

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7796 OF 2024

Municipal Corporation of Greater Mumbai Petitioner
V/S

Gaurav Gadkari & Anr. Respondents

**WITH
INTERIM APPLICATION NO.9890 OF 2024
IN
WRIT PETITION NO.7796 OF 2024**

Vijay Govind Ware & Ors. Applicants
IN THE MATTER BETWEEN
Municipal Corporation of Greater Mumbai Petitioner
V/S

Gaurav Gadkari & Anr. Respondents

Mr. Pralhad Paranjape with Mr. Santosh Mali *for the Petitioners.*

Mr. Amogh Singh with Mr. Akash Gupta i/b Mr. Jeet Gandhi *for Respondent No.1.*

Mr. Kushal Amin 'B' Panel *for Respondent No.2 / State.*

Mr. Vikram N. Walawalkar *for the Intervenor/Applicants in IA.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 16 APRIL 2025.**

P.C.:

1. The Petition challenges order dated 8 May 2024 passed by the Maharashtra State Human Rights Commission, Mumbai, operative portion of which reads thus:

“18. Hence, following order is passed:

a) Respondent No.1 Municipal Commissioner, Municipal Corporation of Greater Mumbai is advised to revoke the order cum letter dated 24.02.2023 and pay compensation of Rs.50,000 (Rupees Fifty Thousand) to the complainant within one month from the receipt of this order failing which he has to pay interest at the rate of 8% p.a. from the date of order till the date of payment.

b) Respondent No.1 Municipal Corporation of Greater Mumbai is advised to take appropriate departmental action within four corners of law against the concerned officer who issued and passed letter cum order dated 24.02.2023.

c) The Plot Owner and occupiers / visitors are permitted to access the Site from 13.40m wide DP Road (also known as Kajupada Road) without any restriction or Obstruction. The Municipal Corporation is directed to ensure that there is no obstruction is allowed to be Caused to access the site. The Municipal Commissioner is directed to ensure that the rights of citizens to use DP roads to access their property is not constrained in any manner.

d) Respondent No.2 is directed to provide necessary protection if there is any nuisance created by local miscreants with reference to the access to the said road.

e) Office of the Ld. Secretary attached with this Commission to take follow up action.

f) Ordered accordingly.”

2. When the Petition was heard by the Vacation Court on 29 May 2024, following order was passed:

“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."

3. It appears that in pursuance of observations made by this Court in order dated 29 May 2024 about availability of remedy for the Developer to challenge communication dated 24 February 2023, Writ Petition (L) No.20366 of 2024 was filed by Bellissimo in City FC Mumbai Pvt. Ltd. challenging the communication dated 24 February 2023. The said Petition has been allowed by the Division Bench of this Court by judgment and order dated 7 August 2024 which reads thus:

“1. Heard Mr Milind Sathe, Senior Advocate who appears with Mr Amogh Singh, Ms Silpa Nair, Mr Shreedhar Lad i/b Mr Akash Gupta for the Petitioner. Ms Dhuri appears for the Brihanmumbai Municipal Corporation ("BMC").

2. Rule. The Rule is made returnable immediately at the request of with the consent of learned counsel for the parties.

3. The Petitioner challenges the BMC's communication dated 24 February 2023, in which the permission dated 20 January 2023 issued to the Petitioner for the construction of 3 carriageways was summarily revoked without complying with the minimum principles of natural justice and fair play.

4. Mr Sathe pointed out that, in terms of the approved plan of 2017 as modified in June 2024, there was no requirement for seeking permission to provide carriageways. Still, as a matter of abundant caution, the Petitioner applied and obtained such permissions on 20 January 2023.

5. Mr Sathe submits that this permission dated 20 January 2023 has been revoked by the impugned communication dated 24 February 2023. Such revocation was not preceded by any show cause notice or opportunity for the Petitioner to explain why there was no reason to revoke it. He submits that the impugned order could not have been made without compliance with natural justice or at all.

6. Ms Dhuri defends the impugned order, submitting that it contains valid reasons and that, in such cases, no formal show-cause notice was necessary.

7. We have perused the impugned communication dated 24th February 2023. Admittedly, this communication was issued without any show cause notice or even minimal compliance with the principles of natural justice and fair play. The impugned communication undoubtedly visits the Petitioner with serious civil consequences. Mr Sathe submits that based on the permissions dated 20th January 2023 and the previous sanctioned plans, the Petitioners have already completed the construction of the carriageways and an occupation certificate was also applied for.

8. In the above circumstances, we are quite clear that the impugned communication revoking the permission dated 20th January 2023 could not have been issued without minimum compliance with principles of natural justice and fair play. On

this short ground and without adverting to any other aspects, we set aside the impugned communication dated 24th February 2023, leaving it open to BMC to serve a show cause notice on the Petitioner if they so choose to and comply with the principles of natural justice and fair play should any adverse action be contemplated.

9. The Rule is made absolute in the above terms. There shall be no order for costs.

10. All concerned to act on an authenticated copy of this order.”

4. Thus the communication dated 24 February 2023, which was subject matter of challenge before the Maharashtra State Human Rights Commission has ultimately been set aside by the Division Bench of this Court. Since the communication dated 24 February 2023 is set aside by this Court, nothing would really survive in the Complaint filed before the Human Rights Commission.

5. In the light of the relief being granted in favour of the Developer by the Division Bench by setting aside communication dated 24 February 2023, Mr. Singh, the learned counsel appearing for the Respondent No.1 fairly submits that the first Respondent would like to withdraw the Complaint filed before the State Human Rights Commission which is decided by order dated 8 May 2024. Since the very Complaint instituted by the first Respondent is now sought to be withdrawn, the order dated 8 May 2024 will have to be necessarily set aside. Accordingly the Complaint filed by the first Respondent before the Commission is

permitted to be withdrawn by setting aside order dated 8 May 2024. With the above directions, the Petition is **disposed of**.

6. In view of the disposal of the Petition, nothing would survive in the Interim Application, which is also **disposed of**.

(SANDEEP V. MARNE, J.)

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by SUDARSHAN
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