

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1580 OF 2024**

Amit Dholakia
An adult Indian inhabitant and citizen,
residing at Unit 7, Chancellor Court,
Carmicheal Road, Mumbai - 400 026

... Petitioner

Versus

- 1) The State of Maharashtra
Through the Ministry of Co-operation,
having its address at 2nd Floor, New Central
Building, Dr Babasaheb Ambedkar Road, Pune,
Maharashtra.
- 2) The State of Maharashtra
Through the Urban Development
Department, having its address at
Mantralaya Building 4th Floor, Madam
Cama Road, Near Hutatma Rajguru Chowk,
Mumbai - 400 032.
- 3) The Registrar of Co-operative Societies,
having its address at 6th Floor, Malhotra House,
opp. G.P.O,) Borabazar Precinct, Balllar Estate
Fort, Mumbai - 400 001.
- 4) The Union of India
Through the Ministry of Housing and
Urban Affairs, having its address at
Nirman Bhawan, Maulana Azad Road,
New Delhi – 110011.
- 5) Bhagwati Bhuvan Co-operative
Housing Society Ltd.
A co-operative Housing Society registered
under the provisions of the Maharashtra Co-
operative Societies Act, 1960, having
registration number BOM/HSG/4552/1975,

through its Secretary, having its address at Carmichael, Pedder Road, Mumbai -) 400 026.

6) Municipal Corporation for Greater Mumbai.

A planning authority established under the Mumbai Municipal Corporation Act, 1888, having its address at 5 Mahapalika, Dhobi Talao, Chattrapati Shivaji Terminus Area, Fort, Mumbai 400 001.

7) Brihanmumbai Electric Supply and Transport having its address at 1st Floor, BEST Bhavan, BEST Marg Colaba, Mumbai 400 001.

... Respondents

Mr. Harsh Sheth i/b MDP Legal, for the Petitioners.

Mr. Abhay L. Patki, Addl. G.P. for the Respondent - State.

Ms. Ahuja Tirmali i/b Komal Punjabi for Respondent No. 6-BMC.

CORAM:	G. S. KULKARNI & ADVAIT M. SETHNA, JJ.
DATE:	14 JANUARY 2025

ORAL JUDGMENT (Per Advait M. Sethna, J.) :

1. This writ petition raises a pressing contemporary issue concerning the need to create an adequate infrastructure for the installation of e-charging stations for electric vehicles, along with the requisite legal framework that would be necessary to facilitate their seamless operation.

2. The petitioner before this court is a businessman and a citizen of India and a resident of Bhagwati Bhuvan Cooperative Housing Society situated in Carmichael, Pedder Road, Mumbai. The petitioner claims that the present petition is

filed on account of the rejection of permission to the petitioner to install charging infrastructure at the petitioner's garage in the said society. Such permission was rejected by the society which was sought for charging the petitioner's newly purchased electrical vehicle. The petitioner claims that considering the immense environmental and other advantages of electrical vehicle, coupled with the State Government's and Central Government's policy document, it is incumbent upon the State and the Registry of Cooperative Societies, i.e., respondent nos. 2 and 3 to exercise power under the Maharashtra Cooperative Societies Act, 1960 ("**MCS**" for short) so as to ensure that the petitioner and other similarly placed individuals residing in various housing societies in Mumbai to get the benefit of the charging stations to be installed at the garage and parking places in the premises of their societies. The petitioner is primarily aggrieved by the inaction of the respondents, particularly respondent Nos. 2, 3, 5, and 6, in failing to provide the necessary permissions for the installation of charging stations, which are beneficial to the petitioner and such similarly placed persons. It is under such conspectus that the petitioner has approached this Court invoking Article 226 of the Constitution of India, 1950 ("**Constitution of India** for short"). The substantive prayers in the petition read thus:

"A. That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction directing the Registrar to exercise power under Section 14 of the MCS Act to amend the Model Bye-Laws so as to provide for the provision of charging infrastructure;

B. That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction directing the State Government to exercise power under Section 79A of the MCS Act so as to provide for the provision of charging infrastructure;

C. That until such time as the power under Section 14 or Section 79A is exercised as aforesaid, this Hon'ble Court be pleased to exercise its extraordinary constitutional powers under Article 226 to frame appropriate guidelines for the provision of charging infrastructure in Co-operative Housing Societies;

D. That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction directing the State Government represented through Respondent No. 1 to 4 and Respondent no.6 to implement the MEV Policy, 2021, including by way of appropriate amendments to the DCPR 2034;

E. That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction directing Respondent no. 5 to grant permission to the Petitioner to install charging infrastructure in the Petitioner's garage;

F. That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction directing the

Respondent no. 7 to grant permission to the Petitioner to install charging infrastructure in the Petitioner's garage without an no-objection letter from Bhagwati Bhuvan CHSL;”

3. The petitioner addressed a letter dated 10 May 2022 to respondent no. 5 society requesting for issuance of a no objection certificate for obtaining a new electric power connection exclusively for charging electrical vehicle at the garage of the petitioner in the premises of the society. The petitioner received a letter dated 18 May 2022 from the respondent no. 5-society stating that it had no policy for permitting individuals members to install electric meter/charging stations for charging of electric vehicles and thus such permission was refused by respondent no. 5.

4. By a letter dated 4 June 2024 addressed by the advocate for the petitioner to the respondent no. 5 such request as above was reiterated. It was on 8 June 2022 that the petitioner filed a representation before respondent nos. 2, 4 and 6 seeking their intervention on these concerns. However the petitioner claims to have received no response from the said authorities.

5. Mr. Harsh Sheth, for the petitioner would contend that the Registrar of the Cooperative Societies, is clothed with sufficient powers to direct amendment to the Bye-Laws of cooperative societies to ensure that permission with regard to the installation of charging station for electric vehicle be a part of Bye-Laws of such societies in Mumbai. The petitioner would also submit that powers are conferred on

the State Government under section 79A of the MCS Act as well, coupled with the duty to ensure that such suitable policy measures are undertaken in regard to the above, in the benefit of citizens at large. Mr. Sheth, would contend that Maharashtra Electric Vehicle Policy, 2021 (MEV Policy 2021) is silent on the infrastructure for charging of electrical vehicle in societies which needs to be specifically addressed, considering the need for such infrastructure in today's changing times. The petitioner further seeks directions from the State Government i.e., respondent no. 1 to take appropriate states with regard to the above in larger public interest. Also, according Mr. Sheth, denial of permission to install electric charging station without any justifiable reason leads to deprivation of the right of the petitioner to enjoy his property violating the constitutional right guaranteed under Article 300A of the Constitution.

6. Mr. Patki, learned AGP for the state would contest the petition. He would place reliance on an affidavit in reply filed by one Rajesh Kalidas Lovekar, Deputy Registrar, Co-operative Housing Society dated 13 January 2025. Mr. Patki, would submit that there is a preliminary objection raised in this reply on the maintainability of the petition mainly on the ground of an alternate statutory remedy available to the petition under the provision of MCS Act. The petitioner ought to have exhausted such remedy available under section 91 of the said act instead of directly approaching this Court under Article 226 of the Constitution of India. Without prejudice and in the alternative to the above submission Mr. Patki would contend that the affidavit in reply filed by the State addresses the concerns raised by

the petitioner. In this regard he would submit that the State is fully conscious of the need to have appropriate infrastructure for electric vehicle, including installation of private electric vehicle charging ports within the premises of a housing society. In this regard, he would refer to the Draft Conditions for an Individual EV owner to install a private EV charging ports within the society premises. The said Draft Conditions which are a part of the said affidavit in reply, read thus:-

“A NOC should be granted by the housing society/Residential Welfare Association (RWA) to any EV owner that wishes to set up a charging point within the building premises, provided the following conditions are adhered to:

- 1. Normal Power/Slow EV charger shall be allowed for individual residential use.*
- 2. The EV Charger shall be designed, manufactured, installed, tested, certified, inspected and commissioned in accordance with provisions as per prevailing Electricity Act & Rules, and guidelines issued by Central Electricity Authority, Bureau of Indian Standards, State Nodal Authority, and all other relevant Government authorities.*
- 3. The charging device i.e., EV charger shall be certified by a nationally recognized testing laboratory such as National Accreditation Board for Testing & Calibration Laboratory (NABL).*
- 4. The EV owner has the required additional sanctioned load available in their existing residential meter, sufficient to cater to the power requirement of the EV charger(s), which the EV owner intends to connect to their existing meter.*
- 5. Where the sanctioned load is not adequate in the existing meter, the EV owner shall augment sanctioned load depending on the power requirement of EV charger(s) being installed.*

This shall be done by EV owner at their own expense following the appropriate process, laid down by the serving DISCOM.

6. Alternatively, if the serving DISCOM agrees to provide separate individual meter for EV charger (5).

a. and there is enough space available in the distribution panel board, the EV owner can choose to install their individual separate meter at their own expense through a licensed electrical contractor.

b. and in case there isn't enough space available in the distribution panel board, the EV owner can choose to make these arrangements in their dedicated parking space at their own expense.

7. EV owner shall ensure sufficient sanctioned meter load, appropriate selection of MCB rating, and sufficient current carrying capacity of wiring (number and gauge of wires)base me the voltage drop calculation for the power requirement of the EV chargers).

8. The EV owner shall not use regular 15A/3-pin switch socket for EV charging. At a minimum, LEV AC charger (IEC-60309) shall be installed, for all vehicle types i.e., two-wheelers, three-wheelers and four-wheelers.

9. Earthing protection system for charging points and station should adhere to CEA Safety Standards dated 28.06.2019.

10. The wiring from the meter to charger shall be installed in conduit/ be concealed. It shall not create any obstruction to regular vehicular or walking movement or hinder regular maintenance work at the premises.

11. The overall aesthetics of the housing society/RWA shall not disturbed due to the electrical and civil work involved in the installation of the EV charger(s). 12. The minimum

space required as per the Central Electricity Authority (Measures relating to Safety and Electric Supply) (Amendment) Regulations, 2019, shall be available in the dedicated parking space to install the EV charger(s).

13. The power cables/wires laid for EV charger(s) shall not be taken along other service pipes, gas lines and fire exit paths.”

7. Mr. Patki, would further submit that the Additional Registrar (Housing) Co-operative Societies by a communication dated 14 July 2022 addressed to the Divisional Joint Registrar Cooperative Societies has informed that note of such Draft Conditions (supra) as forwarded by the Additional Commissioner of MCGM in respect of setting up of installation of private electrical vehicle charging ports within the premises of Co-operative Society be taken. The said communication read thus:-

OFFICE OF THE CO-OPERATION COMMISSIONER AND
REGISTRAR OF CO-OPERATIVE SOCIETIES, MAHARASHTRA STATE, PUNE.

New Central Building, 2nd Floor, Pune – 1.

Phone Nos. 20-26122846/47.

e-Mail : comm.housing20@gmail.com.

Outward No. Housing/D-3/Housing
Society/ EV Charger/14-C.C.

Date: 14th Jul. 2022

To,
The Divisional Joint Registrar,
Co-operative Societies, Mumbai.

Subject 'Provision of 'NO OBJECTION CERTIFICATE' to an individual
for installing Private EV Charger(s) within Society Premises.'

This Office is in receipt of the Letter dated 30.06.2022 of Dr. Sanjeev Kumar,
Additional Municipal Commissioner (Western Suburban Areas), Municipal

Corporation of Greater Mumbai, Mumbai. The Original Letter together with the enclosures is enclosed herewith.

In this connection, it is informed that, as regards the points mentioned in the aforesaid letter, the Rules / Terms – Conditions for installation of EV Charger instrument, availability of the premises in the Co-operative Housing Society, interest of the members of the Housing Society, measures to be taken for safety of the Society and other necessary aspects should be checked and the persons concerned should be informed at your level about the necessary steps to be taken for installation of EV Charger.

Additional Registrar (Housing),
Co-operative Societies,
Maharashtra State, Pune.

Copy to:

Dr. Sanjeev Kumar, Additional Municipal Commissioner (Western Suburban Areas), Municipal Corporation of Greater Mumbai, Annexe Building, Second Floor, Mahapalika Road, Fort, Mumbai – 400 001.

It is submitted that pursuant to the above, after considering the availability of space for such installation, including the safety and security aspects, necessary action/steps can be initiated for installation of electric vehicle charging ports. He would submit that in the light of the above, necessary steps/actions are being taken by the State and other concerned authorities, in terms of the communication dated 14 July 2022 (supra) for issuance of no objection certificate to occupants for installation of private electrical vehicle charging port within the society premises. He would thus submit that the above measures sought to be taken by the State and concerned authorities would effectively address the grievance, concerns raised by the petitioner.

8. We have heard learned counsel for the parties and with their assistance, perused the record.

Analysis & Conclusion:

9. At the very outset, to our mind, issues raised in the petition are significant not only from the perspective of advancing technology in the automobile sector, but would equally touch upon the positive impact of such electric vehicles in reducing vehicular pollution. This is quintessential to the recognized legal principle of sustainable development as stated by the Supreme Court in **Bombay Dyeing & Mfg. Co. Ltd v. Bombay Environmental Action Group & Ors**¹ which reads thus:

“251.....The harmonization of the two needs has led to the concept of sustainable development, so much so that it has become the most significant and focal point of environmental legislation and judicial decisions relating to the same. Sustainable development, simply put, is a process in which development can be sustained over generations. Brundtland Report defines “sustainable development” as development that meets the needs of the present generations without compromising the ability of the future generations to meet their own needs. Making the concept of sustainable development operational for public policies raises important challenges that involve complex synergies and trade offs.

272.The development of the doctrine of sustainable development indeed is a welcome feature but while emphasising the need of ecological impact, a delicate balance between it and the necessity for development must be struck. Whereas it is not possible to ignore intergenerational interest, it is

1. (2006) 3 SCC 434

also not possible to ignore the dire need which the society urgently requires.”

Considering the above observations of the Supreme Court, in our opinion the requirement of charging stations for electric vehicles in societies today which would help reduce the menace of air, vehicular pollution and the necessary legal framework in this regard, cannot be overlooked.

10. So also, after hearing Mr. Patki, learned AGP for the State and perusing the affidavit-in-reply of the respondent no. 1 dated 13 January 2025, we do find that measures in the form of Draft Conditions for installing charging stations in societies for electric vehicles are undertaken. We may also observe that, a communication dated 14 July 2022 placed on record by the State in its affidavit-in-reply would also indicate that the authorities are conscious of the modern daily needs to have such charging stations installed in societies for electric vehicles, the demand of which is on the rise. It is not as if that the authorities concerned are oblivious to the issues raised in the petition. We are conscious of our jurisdiction conferred under Article 226 of the Constitution of India, 1950, which does not permit us to enter into the legislative domain of policymaking. However, the aspect of having a clean, non-polluted environment is an integral part of fundamental rights guaranteed under Article 21 of the Constitution of India, which too is vital and ought to weigh on the mind of the authorities in taking prospective measures in the mass adoption of the technological advancements.

11. Considering the issued raised in the petition, we may gainfully refer to the decision of a coordinate bench of this Court in **High Court of Judicature at Bombay on its Own Motion v. The State of Maharashtra & Ors²**, (of which one of us G.S. Kulkarni J. was a Member) where the court was, inter alia, dealing with measures to alleviate vehicular pollution, wherein the Court observed:

“22. During the course of these proceedings today, on hearing the learned Counsel appearing for the parties and learned Amicus, what has emerged is that the vehicular emission is one of the main sources of air pollution. The roads in Mumbai Metropolitan Region are choked with vehicles and density of the vehicles on the roads is alarming, which, in result, compounds the problems relating to air pollution and makes all measures taken to mitigate the same inadequate. Basis this, we are of the opinion that a thorough study needs to be conducted to arrive at a decision as to whether it will be appropriate and feasible to phase out diesel and petrol-diesel driven vehicles from the roads of Mumbai and permit only those motor vehicles which run Compressed Natural Gas (CNG) and electric charge. We, thus, direct the State Government in the appropriate department to constitute a Committee comprising of the experts, civil administrators and those associated with administration of traffic management for conducting a study on the said issue. The Committee, under this order, shall be constituted within a fortnight from the date this order is uploaded which shall conduct thorough study in three months' period and submit a report thereof to the Court through the learned Advocate General. We direct that all the necessary infrastructure for

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conducting and completing this study shall be provided by the State Government in the concerned Department. The State Government shall facilitate the Committee with all the information, inputs and data needed for completion of the study.”

12. We may also refer to a decision of the Supreme Court in **M.C. Mehta v. Union of India and Ors**³, wherein the Supreme Court dealing with the issue of vehicular pollution observed:

“18. It is therefore necessary to ensure that BS-VI compliance is uniform throughout the country so that even those that the country which fortunately have not suffered the ills of extreme pollution are safe in the future. The sale of automobiles and other vehicles is rising exponentially and the number of vehicles on the road is increasing day by day. Therefore, even a day's delay in enforcing BS-VI norms is going to harm the health of the people. We are dealing here with a situation where children and unborn children suffer from pollution and issues of intergenerational equity are involved. Do we as a society or as manufacturers of automobiles have a right to manufacture more polluting vehicles when we have the technology to manufacture less polluting vehicles? The answer is obviously a big NO. If we were to factor only economics even then it makes no economic sense to have more polluting vehicles on the roads. The effect of pollution on the environment and health is so huge that it cannot be compensated in the marginal extra profits that the manufacturers might make. The amount spent on countering the ills of pollution such as polluted air, damaged lungs and the cost of healthcare far outweigh the profits earned.”

(emphasis applied)

13. In light of the above discussion we appreciate the non-adversarial and fair stand taken by Mr. Patki on behalf of the State & other authorities conscious of

3. (2019) 17 SCC 490

the fact that there is a need of evolving a robust statutory framework by taking recourse to Section 79A of the MCS Act. We may further observe that the draft conditions/rules (Supra) need to be finalized in light of the provision of section 79A of the MCS Act which deals with such issues concerning the proper management of affairs/business of a cooperative society. This would include finalizing such terms & condition for installing charging stations in cooperative societies for electric vehicles. Once such mechanism is in place, the societies would be better equipped to grant permission to install charging stations, meant for electrical vehicles.

14. In our view and in the light of foregoing discussion, the following order would meet the ends of justice.

ORDER

- (i) We direct the competent/concerned authorities of the respondents to finalize the draft conditions/rules for installation of charging stations to be installed in cooperative societies for charging electric vehicles, expeditiously and on priority for implementation.
- (ii) Respondent no. 3 and/or authorities constituted under the MCS Act shall take the necessary steps to circulate/communicate the finalized conditions/rules, as directed by us above, to all concerned, in a manner known to law.
- (iii) Respondent no. 3 may consider issuing necessary directions to the cooperative societies under the provisions of MCS Act, to appropriately amend their bye-laws, in accordance with the finalized conditions/rules.

(iv) Disposed of in the aforesaid terms. No costs.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI , J.)