

Pdp

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

PUBLIC INTEREST LITIGATION NO. 6 OF 2024

Dhananjay Narasinghiah Gowda & Ors. .. Petitioners

Versus

The Union of India & Ors. .. Respondents

**WITH
WRIT PETITION NO. 3569 OF 2024**

Krishnaji Ashok Samant .. Petitioner

Versus

The Union of India & Ors. .. Respondents

Mr. Surel Shah, Senior Advocate with Mr. Pramod G. Kathane i/b Mr. Manoj Sawardekar Ruzbe Duptewala & Mr. Amol G. Hurde, for Petitioner in PIL/6/2024.

Mr. Pramod G. Kathane i/b Mr. Prabhakar Ranshur, for Petitioner in WP/3569/2024.

Ms. Savita Ganoo with Mr. D.P. Singh, for Respondent No. 1 in both Petitions.

Mr. Mohit P. Jadhav, Addl. GP with Mr. Akshay G. Patkar, AGP for State, Respondent No. 3 to 5 in PIL/6/2024.

Mr. Akshay G. Patkar, AGP for State, Respondent No. 5 in WP/3569/2024.

Mr. Prakash G. Lad with Ms. Aparna Kalathil & Ms. Sayali Apte, for MHADA, Respondent No. 6 & 7.

Ms. Jaya Bagwe, for MCZMA, Respondent.

Mr. Vishwanath Patil, for MPCB, Respondent.

Mr. Abhinandan Vagyani with Mr. C.M. Lokesh, for CPCB, Respondent No. 2 in PIL/6/2024 & for Respondent No. 3 in WP/3569/2024.

Ms. Oorja Dhond i/b Ms. Komal Punjabi, for MCGM,
Respondent No. 8.

Mr. Gautam Ankhad, Senior Advocate with Mr. Asit
Lampwalal, Mr. Chirag Sancheti, Mr. Joshua D'souza i/b
Bulwark Solicitors, for Respondent No. 9.

**CORAM: ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.**

DATE: 12th JUNE, 2025

ORAL ORDER [Per Chief Justice] :

1. The petitioners, who claim to be the residents of Gorai area in the city of Mumbai, *inter alia*, seek quashment of impugned consent to establish Captive Ready Mix Plant granted in favour of respondent no.9. The petitioners, in addition, also assail the validity of the impugned approval dated 23rd January, 2024 granted by the Maharashtra Pollution Control Board (MPCB). The petitioners also seek a direction to respondent no.9 to restrain it from carrying out any further activity on the subject plot.

2. When the matters were called out today, a query was put to the learned counsel for the petitioners as to under which statutory provision the impugned order dated 10th November, 2023 has been passed. Thereupon, the learned counsel for the petitioners fairly submitted that the impugned order has been passed under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as "the Water Act") and under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as "the Air Act").

3. We have heard learned counsel for the parties.
4. It is well settled in law that where the statute creates the right and provides for a forum of redressal of grievances of the parties, the parties should resort to that forum and the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India cannot be permitted to be invoked (See **Hameed Kunju v. Nazim**¹ and **Authorized Officer, State Bank of Travancore v. Mathew K. C.**²). It is neither the case of the petitioners that the alternative remedy provided by the statute is not efficacious, nor is it the case of the petitioners that their case falls in any of the exceptions as carved out by the Supreme Court in **Whirlpool Corporation v. Registrar of Trade Marks**³.
5. In the instant case, the petitioners have statutory remedy of filing an appeal under the provisions of the Air Act as well as the Water Act. Therefore, we are not inclined to entertain the petitions as the issue with regard to the validity of the order granting consent in favour of the respondent no.9 is required to be examined, at the first instance, by the Appellate Authority constituted under the said Acts.
6. We, therefore, deem it appropriate to issue following directions: -
 - (a) The petitioners shall file an appeal before the Appellate Authority against the impugned order and subsequent orders, if so advised, within a period of

1 (2017) 8 SCC 611

2 (2018) 3 SCC 85

3 (1998) 8 SCC 1

two weeks from the date of receipt of copy of this order.

(b) The petitioners, respondent no.9 and the MPCB undertake to appear before the Appellate Authority on 10th July, 2025.

(c) Learned counsel for respondent no.9 undertakes to file reply within a period of one week from the date of appearance before the Appellate Authority.

(d) Parties undertake that they shall not seek any unnecessary adjournment before the Appellate Authority and shall cooperate with the Appellate Authority for early decision of the appeal.

(e) The Appellate Authority shall make an endeavour to dispose of the appeal within an outer limit of four months from the date of appearance of the parties.

7. It is made clear that we have not expressed any opinion on merits of the matter. It will be open for the parties either to contend that it is a Captive Ready Mix Plant or Commercial Ready Mix Plant.

8. With the aforesaid directions, PIL and Writ Petition stand disposed of.

(SANDEEP V. MARNE, J.)

(CHIEF JUSTICE)

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by PRAVIN
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