



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

**CONTEMPT PETITION NO. 186 OF 2025
IN
PUBLIC INTEREST LITIGATION NO. 7 OF 2019 (P)**

Nagpur Feriwala Footpath Dukandar
Sanghatna, registered with Commissioner
of Labour vide registration No.NGP-4503
having its office at “Naya Khoon Press”,
Cotton Market Road, Nagpur through its
Secretary, Mr. Abdul Razak S/o. Sheikh
Qureshi, Aged about 65 years, R/o.Zingabai
Takli, Bagdadiya Nagar, Nagpur.

.... **PETITIONER.**

// **VERSUS** //

1. Mr Prakash Warade,
Assistant Commissioner, Dharampeth
(Zone No.2), Nagpur Municipal
Corporation, Civil Lines, Nagpur.
2. Mr. Harish Raut, Assistant Commissioner,
(Encroachment Department), Nagpur
Municipal Corporation, Nagpur.
3. Mr. Sanjay Kamble, Assistant
Superintendent (Encroachment
Department), Nagpur Municipal
Corporation, Nagpur.
4. Mr. Ajay Chatankar, Additional
Commissioner (Civil), Nagpur
Municipal Corporation, Nagpur.

.... **RESPONDENTS.**

Shri M.G.Bhangde, Sr. Adv. a/b Shri Adarsh Baheti, Advocate for Petitioner.
Shri S.P.Dharmadhikari, Sr.Adv. a/b Shri J.B.Kasat & Shri Raghav Tiwari for
Respondent Nos.1 to 4.

CORAM : ANIL S. KILOR AND
AJIT B. KADETHANKAR, JJ.

DATE OF RESERVING THE JUDGMENT : 20/08/2025
DATE OF PRONOUNCING THE JUDGMENT : 14/11/2025

JUDGMENT : (Per : Anil S. Kilor, J.)

1. Heard.

2. **RULE.** Rule made returnable forthwith. Heard by consent of the learned counsel for the parties.

3. The petitioner- Nagpur Feriwala Footpath Dukandar Sanghatana (hereinafter referred to as “Petitioner-Association”) approached this Court alleging willful disobedience of order dated 01/03/2023 passed by this Court in Public Interest Litigation No.07 of 2019 and therefore, seeking appropriate action against respondent Nos. 1 to 4 under Article 215 of the Constitution of India read with Contempt of Courts Act, 1971.

4. The petitioner is an Association of Licenced Hawkers and claimed to have been carrying on their business of hawking from last many years. It is the case of the petitioner that out of 344 total members of the Petitioner-Association 78 members possess permanent licences, whereas, remaining members possess temporary licences.

5. In the Public Interest Litigation No.7 of 2019, initiated by this Court on its own motion, various issues are involved and one of the issues is relating to framing of 'Hawkers Policy' and identifying the Hawkers' Zone.

6. In the said Public Interest Litigation this Court on 20/02/2023 passed an order in relation to the hawkers and encroachment on the footpath. The relevant portion for the purpose of present petition is reproduced herein below, which reads thus :

"4. The issues raised herein need to be redressed at the earliest. We, therefore, direct Municipal Commissioner, Nagpur to consider framing of proper policy for hawkers through Town Vending Committee. It may be noted here that Town Vending Committee has already been constituted on 06.10.2022 and the situation toady is that the Town Vending Committee is still to identify the hawkers' Zone and frame a policy for the hawkers in Nagpur. Of Course, till the time such zones are identified and such policy is framed, the hawkers, who have been issued license earlier would have right to sell their goods and commodities at the places designated for them as per the licenses, if any, but it would not be open to any other person or stall owner to set up its business either on the footpaths or by the sides of the road and therefore, it is necessary for the Commissioner, NMC, Nagpur to immediately identify such unlicensed hawkers and stall owners, who are carrying on their business on footpaths and road sides unauthorizedly, and remove them forthwith. Action taken report shall be submitted by the Commissioner, NMC, Nagpur on or before the next date."
(emphasis supplied)

7. The above referred order was subsequently clarified by this Court vide order dated 01/03/2023. The relevant portion of the said order reads thus:

“4. We may clarify here that the Corporation shall not take action of removal of any street vendor, who was issued a licence for hawking earlier and whose licence for any reason has not been renewed till date. We further clarify that the directions passed by this Court on 20th February, 2023 shall be implemented only in the case of the street vendors and hawkers, who were not issued any licence, whatsoever, earlier or later.”

8. It is alleged that in total disregard and willful disobedience of the above referred order dated 01/03/2023 the respondent Nos.1 to 4 on 13/05/2025 removed the members of the Petitioner-Association from Sitabuldi Main Road and thus, committed contempt. Accordingly, a prayer to punish the respondent Nos.1 to 4 is being sought by way of the present petition.

9. In reply, the respondent Nos.1 to 4 have tendered unconditional apology and also pleaded not guilty. According to the respondent Nos. 1 to 4, they have not committed any contempt and there is no disobedience of any order of this Court.

10. According to the respondent Nos. 1 to 4, the action of removal of the members of the petitioner-Association from the Main Road, Sitabuldi was carried in the backdrop, as stated in their written submissions and reproduced herein below:

“A. That, before coming into force of The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereinafter referred to as the 'Act of 2014'), in view of the Hon'ble Apex Court judgment reported in 2014 (1) SCC, 490 to implement the National Policy On Urban Street Vendors, 2009, till an appropriate legislation is enacted by parliament or any other competent legislature and is brought into force, the respondent no. 1

State issued the Government Resolution dated 21/10/2013 for the constitution of 30 members of Town Vending Committee (TVC), accordingly the TVC was constituted on 21/12/2013 by the Nagpur Municipal Corporation which by holding the meetings not only carried out the survey by appointing the agency, but also registration of the hawkers.

B. That, the TVC constituted as aforesaid by holding regular meeting and passing resolution in the meeting dated 22/12/2016, approved to declare 53 sites as hawker zone which includes 'Sitabuldi Main Road' which was gazette notified on 29/12/2016. The true copy of the notification dated 29/12/2016 is enclosed herewith as DOCUMENT NO. 1.

*C. That, during the ongoing process to allot place to the hawkers in the notified hawker zone, the Sitaburdi Marchants Association has filed the Writ Petition No. 6215/2016 before this Hon'ble Court challenging the decision of hawker zone at *Sitabuldi Main Road' and this Hon'ble Court was pleased to pass the order dated 30/1/2017 to maintain status quo until further orders at Annexure No. 6 to the petition.*

D. That, the Act of 2014 came into force w.e.f. 1/5/2014 and as per Section 36 thereof the State Government also published the notification dated 3/8/2016 by which The Street Vendors (Protection of Livelihood and Regulation of Street Vending), Maharashtra Rules, 2016 (hereinafter referred to as the 'Rules of 2016') were brought into existence.

E. That, the Rules of 2016 provides for constitution of 20 members TVC under the Act of 2014 and as the parliament has enacted the appropriate legislation i.e. the Act of 2014 and is brought into force, the steps for constitution of TVC under the Act of 2014 were taken and in view of the judgment Azad Hawkers Union Vs. Union of India and others reported in 2017 (6) Bom CR. 481, the elections were held on 17/12/2019 through the Labour Commissioner for electing 8 members from the registered hawkers existing on 1/5/2014 in the 20 members TVC under the Act of 2014.

F. That, the constituted TVC under the Act of 2014 was forwarded to the State Government as per Rule 16(3) of the Rules of 2016 to notify and the State Government by notification dated 6/10/2022 notified the TVC under the Act of 2014. The true copy of the notification dated 6/10/2022 is enclosed herewith as DOCUMENT NO. 2

G. That, this Hon'ble Court by its order dated 21/10/2022 in pending Writ Petition No.6215/2016 filed by the Sitaburdi Marchants Association was pleased to grant liberty to consider and decide the issue involved in the said writ petition by revisiting the decision of the earlier constituted TVC by taking into consideration all the relevant factors and also the provisions under the Act of 2014. The true copy of the order dated 21/10/2022 in Writ Petition No. 6215/2016 is enclosed herewith as DOCUMENT NO. 3.

H. That, for the lawful implementation of the provisions of the Act of 2014 as per Section 38 of the Act of 2014, the State Government has to notify scheme specifying the matter in the Second Schedule of the Act of 2014 and the TVC constituted under the Act of 2014 has forwarded the draft scheme to the State Government for its approval by communication dated 26/5/2023.

I. That, during the pendency of the draft scheme for the approval with the State Government, this Hon'ble Court in Writ Petition No. 629/2023 by order dated 18/8/2023 was pleased to by way of interim arrangement directed to take necessary steps to implement the draft scheme initially for a period of 3 months, accordingly in view of the order dated 21/10/2022 in Writ Petition No. 6215/2016 to revisit the decision by the earlier TVC at Document No. 3, the meetings were held by the newly constituted committee, so also the sub-committees were constituted to ascertain the suitability of the earlier declared hawking zone and the exercise of reverification /revisiting was undertaken and by resolution dated 21/2/2024 the decision not to retain Sitabuldi Main Road' as hawking zone was taken. The true copy of the Resolution dated 21/2/2024 by the TVC is enclosed herewith as DOCUMENT NO. 4.

J. That, undisputedly this Hon'ble Court in PIL No. 7/2019 in view of the fact that, IVC has already been constituted on 6/10/2022 and the said TVC is still to identify the hawkers zone and frame a policy for the hawkers in Nagpur till the time such zones are identified and such policy is framed, directed as under:

"the hawkers who have been issued license earlier would have right to sell their goods and commodities at the places designated for them as per the licenses, if any, but it would not be open to any other person or stall owner to set up his business either on the footpaths or by the sides of the road and therefore, it is necessary for the Commissioner, NMC, Nagpur to immediately identify such unlicensed hawkers and stall owners, who are carrying on their business on footpaths and road sides unauthorisedly, and remove them forthwith. Action taken report shall be submitted by the Commissioner, NMC, Nagpur on or before the next date."

K. That, thereafter this Hon'ble Court clarified the direction as aforesaid dated 20/2/2023 in PIL No. 7/2019 by order dated 1/3/2023 of which the contempt is alleged as under:

"We may clarify here that the Corporation shall not take action of removal of any street vendor, who was issued a license for hawking earlier and whose license for any reason has not been renewed till date. We further clarify that the directions passed by this Court on 20th February, 2023 shall be implemented only in the case of the street vendors and hawkers, who were not issued any license, whatsoever, earlier or later."

L. That, in view of the orders dated 20/2/2023 as well as 1/3/2023 in PIL. No. 7/2019, the action of removal of the street vendors and hawkers who were not issued any license was taken on 29/11/2024 at the Sitaburdi Main Road which includes the alleged members of the petitioner association who were not issued a license for hawking.

M. That, the plea by the petitioner that 266 persons / alleged members of the petitioner association have been issued with the temporary license on the basis of the application / receipt at Annexure No. 5 to the petition is factually incorrect and denied as the earlier TVC constituted prior to coming into force of Act of 2014 at no point of time had resolved to issue /grant temporary license and the hawkers / vendors who have paid the registration fee of Rs.772/- after the payment of Rs.228/- towards process fee (License Application Fees) after processing the application were issued with the license /identity card and the sample certificate of vending issued to the licensees which includes the 78 members in the list at Annexure No.2 to the petition who have paid total Rs.1000/-(Rs. 228/- + Rs. 772/-). The true copy of the Resolution dated 21/1/2015 as well as sample certificate of registration is enclosed herewith as DOCUMENT NO. 5. Furthermore, the issue about grant of temporary license to members of the petitioner association is pleaded by the petitioner in Writ Petition No. 7764/2024 which is pending adjudication before this Hon'ble Court.

N. That, as the TVC constituted under the Act of 2014 in its meeting dated 21/2/2024 at Document No. 4 has taken the decision not to retain the Sitaburdi Main Road as hawking zone, accordingly to relocate the street vendors / hawkers from the Sitaburdi Main Road, the constituted TVC twice scheduled the meeting with the said specific agenda on 19/3/2025 and 3/4/2025, however the members representing the street vendors in the TVC which includes

some of the members of the petitioner association, refrained themselves from participating in both the meetings despite service of notice of meeting and therefore no business was transacted. The true copy of the agenda of the meetings dated 19/3/2025 and 3/4/2025 are collectively enclosed herewith as DOCUMENT NO. 6.

O. That, thereafter on 29/4/2025 again the TVC meeting was scheduled in which also notice with specific agenda for relocating the street vendors / hawkers from the Sitaburdi Main Road to the another retained hawking zone beside the wall of the Maharaja Bagh compound was served to the TVC members, however in the said meeting also none of the members representing the street vendors in the TVC were present and as such the business was transacted in the said meeting in which members present in the TVC unanimously resolved to relocate all the street vendors / hawkers on the Sitaburdi Main Road to the hawking zone beside the wall of the Maharaja Bagh compound. The true copy of the agenda notice dated 22/4/2025 and the minutes of meeting dated 29/4/2025 are collectively enclosed herewith as DOCUMENT NO. 7.

P. That, in view of the Resolution in the TVC meeting dated 29/4/2025, the Police Department as well as Enforcement Department was directed to relocate the hawkers / street vendors from Sitaburdi Main Road to the hawking zone beside the wall of the Maharaja Bagh compound, accordingly on 13/5/2025 the action with the assistance of the Police for clearing the Sitaburdi Main Road thereby the hawkers / street vendors who were doing their business on the said road were asked to shift themselves beside the wall of the Maharaja Bagh compound and the hawkers / street vendors who opposed the said action, their goods as well as tables etc. were seized.

Q. That, to ensure the right of commuters to move freely and use the Sitaburdi Main Road without any impediment, the decision not to retain the Sitaburdi Main Road as hawking zone was taken by the TVC, so also the action to relocate them near to the Sitaburdi Main Road i.e. beside the wall of the Maharaja Bagh compound was taken by the Enforcement Department of NMC on 13/05/2025.”

11. From the order dated 20/02/2023 it is apparent that the directions given in paragraph No.4 were for the limited period i.e. till the time the policy for hawkers is framed and Hawkers' Zone is identified. The order

dated 01/03/2023 is in continuation of the earlier order dated 20/02/2023 and it was in the nature of clarification. In that view of the matter, the order dated 01/03/2023 cannot be read in isolation and needs to be read with the order dated 20/02/2023.

12. Since it is the case of the respondents that Hawkers' Zones have been identified and it was informed to the members of the Petitioner-Association the order dated 20/02/2023 loses its efficacy. Therefore, removal of the members of the Petitioner-Association from Main Road, Sitabuldi cannot be said to be in violation of the order of this Court dated 01/03/2023.

Accordingly, the Contempt Petition is **dismissed**. Rule stands discharged. No order as to costs.

(AJIT B. KADETHANKAR, J)

(ANIL S. KILOR, J)

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