

IN THE HIGH COURT OF Maharashtra AT Maharashtra
PUBLIC INTEREST LITIGATION (PIL) NO. _____ OF 2025

In the matter of:

Adv. Naman Raj

Mumbai

Petitioner

Versus

State of Maharashtra

Maharashtra Pollution Control Committee

Ministry of Environment, Forest and Climate Change

Central Pollution Control Board

Municipal Corporation of Mumbai

Mumbai Development Authority

Respondents

PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

To,

The Hon'ble Chief Justice and His Companion Justices of the Hon'ble High Court of Maharashtra

Most Respectfully Sheweth:

1. That the Petitioner is a resident of Maharashtra and is filing the present Public Interest Litigation in the interest of environmental protection and public health.
2. That the Petitioner has been compelled to approach this Hon'ble Court due to the inaction of the concerned authorities in addressing the serious issue of environmental pollution and public health hazards.
3. That the Petitioner has made several representations to the local authorities regarding this issue, but no action has been taken so far.
4. That the present petition is being filed in public interest and not for any personal gain or vendetta.

FACTS OF THE CASE:

1. ****Ordinance Promulgation and Legislative Requirement:**** The Governor of Bihar promulgated a series of ordinances concerning the management of non-government Sanskrit schools, repeatedly re-promulgating them without laying them before the state legislature, in violation of Article 213 of the Constitution of India. The initial promulgation occurred on

[insert specific date], with subsequent re-promulgations occurring on [insert specific dates].

2. ****Judicial Findings on Re-promulgation:**** The Supreme Court, in its judgment delivered on [insert specific date], held that the practice of re-promulgating ordinances without legislative approval constitutes a "fraud on the Constitution," undermining the legislative authority and the democratic process, and emphasized that ordinances must be laid before the legislature to remain valid.

3. ****Invalidity of Ordinances and Protection of Reliance Interests:**** The Court declared all ordinances in question invalid and devoid of legal effect due to non-compliance with legislative procedures. However, it ruled that no recoveries of salaries paid to employees during the ordinances' validity would be made, recognizing the reliance of employees on payments made under the ordinances, which were in effect from [insert specific dates].

LEGAL BASIS:

1. Article 213 of the Constitution of India: This provision empowers the Governor to promulgate ordinances when the state legislature is not in session, but mandates that such ordinances must be laid before the legislature for approval. The Supreme Court's judgment underscores that failure to comply with this requirement renders the ordinances invalid, thereby reinforcing the necessity of legislative oversight in the law-making process.

2. Doctrine of Separation of Powers: The Supreme Court's ruling highlights the principle of separation of powers, which is fundamental to the Constitution. The repeated re-promulgation of ordinances without legislative approval was deemed a "fraud on the Constitution," as it undermines the legislative authority and disrupts the balance of power between the executive and legislative branches.

3. Judicial Review of Executive Actions: The judgment affirms that the Governor's satisfaction regarding the necessity of an ordinance is subject to judicial review. This principle, derived from the basic structure doctrine, ensures that executive actions are not beyond scrutiny and must adhere to constitutional mandates, thereby safeguarding democratic governance.

4. Precedent on Temporary Nature of Ordinances: The Court overruled previous judgments that allowed ordinances to create enduring rights, emphasizing that any rights or obligations arising from an ordinance cease to exist once it expires or is disapproved by the legislature. This reinforces the temporary nature of ordinances and the necessity for legislative validation, ensuring that citizens' rights are not arbitrarily created or sustained without proper legislative process.

PRAYERS:

In light of the above, the Petitioner most respectfully prays that this Hon'ble Court may be pleased to:

1. Direct the Governor of Bihar to refrain from re-promulgating any ordinances concerning the management of non-government Sanskrit schools without prior approval and laying before the

state legislature, in compliance with Article 213 of the Constitution, within a period of 30 days from the date of this order.

2. Mandate the State Government of Bihar to ensure that all future ordinances are laid before the legislature within 15 days of promulgation and to report compliance to this Hon'ble Court every three months for a period of one year.

VERIFICATION:

I, Adv. Naman Raj, the Petitioner herein, do hereby verify that the contents of this petition have been read over and explained to me in the language I understand, and the same are true to my knowledge, information, and belief, and no part of it is false and nothing material has been concealed therefrom.

Verified at Maharashtra on this _____ day of May, 2025.

Solemnly affirmed and signed before me

Notary Public

PLACE: Maharashtra

DATE: 17 May, 2025

Through Counsel

Petitioner