though he has not made a statement as to how he would deal with the shortfall but he says that a physical inspection and security review was done in the meeting, few suggestions were given and the report has been submitted. He assures that in view of the necessity felt to deploy armed police constables at the entrance, he will do the needful.

13. As regards the security review that is stated to have been undertaken, certainly report would be submitted and it would be dealt with on the administrative side and if something needs to be done by the High Court administration, then we hope that Registrar General of this Court will take care of those administrative directions. At this stage, it need not be taken on the judicial side.

14. In the memo of this Public Interest Litigation need to have security arrangements has been highlighted. The said need arose due to the past incidences not only in the State but also in the Country, those incidences which had taken place in the Court premises. In one of the recent incident, as it was reported, a 22 year old man facing murder charges threw a slipper at a Judge in Thane District Court on 22nd December 2024. It is reported that the incident had taken place when the learned Judge was on the dais. Such incidences, therefore, raise concern. We have also come across another incident from Family Court, Nashik where the relatives of a litigant tried to barge in the Chamber of the Judge. In another incident, anonymous letter has been given threatening to kill the Judge and even the amount was

demanded from him. All these incidences highlight that there is urgent need for providing proper and appropriate security.

15. While deciding ***Public Interest Litigation No.156 of 2011***, referred above, the Division Bench at the Principal Seat had considered the legal position in respect of the issue of infrastructure and security. Note was taken of ***Hussainara Khatoon vs. State of Bihar (1980) 1 SCC 98***. The said case was then referred in ***New Bombay Advocates Welfare Association, through its President vs. State of Maharashtra, 2015 SCC OnLine Bom. 5754***, by the Division Bench of this Court. It was observed that the law is that the State Government is under obligation to constitute sufficient number of Courts, Tribunals or Forums so that a litigant, who has knocked the doors of the Court or Tribunal, is able to get speedy justice. The Hon'ble Apex Court has reiterated that it is the constitutional duty of the Government to provide to the citizens of the Country with such judicial infrastructure and means of access to justice so that every citizen is able to receive all expeditious, inexpensive and fair trial. Therefore, taking the point further, it has been then observed in ***Public Interest Litigation No.156 of 2011*** (supra), that it is the duty of the State to provide round the clock security

in the form of police protection to all the Court Complexes and residential quarters of the Judicial Officers in the State.

16. At the cost of repetition, we would like to say after taking note of the data that has been placed so far, that there is disparity in respect of security which needs to be addressed urgently by the State. The State may make available the necessary police force or through the Maharashtra State Security Corporation may make the arrangements for providing security to the Courts as well as Court complexes.

17. At this stage, we are taking note of the observations of the Hon'ble Supreme Court in *Achal Sharma vs. Union of India (Writ Petition No.877 of 2020, decided on 2nd January 2025*, which were made while dealing with the infrastructure facility of Central Administrative Tribunal, Bench at Jammu. The Hon'ble Supreme Court flagged concerns about outsourcing of private individuals into judicial institutions and running of the institutions at private properties. It has been observed by the Hon'ble Apex Court that:-

" It is highly desirable that there should be a permanent building along with proper court rooms, chambers, rooms for officers, and other staff. Similarly, it may not be prudent to deploy outsourced staff in a judicial/quasi-judicial institution,

where the maintenance of records, confidentiality, updating of records, etc. are day-to-day challenges.”

18. We hope and trust that the State will not insist for outsourcing of the security persons but would take decision for deploying the police persons or the security personnel through the Maharashtra State Security Corporation which has been established under the Maharashtra State Security Corporation Act, 2010. The object behind the Enactment was to establish a Security Corporation in the State of Maharashtra for the purposes of raising a force for providing better protection and security to the State Government and Central Government Offices, undertakings, employees of all such establishments, public sector undertakings, vital installations, financial institutions, religious institutions, educational institutions, cultural institutions, medical institutions etc. The entire mechanism to run the Corporation is given under the Enactment. We may reserve our right to give further directions depending upon the decision of the State to deploy which force and to what extent on the basis of road map or the policy.

19. For the aforesaid reasons, we once again direct respondent Nos. 3 and 4 to file an appropriate affidavit of either Chief

Secretary or the Principal Secretary, Home Department, by collecting the data as well as by making use of existing data annexed along with the affidavit of respondent No.5 and to come up with the policy and the road map in respect of security at the Benches, District Court at Headquarters and all the Taluka Courts as well as Family Courts, at this stage. Such affidavit to be filed within a period of four weeks from today. Copy of the same be given to the other side in advance. We are impressing upon the State Government, in view of the various decisions as referred regarding the primary duty of the State to provide security in the form of police protection to all the Court Complexes and residential quarters of the Judicial Officers in the State, to take a policy decision as the State will have to make arrangements of the man power as well as the finance required for providing security. In continuation, we may also observe, before we take it on the judicial side we are making this opportunity available to the State so that all the equations are put by the Government at proper place.

20. We may, once again give an opportunity to respondent No.6 to file affidavit-in-reply regarding the expectations from the Bar Council of Maharashtra and Goa on the point of security at

the Courts and Court complexes, to be filed within a period of four weeks.

21. As observed by us in Paragraph No.4, it appears that the learned Registrar (Legal and Research) has not taken the data from the Principal Judge, City Civil Court, Mumbai, Principal Judge, Small Causes Court and Chief Judicial Magistrates, Mumbai regarding security arrangements at their complexes. The data is supplied by the Senior Police Inspector, Security Division, Mumbai. So, we direct the learned Registrar (Legal and Research) to collect the data in respect of these Courts and the expectations from the concerned Principal Judges and Chief Judicial Magistrates regarding the security. Such additional affidavit be filed within a period of four weeks from today and copy of the same be given to the other side in advance.

22. Place the matter for further consideration on 17th February 2025.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JAN25

LATER ON:-

. After the pronouncement of the order, learned Advocates appearing for the respective parties have requested that authenticated copy of this order be provided to them. In view of the request made, authenticated copy of this order be provided to the requesting parties.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JAN25