

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2852 OF 2023
WITH
INTERIM APPLICATION NO. 691 OF 2024

Shekhar Rukayya Salian ... Petitioner
Vs.
Municipal Corporation of Gr. Mumbai & Ors. ... Respondents

Mr. Hussain Dholakwalla a/w Eshan Borikar, Narayan Sawant for Petitioner.
Ms. K. H. Mastakar i/b Komal Punjabi for Respondent – BMC.
Mr. Rohan More, Sr. Station Officer and Raosaheb Sangolkar, Jr. Engineer
(Maintainance) 'D' Ward, present in the Court.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.

DATE: 06 AUGUST 2025

P.C.

1. We have heard learned counsel for the petitioner as also learned counsel for respondent.
2. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs:

"a. this Hon'ble Court be pleased to direct to the Respondent to provide the same exit as it was in previous conditions, as mandated for fire safety compliance;
b. this Hon'ble Court be pleased to restrain the Respondent, their agents, servants and/or representatives, by an order, from interference in the business carried out by the Petitioner;"

3. We had heard the learned counsel for the parties on the earlier occasion on 23 July 2025 when we had passed the following order:

"1. We are of the opinion that the concerned officer of the Municipal Corporation will have to make an arrangement for

providing a fire access to the premises, the reason being that the tenement itself is owned by the Municipal Corporation as it is let out to the petitioner under lease agreement dated 13 July 1987 and since then the petitioner has continued to utilize and occupy the said tenement for running a restaurant.

2. Let appropriate instructions in this regard be taken and a decision in regard to providing fire access to this Municipal tenement be taken and the Court be informed on this on the adjourned date of hearing.

3. Stand over to **6 August 2025 (HOB)**.

4. Ad-interim relief, if any granted earlier, shall continue to operate till the adjourned date of hearing.

5. The parties are put to notice that on the adjourned date of hearing an endeavor shall be made to dispose of the petition."

4. Today, learned counsel for the Municipal Corporation has placed on record a communication received by her from the Assistant Engineer (Maintenance) 'D' Ward annexing thereto, the report of the Assistant Engineer (Maintenance (E) D Ward) dated 15 July 2024. There are also photographs which are annexed to such report to point out that there is an exit door which is available, which would be complied with the Fire requirements. Also Mr. Rohan More, Sr. Station Officer, is present in the Court.

5. On such report being presented before the Court, we made a query as to whether this would amount to a certification by the Fire Department of all compliances having been achieved in respect of the Fire Exit, which according to the petitioner was blocked by the Municipal Corporation putting up a chowky and blocking the Fire Exit Door of the petitioners' premises. The Fire officer has instructed, learned counsel for the Municipal Corporation to make a statement that it would not.

6. In this view of the matter, there is no alternative but to direct the respondent - BMC to remove/shift the Chowky and restore the Fire Exit as was originally available to the petitioner. Let appropriate steps in that regard be undertaken within two weeks from today.
7. After such Chowky is removed, the concerned officer of the Fire Department is directed to visit the premises in question and undertake verification of the Fire compliances and more particularly, the restoration of the Original Fire Exit.
8. Till the aforesaid compliances are made, no coercive action be taken against the petitioners' constructions.
9. All contentions of the parties in that regard are expressly kept open.
10. In this view of the matter, further adjudication of the petition is not called for. It is disposed of in the aforesaid terms. No costs.
11. Interim application would not survive, the same stands disposed of.
12. List the proceedings for compliance after three weeks.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)