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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 5 OF 2025

Akhil Bharat Krishi Go Seva Sangh
through Kamlesh Ratilal Shah

... Petitioner

V/s.

The Municipal Corporation of Greater
Mumbai (MCGM) and Ors.

... Respondents

Ms. Siddh Vidya with Ms. Shalaka Karkar, Ms. Divya Maniar, Ms. Mansi Sahani i/b. Siddh Vidya & Associates for the Petitioner
Mr. P.P. Chavhan i/b. Ms. Komal Punjabi for Respondent No.1 - MCGM
Ms. M.M. Deshmukh, APP for the Respondent – State

CORAM : ALOK ARADHE, CJ. AND
SANDEEP V. MARNE, J.

DATE : 17 JULY 2025

Oral Order (Per Chief Justice) :

1. The Petitioner claims to be an NGO, has filed this Petition styled as Public Interest Litigation, in which the following reliefs have been claimed :-

“(A) Issue a writ of mandamus or any other appropriate writ, order or direction directing the Respondent No.1 to frame comprehensive scheme in consultation with Respondent Nos. 2,3,4,5,6,7 and 8 for curbing the activities which are in violation of Rule 91 of the Aircraft Rules, 1937, Section 10 (1A) of Aircraft Act, 1934 as well as Development Control and Promotion Regulations of MCGM.

(B) Issue a writ of mandamus or any other appropriate writ, order or direction directing the Respondent No.1 to immediately shut down all slaughter houses, non-veg markets, licensed/unlicensed meat shops, fish shops and any other such activities which are currently operational within 10 km radius of and submit report to this Hon'ble Court within stipulated time frame not more than two weeks as situation is alarming.

(C) Issue a writ of mandamus or any other appropriate writ, order or direction directing the Respondent No.1 to forthwith declare illegal and revoke the licenses granted to meat shops, fish shop, non-veg market, chicken-shop slaughter houses within 10 km radius of the aerodrome for public safety necessity.

(D) Issue a writ of mandamus or any other appropriate writ, order, or direction directing the Respondent Nos.1 to 8 to ensure no slaughter of animals, meat shops, fish shops and non-veg markets operates in future within 10 km radius of aerodrome reference point and upload periodical inspection report on their website.

(E) Issue a writ of mandamus or any other appropriate writ, order, or direction to initiate necessary legal action, criminal as well as civil against the erring officers, staffs who aided and abetted the offence punishable U/s. 10(1A) of the Aircraft Act, 1934 by allowing slaughter of animals and sale of meat, operation of non-veg market and fish market, and issued licenses for such illegal activities within 10 km radius of the aerodrome.

(F) Issue a writ of mandamus or any other appropriate writ, order or direction to the Respondents to respond/decide and dispose of the representations made to them by the Representative of the Petitioner vide letters dated 13.06.2025 and 16.06.2025 to authorities including the Directorate General of Civil Aviation (DGCA), the Municipal Corporation of Greater Mumbai (MCGM), the Director General of Police, Maharashtra, and the Food and Drug Administration.

(G) Issue a writ of mandamus or any other appropriate writ, order, or direction to Respondent No.8 i.e. Food Safety and Standards to ensure that no meat is sold and supplied in violation of law of the land from 10 km radius of the aerodrome

and they must have periodical inspection of that area and upload report of the same on their website.

(H) Issue a writ of mandamus or any other appropriate writ, order, or direction to Respondent No.1 – MCGM to spread awareness and encourage people to report to nearest police station of any illegal slaughter or dumping of garbage, etc. near airport.”

2. The Petitioner in this Public Interest Litigation has raised the issue of safety of passengers travelling by air crafts due to birds menace caused by meat shops which are being run in the proximity of Mumbai Airport.

3. We have heard the learned Counsel for the Petitioner at length.

4. It is pertinent to note that on identical issues, two Petitions viz. Public Interest Litigation No. 43 of 2010 and Writ Petition No. 2476 of 2014 were already filed. In the aforesaid Petitions, the Division Bench of this Court, by orders dated 2 December 2014 and 27 February 2015 issued the following directions :-

2 December 2014 :

“ Heard learned Counsel appearing for the Petitioner, the learned Counsel appearing for the Respondent Nos.1 and 4 and the learned Counsel appearing for the Respondent NO.3. The issues raised in this PIL are of great deal of importance. Hence, we issue Rule. Concerned Counsel waive service. Rule on interim relief is made returnable on 14th January 2015.

2 The issue raised in this PIL is as regards the alleged inaction on the part of the 3rd Respondent- Municipal Corporation in taking steps for preventing bird hits to the

aircrafts landing at Chatrapati Shivaji Airport, Mumbai as well as taking-off from the said Airport.

3

4 There is an affidavit filed by Shri Mohinder Jeet Singh, the Deputy Director Air Safety working with the 4th Respondent (the Director General of Civil Aviation). He has relied upon the Rule 91 of Indian Aircraft Rules, 1937 which reads thus:

“91 Prohibition of slaughtering and flaying of animals, depositing of rubbish and other polluted or obnoxious matter in the vicinity of aerodrome- No person shall slaughter or flay animals or deposit or drop any rubbish, filth, garbage or any other polluted or obnoxious matter including such material from hotels, or meat shops, fish shops and bone-processing mills which attract or is likely to attract vultures or other birds and animals within a radius of ten kilometers from the aerodrome reference point: provided that the Directorate General of Civil Aviation, a Joint Director General of Civil Aviation or a Deputy Director General of Civil Aviation may, if he is satisfied that proper and adequate arrangements have been made by the hotels, meat shops, fish shops, and bone processing mills so as to prevent attraction of vultures or other birds and animals, having regard to the vicinity of place of slaughter from the aerodrome, arrangements for disposal or deposit of carcass, rubbish and other polluted and obnoxious matter, grant permission in writing for the purpose”.

(underline added)

5 The steps taken by the 4th Respondent for reducing bird hits have been set out in the said affidavit. The affidavit records that no permission has been granted by the 4th Respondent to any meat shop or abattoir within ten kilometers of radius of Chatrapati Shivaji International Airport at Mumbai. The mandate of Rule 91 appears to be that no person shall slaughter or flay animals or deposit or drop any rubbish, filth, garbage or any other polluted or obnoxious matter which is likely to attract vultures or other birds and animals within a radius of ten kilometers from the aerodrome reference point.

6 Today, there is detailed affidavit filed by the Petitioner affirmed on 2nd December 2014. The said affidavit records that the Petitioner visited as many as 26 spots, the details of which have been set out in the affidavit which are within a radius of ten kilometers from the Chatrapati Shivaji International Airport. The photographs taken by the Petitioner of each of the 26 spots have been annexed to the affidavit. The said photographs show a very sorry state of affairs which shows the collection of huge amount of garbage and rubbish at 26 different spots.

7 The learned Counsel appearing for the Petitioner has invited out attention to the photographs on pages 152 to 155. He states that these photographs are of sites which are precariously close to the runway. There is a huge collection of garbage and rubbish at the said sites.

8 Considering the averments in the detailed affidavit, though the learned Counsel appearing for the 3rd Respondent-Mumbai Municipal Corporation sought time to take instructions, as of today it is not possible for us to disbelieve the correctness of what is stated in the affidavit which is supported by several photographs. The site visits have been made by the Petitioner on 25th and 26th of November 2014. A similar affidavit was filed by the Petitioner on 17th March 2011 annexing several photographs of the spots close to the Airport.

9 An affidavit was filed on 5th November 2014 by Shri Prakash Janardhan Patil, the Deputy Municipal Commissioner of the Mumbai Municipal Corporation. The affidavit seeks to state that regular steps are being taken by the Municipal Corporation to keep the area clean.

10 The issue involved in this petition is of air safety of lakhs of passengers travelling by aircrafts. There is a statutory Rule in the form of Rule 91 which is quoted above which enjoins that no person shall drop any rubbish, filth, garbage or any other polluted or obnoxious matter within a radius of ten kilometers of the aerodrome which is likely to attract vultures or other birds and animals. Even if such collection of rubbish attracts the animals, it is covered by the said Rule 91.

11 *It is obvious that the 3rd Respondent-Municipal Corporation will have to evolve a scheme to ensure the compliance with the requirements of the Rule 91 of the Indian Aircraft Rules, 1937 and the Regulations framed by the 4th Respondent. A scheme will have to be evolved by the Municipal Corporation providing for checks and counter-checks to ensure that there is no collection of material which is clearly prohibited by Rule 91.*

12 *The affidavit tendered today by the Petitioner shows that there is no such scheme in place. If there are illegal structures which are creating the nuisance, the Municipal Corporation will have to take action against the illegal constructions. To put it mildly, the photographs depict a very sorry state of affair which shows that the Rule 91 is being observed only in breach. In the petition, several instances of bird hits have been pointed out.*

13 *We, therefore, direct the 3rd Respondent-Municipal Corporation to evolve a scheme for ensuring the compliance with the aforesaid statutory Rule, keeping in mind that the issue is of the air safety of lakhs of passengers travelling by air by using the International Airport at Mumbai.*

14 *We direct that a copy of this order shall be placed before the Municipal Commissioner for taking the necessary action. The Municipal Commissioner shall nominate an officer not below the rank of Additional Municipal Commissioner to take steps for ensuring the compliance with the Rule 91. The Municipal Corporation shall evolve a scheme which shall be placed before this Court before the returnable date fixed for hearing as to interim relief.*

15 *Needless to state that pending formulation of the scheme, the Municipal Corporation will have to take all possible steps for ensuring that there is no collection of rubbish, filth, garbage and other obnoxious material which is prohibited by Rule 91. An affidavit of the officer nominated by the Municipal Corporation shall be filed on or before 9th January 2015.*

16 All concerned to act upon the authenticated copy of this order.”

Relevant extract of the order dated **27 February 2015**, which reads as under :

“4. We direct the Municipal Corporation to finalize the scheme as directed under the said order as expeditiously as possible and in any event on or before 31st March, 2015. We accept the statements made by Mr. S.V.R.Srinivas, the Additional Municipal Commissioner in his affidavit.

5. Our attention is invited to Rule 91 of the Aircraft Rules, 1937 (for short ' the Rules'), which reads thus:-

“91. Prohibition of slaughtering and flaying of animals, depositing of rubbish and other polluted or obnoxious matter in the vicinity of aerodrome.—No person shall slaughter or flay any animal or deposit or drop any rubbish, filth, garbage or any other polluted or obnoxious matter including such material from hotels, meat shops, fish shops and bone-processing mills which attracts or is likely to attract vultures or other birds and animals within a radius of ten kilometers from the aerodrome reference point:

Provided that the Director-General or Joint Director General of Civil Aviation or Deputy Director General of Civil Aviation, as the case may be, may, if he is satisfied that proper and adequate arrangements have been made by the owners of hotels, meat shops, fish shops and bone processing mills so as to prevent attraction of vultures or other birds and animals, having regard to the vicinity of place of slaughter from the aerodrome, arrangements for disposal or deposit of carcass, rubbish and other polluted and obnoxious matter, grant permission in writing for the purpose.”

6. Our attention is also invited to the relevant provisions of The Aircraft Act, 1934 (for short 'the said Act of 1934') in particular clause (qq) of sub-section (2) of section 5 of the said Act of 1934. section 5 confers a Rule making power on the Central Government. Clause (qq) confers a Rule making power on the Central Government of prohibiting of slaughtering and flaying

of animals and of depositing rubbish, filth and other polluted and obnoxious matter within a radius of ten kilometers from the aerodrome reference point. Rule 91 appears to have been framed in exercise of the said provisions under the said Act of 1934.

7. Our attention is also invited to the provisions of section 10 of the said Act of 1934 as amended upto date. Sub-section (1-A) to section 10 reads as under:-

"1A If any person contravenes any provision of any rule made under clause (qq) of sub-section (2) of section 5 prohibiting the slaughter and flaying of animals and of depositing rubbish, filth and other polluted and obnoxious matter within a radius of ten kilometres from the aerodrome reference point, he shall be punishable with imprisonment which may extend to [three years, or with fine which may extend to ten lakh rupees], or with both."

8. On a conjoint reading of sub-section 1A of Section 10 of the Act of 1934 and Rule 91 of the said Rules, it is apparent that the contravention of the Rule attracts a penalty under sub-section (1A) of section 10 of the said Act of 1934. The offence punishable under section (1A) of section 10 is specifically made a cognizable offence under sub-section (1B) of section 10 of the said Act of 1934.

9. As the offence is a cognizable offence, all concerned authorities are under an obligation to set the criminal law in motion in the event there is any breach of Rule 91 is pointed out. It is obvious that as the offence is a cognizable offence, appropriate steps will have to be taken by the concerned police station in compliance of with section 154 of the Code of Criminal Procedure, 1973.

10. The scheme formulated by the Municipal Corporation shall be placed on record along with the affidavit before the returnable date.

11. The issue of slaughter of animals permitted by the Mumbai Municipal Corporation within a radius of ten kilometers from the aerodrome reference point will have to be dealt with while

considering the prayer for interim relief.

12. At this stage, we direct the Mumbai Municipal Corporation to take action in the event any licence conditions are violated by any party attracting the prohibition imposed by Rule 91 of the said Rules. The Municipal Corporation to issue appropriate directions in that behalf to all concerned departments.

13. We make it clear that it is necessary for the Municipal Corporation to invite suggestions from all stake holders for formulation of the policy.”

5. The aforesaid PIL and Writ Petitions are already pending before this Court. Needless to state that the issue raised by the Petitioner in the instant PIL is already sub judice and therefore, another Petition on the same cause of action relating to same issue cannot be entertained. Liberty is reserved to the Petitioner to prosecute the First Information Report filed by it before the concerned Police station.

6. Accordingly, the Public Interest Litigation is disposed of.

(SANDEEP V. MARNE, J.)

(CHIEF JUSTICE)