



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SUO MOTU PUBLIC INTEREST LITIGATION NO. 3 OF 2023

High Court of Judicature at Bombay	}	
on its Own Motion	}	Petitioner
versus		
The State of Maharashtra & Ors.	}	Respondents

**WITH
ORIGINAL SIDE
PUBLIC INTEREST LITIGATION (L) NO. 30283 OF 2023**

Amar Baban Tike	}	Petitioner
versus		
The State of Maharashtra & Ors.	}	Respondents

**WITH
PUBLIC INTEREST LITIGATION (L) NO. 30568 OF 2023**

Kaizin Cyrus Irani	}	Petitioner
versus		
The State of Maharashtra & Ors.	}	Respondents

Mr. Darius Khambata, Senior Advocate, Amicus Curiae a/w Mr. Tushar Hathiramani, Mrs. Vidhi Shah, Ms. Shreenandini Mukhopadhyay in SMPIL/3/2023.

Mr. Vivek Batra i/by Vertical Legal for petitioner in PIL(L)/30283/2023.

Ms. Preeti Gokhale for petitioner in PIL(L)/30568/2023.

Mr. Janak Dwarkadas, Senior Advocate a/w Ms. Kishika Harish, Sharad Bansal, Kanika Goenka, Ms. Swagata Ghosh i/by Shardul Amarchand Mangaldas for Intervenors, Vanashakti NGO (Stalin Dayanand).

Mr. Tushad Kakalia for Intervenor Mr. Zoru Bhatena in SMPIL/3/2023.

Mr. Ishwar Nankani, Mr. Kunal Naik i/by Nankani & Associates

for Intervenors/Applicants in IAL/30873/2023 in SMPIL/3/2023.

Dr. Birendra Saraf, Advocate General a/w Mr. P. P. Kakade, Govt. Pleader, Mr. O. A. Chandurkar, Addl. Govt. Pleader, Mrs. R. A. Salunkhe, AGP, Mr. M. M. Pabale, AGP for State in SMPIL/3/2023.

Dr. Birendra Saraf, Advocate General with Smt. Jyoti Chavan, Addl. Govt. Pleader for State in PIL(L)/30283/2023 and 30568/2023.

Dr. Milind Sathe, Senior Advocate a/w Mr. Joel Carlos, Ms. Oorja Dhond and Mr. Sunil Sonawane for respondent-MCGM in SMPIL/3/2023.

Ms. Oorja Dhond for respondent-MCGM in OS PIL(L)/30283/2023 and 30568/2023.

Mr. Y. R. Mishra for respondent no.5-UoI in PILL/30283/2023.

Mr. C. M. Lokesh a/w Ms. Deepa Panicker for Central Pollution Control Board in SMPIL/3/2023 and for R. No. 6 (CPCB) in PILL/30283/2023.

Ms. Jaya Bagwe for respondent no.7 (MPCB) in PILL/30283/2023 and 30568/2023.

CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. & G. S. KULKARNI, J.

DATE: 6th NOVEMBER 2023

P.C.:

1. An oral application has been made on behalf of Vanshakti, an NGO through Mr. Dwarkadas, learned Senior Advocate for intervention. Having regard to the nature of issue involved, we permit the said NGO to intervene and file affidavit/notes from time to time, as and when required. On behalf of Vanshakti Mr. Dwarkadas, learned Senior Advocate tenders an affidavit which is taken on record.

2. The Court, noticing rapidly deteriorating air quality in the city of Mumbai, had taken *suo motu* cognizance of the issue. We had also appointed Mr. Khambata, learned Senior Advocate as *Amicus Curiae* to assist the Court in this matter.

3. Before we proceed to consider the submissions made by learned counsel at the bar, we direct that the Chief Secretary, Government of Maharashtra, Principal Secretary, Ministry of Environment, Government of Maharashtra, Principal Secretary, Department of Public Health, Principal Secretary, Medical Education, Principal Secretary - Department of Transport, Union of India through Secretary, Ministry of Forest and Environment, Central Pollution Control Board (CPCB) through its Member Secretary, Maharashtra Pollution Control Board (MPCB) through its Member Secretary, Municipal Corporation of Greater Mumbai and all other Municipal Corporations through the respective Municipal Commissioners in the Mumbai Metropolitan Region, Commissioner of Police - Mumbai, Chief Executive Officer - Slum Rehabilitation Authority, be impleaded as party respondents. The Registry shall carry out the necessary amendment in the array of respondents. The learned standing counsel representing these Organizations before this High Court at Mumbai are put to notice about this matter.

4. The learned *Amicus Curiae* has tendered a short note which is taken on record. He has submitted that the menace being faced today by the residents of Mumbai can be mitigated by taking certain short-term, mid-term and long-term measures. In the note certain suggestions have also been given, based on which directions may be issued by the Court.

5. Learned Advocate General has also furnished a note which is also taken on record. According to learned Advocate General, various steps have been taken, both at the end of the State Government, MPCB and the respective Municipal Corporations not only to monitor the air quality but also to take effective steps so that the air quality does not get deteriorated, especially during winters.

6. Shri Vivek Batra appears for the petitioner in PIL(L) No.30283 of 2023 and Ms.Preeti Gokhale appears for the petitioner in PIL(L) No. 30568 of 2023.

7. Having heard the learned counsel for the parties and having perused the notes furnished by learned *Amicus Curiae* as also the learned Advocate General, the Court finds that there is a general consensus on the part of all concerned that something drastic needs to be done not only for improving the air quality in the city of Mumbai, but also, to put in place an appropriate mechanism to see that it does not get worsened. The concern raised across the bar during the course of hearing of these matters by various learned counsel is appreciated, however, it appears that though various action plans, guidelines and other mechanism, both statutory and non-statutory have been proclaimed, however, on account of poor or inadequate implementation of these guidelines or mechanisms or action plans, the quality of air in Mumbai remains the same. The learned Advocate General in his note has pointed out certain major sources of air pollution. The note submitted by learned *Amicus Curiae* also discloses the major sources of air pollution in the city. We also note that Deepawali festival is to be celebrated on 12th November 2023, however, the celebration starts about a

week before. Considering the present state of the air quality in the city and also taking into account various activities which the city may indulge on and before Deepawali, as an interim measure, we issue the following directions:

- a) The Mumbai Air Pollution Mitigation Plan proclaimed by MCGM in March 2023 and the guidelines issued by the Environment and Climate Change Department and by the MCGM for "Air Pollution Mitigation" on 25th October 2023 shall be implemented by all concerned in its true letter and spirit. To ensure the compliance of the said Mitigation Plan we direct that it shall be personal responsibility of the Assistant Municipal Commissioner of each and every ward who shall be personally liable, responsible and shall be accountable to this Court for any lapse in implementation of the said Plan.
- b) Similar action plan shall be followed in rest of the Municipal Corporations other than Mumbai.
- c) The Municipal Corporations shall ensure that the metal sheets around construction sites are erected of sufficient height to ensure that dust from the construction sites shall not be spread over.
- d) To separate the dust generated on construction sites, the Municipal Corporations shall ensure that regular and continuous water sprinkling is done by the project proponents/construction agencies.
- e) The Municipal Authorities shall also ensure that storage piles at the construction site are properly covered and

cleared in terms of the guidelines issued by the State Government and the MCGM as also by the CPCB.

- f) It shall be ensured by all concerned that no construction debris is carried or transported to or out of the construction site. It shall also be ensured that all construction material being taken to the construction site including the ready-mix concrete is transported to the construction site in fully covered trucks or mixer plants.
- g) On the next date, if the air quality does not substantially improve, the Court may pass an order banning transportation of the construction material in and out of the construction sites.
- h) We also direct that the Authorities shall ensure that no burning of any waste, including solid waste is permitted in open areas, specially at the dumping sites where the municipal solid waste is dumped.
- i) The Traffic Department Officials and the Transport Department Officials, shall strictly implement the vehicular emission norms in accordance with the provisions of Motor Vehicle Act, 1988 and the Rules framed thereunder.
- j) The Municipal Authorities and the Police Administration shall also ensure that bursting of firecrackers takes place between 07.00 p.m. to 10.00 p.m. We have issued this direction keeping in view various directions issued by the National Green Tribunal as also having regard to the directions issued by the Supreme Court

in the case of **Arjun Gopal and Ors. Vs. Union of India** from time to time and also the order dated 12th November 2020 passed by this Court in PIL (St) No.95794 of 2020 wherein on behalf of the State an undertaking was given that guidelines issued from time to time regarding firecrackers shall be strictly followed.

k) The State Government as also the Municipal Corporations and more particularly, the Educational Institutions both in the Government and the non-Government sectors in the Mumbai Metropolitan Region, shall immediately take appropriate steps to spread awareness of the ill-effects burning / bursting of fire crackers would cause, to the existing polluted environment.

8. As already observed above, the Assistant Municipal Commissioners of the wards concerned shall be personally liable for any lapse in implementation of the various directions and action plan. We also direct that the Municipal Commissioners of the respective Municipal Corporations shall not only supervise the steps to be taken under this order but also identify erring Officers responsible for any lapse or lacunae in implementation of the guidelines.

9. The Court also feels it appropriate to constitute a two-member committee comprising of **Director, National Environmental Engineering Research Institute (NEERI)** working under the aegis of Council for Scientific and Industrial Research and the **Principal Secretary, Public Health,**

Government of Maharashtra, to supervise and monitor the steps being taken by all Municipal Corporations on daily basis.

10. The Municipal Commissioners shall submit a daily report to this two-member committee regularly. In case, this two-member committee finds it appropriate to make any suggestions, it will be open to the committee members to tender the suggestions to the Municipal Corporations.

11. Office to apprise the Director, NEERI and Principal Secretary, Public Health of this order, forthwith.

12. Stand over to **Friday, 10th November 2023 at 2.30 pm.**

13. All the Municipal Corporations in Mumbai Metropolitan Region shall be apprised of this order by Ms. Jyoti Chavan, Addl. Government Pleader, forthwith. The Municipal Commissioners shall file their personal affidavits by the next date of listing of these matters dealing with the steps that might be taken during this period, as compliance of this order.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)