



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

PUBLIC INTEREST LITIGATION NO. 54 OF 2024

Citizen Forum for Equality, through its President
vs.

The State of Maharashtra and others.

Mr. T.D.Mandlekar, Advocate for petitioner.
Mr.N.S.Rao, Assistant Government Pleader for respondent nos. 1 and 3.
Mr. S.K. Mishra, Senior Advocate with Mr. J. B. Kasat, Advocate for respondent no.2.
Mr. S. M. Puranik, Advocate for respondent no.4.

CORAM :- NITIN W. SAMBRE AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 1st APRIL, 2025.

P. C.

Heard learned counsel for the parties.

2. Amongst other, the prayers in the petition are, to remove the encroachment and hoardings on the footpath in the Nagpur City, to quash and set aside the impugned e-Tender Notice dated 03.12.2024 issued by the Nagpur Municipal Corporation for grant of 'Sky-Sign rights' to erect the advertising hoardings on the land owned by the Nagpur Municipal Corporation in the City of Nagpur.

3. At present, we are dealing with the only issue as regards the e-Tender Advertisement Nos.733 and 734 of 2024 dated 03.12.2024.

4. Mr. Mandlekar, learned counsel appearing for the petitioner has invited our attention to the Notification dated 09.05.2022 whereby the Rules framed under Sections 244, 245 and 456(1) of the Maharashtra Municipal Corporations Act, 1949 viz. The Maharashtra Municipal Corporation (Regulation and Control of the Display of Sky-signs and Advertisement) Rules, 2022 (for short, 'the Rules of 2022') are notified.

According to him, once the aforesaid Rules are brought into force, the same are applicable to the respondent-Corporation and the

respondent Corporation is required to conduct itself in accordance with the Rules of 2022 in the matter of 'Display of Sky-signs and Advertisement' in the City of Nagpur. According to him, the said Rules, particularly Rule 5 provides for restriction for display of the hoardings or advertisement. Amongst other, the restrictions which are specified thereunder are, not to put the same at the intersection within a distance of 25 meters from the ground level; no mobile hoarding or advertisement; no hoarding shall be permitted around traffic islands and signal junctions within a distance of 25 meters; no hoarding or advertisement on footpath or public road; not to install hoarding or advertisement which will cause obstruction or interfere with the visibility of approaching, merging, or intersecting traffic, etc.

He would claim that once the Rules are notified and the respondents having claimed that they are not exempted from the applicability of the Rules of 2022, the entire process of installation of Sky-signs and Advertisement Boards has to be in accordance with the Rules of 2022.

5. According to Mr. Mandlekar, perusal of the E-Tender Notice reflects that the same is not only contrary to the Rules of 2022 but inspite of field being governed by said set of Rules, the respondents are trying to conduct themselves contrary to the said rules and in terms of Adverting Policy of 2001 and that being so, this Court must cause interference in extraordinary jurisdiction.

6. As against above, when the matter was heard two days back, Mr. Mishra, learned Senior Counsel, was assisted by Mr. Kasat, Panel Advocate of the Nagpur Municipal Corporation, would claim that the installation of advertisement and sign boards shall be governed by the provisions of Rule 29 of the Rules of 2022. It is claimed by the respondent that the Hon'ble High Court in Writ Petition No.4175 of 1999 (*M/s Golcha Advertising Agency & Others vs. The State of*

Maharashtra & Others) has passed an order thereby approving the Scheme of installation of advertisement and sign boards in the City of Nagpur or within the jurisdiction of the Nagpur Municipal Corporation. That being so, the earlier Policy which was approved by this Court shall prevail. Our attention is invited to the Policy/Scheme framed by the Nagpur Municipal Corporation, which is styled as 'The Outdoor Advertising Policy for the City of Nagpur'. It is claimed that the said Policy/Scheme was framed in 2001 and the relevant Clause in the said Scheme viz. Clause 21 deals with 'Hoardings on Municipal Sites'. It is further claimed that the e-tender floated by the Corporation is in tune with the said Scheme particularly Clause 21 and as such, this Court must have regard to Rule 29 of the Rules of 2022 and the orders passed by the Division Bench of this Court on 20.07.2000 in **Writ Petition No. 4175 of 1999** (*M/s Golcha Advertising Agency & Others vs. The State of Maharashtra & Others*).

Mr. Mishra, learned Senior Counsel, has invited our attention to paragraph 9 of the order dated 20.07.2000 in Writ Petition No.4175 of 1999 and order dated 27.04.2001 passed in the said writ petition so as to claim that the respondents are acting in tune with the provisions of Rule 29 of the Rules of 2022 which acts as an exception to the Rules of 2022.

In the aforesaid background, it is claimed that the prayer of the petitioner to the aforesaid extent is liable to be rejected.

7. We have appreciated the said contentions.

8. While dealing with the issue, we must take note of the observations made by the Division Bench in paragraph 9 of the order in *M/s Golchha Advertising Agency & Others* (supra), which read as under :-

"9. We have given anxious consideration to the submissions made before us. We direct the respondents/authorities to take

up the process of removal of hoardings and particularly remove those hoardings (Advertising Boards) which are located at footpaths, shoulders of the roads or touching the electrical wires and in contravention of the Indian Electricity Act and those which are in contravention of the Bombay Highway Act, 1955, the Byelaws of the Nagpur Municipal Corporation and the IRC Guidelines, after considering the grievance of the petitioners, by giving them an opportunity of hearing, which should be reflected by recording minutes to that effect. We make it clear that it will be open to the respondent/authorities to allow the petitioners or Advertising Agencies to relocate their hoardings within the Rules.”

In paragraph 13 of the said order, this Court had made it clear to the respondents/authorities therein that till a comprehensive scheme for outdoor advertising is formulated, no steps for assigning the business of erecting hoardings under the Signage System be taken. In view of the above, we are unable to satisfy ourselves with the submission made by Shri S.K. Mishra, Senior Advocate, that this Court has approved the said scheme. In the very same writ petition, in the order dated 27.04.2001, this Court had made the following observations :-

“Therefore, we do not find any reason why the policy framed by the Municipal Corporation should not be acted upon.”

However, the Division Bench had further proceeded to constitute a Committee of the officials so as to carry out the survey and classify the intersections as congested and less congested. The only expectation about the Outdoor Advertising Policy expressed by this Court was the implementation of the same in its true letter and spirit. That being so, it cannot be inferred that the respondents-authorities can take shelter of Rule 29 of the Rules of 2022.

9. It appears that the respondent-Corporation has placed before the Court the above referred Policy/Scheme being “The Outdoor Advertising Policy for the City of Nagpur’. When the said Policy was

placed for perusal of this Court, this Court in the order dated 27.04.2001 has recorded that the Municipal Corporation Act and the Policy/Scheme framed by it. It is these observations which are sought to be relied upon by the respondent-Corporation so as to claim the benefit of Rule 29 of the Rules of 2022.

10. The fact remains that, till then as observed hereinbefore, the field dealing with the regulation of the advertisement and hoarding was unoccupied and as such the same was in the gray area. It appears that the illegality committed in the management of advertising hoarding has led this Court taking up the issue in Writ Petition No.4175 of 1999 with connected matters. It appears that during the pendency of the writ petition, the respondent Corporation has framed the Policy/Scheme. Same was submitted by the respondent Corporation before this Court.

11. This Court has only permitted the respondent Corporation to act upon but had no occasion to adjudicate or approve the said Policy as there was no occasion to that effect as could be inferred from the orders passed in the said writ petition, which are produced for the perusal of this Court.

This Court in categorical terms has observed that the Policy was framed by the Nagpur Municipal Corporation and they can act on the same, that too, without adjudication of the said Policy as could be inferred from the order dated 27.04.2001 passed in Writ Petition Nos. 4175 of 1999, 4308 of 1999 and 2180 of 2000.

12. In the aforesaid background, the claim put-forth by the respondent Corporation that the Policy of 2001 was approved by this Court in the aforesaid writ petition or the same was sanctioned by this Court cannot be accepted. Such was not the intention of this Court as this Court has only permitted the respondent-Corporation to act as per

the said Policy. The orders referred to above in categorical terms permits the respondent Corporation to frame its Policy/Scheme and had no intention whatsoever to delve into the legality of the policy and to adjudicate the same and to record a finding that such Policy is sanctioned or approved by this Court.

13. In such an eventuality, reliance placed by the respondent Corporation on Rule 29 of the Rules of 2022 referred above, is misplaced. As such, we have to observe that the e-tender floated by the respondent Corporation has to be in tune with the Rules of 2022 and not as per their Policy/Scheme of 2001, which were produced before the Court in the aforesaid writ petition.

14. That being so, we deem it appropriate to direct the respondent Corporation to adhere to the Rules of 2022 referred above and till then it shall not give effect to the tender in question.

15. We make it clear that we are posting the matter after four weeks so as to enable the respondent Corporation to make a statement in view of the aforesaid observations as to whether they intend to modify/withdraw the tender in question.

16. Stand over to **29.04.2025** for further consideration.

(MRS.VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)

Andurkar.