



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
INTERIM APPLICATION NO. 17225 OF 2023
IN
SUO MOTU PUBLIC INTEREST LITIGATION NO. 3 OF 2023

Awaaz Foundation & Anr.	}	...Applicants
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In the matter between:

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

WITH
INTERIM APPLICATION NO. 17880 OF 2023
IN
SUO MOTU PUBLIC INTEREST LITIGATION NO. 3 OF 2023

Kalpesh Bhagat	}	...Applicant
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In the matter between:

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

Ms. Neha S. Bhide, G.P. a/w Mrs. Jyoti Chavan, Addl. G.P. , Mr. O. A. Chandurkar, Addl. GP. and Mrs. G.R. Raghuwanshi, AGP for State.
Mr. G. S. Hegde, Sr. Adv. a/w Ms.P. M. Bhansali for MMRDA.
Mr. Joel Carlos a/w Om Suryavanshi, Ravindra Sirsikar i/b Komal Punjabi

for MCGM.

Mrs. Jyoti Chavan i/b Ms. Jaya Bagwe for MPCB.

Mr. Rajat V. Dighe i/b Mr. A. S. Rao for Kalyan Dombivli Municipal Corporation.

Mr. Kedar Dighe for Pimpri Chinchwad Municipal Corporation.

Mr. Abhijit Patil a/w Mr. Jagdish G. Radwad (Reddy) for Slum Rehabilitation Authority and for Panvel Municipal Corporation.

Mr. Mandar V. Limaye for Thane Municipal Corporation.

Mr. Suresh M. Kamble for Ulhasnagar Municipal Corporation.

Mr. Tejesh Dande for Navi Mumbai Municipal Corporation, R. No. 13.

Mr. Y. R. Mishra aw Mr. Upendra Lokegaonkar, Mr. Sachidanand T. Singh for R. No. 5, Union of India.

Mr. Abhinandan B. Vagyani and Mr. C. M. Lokesh for R. No. 8.

Ms. Swati Sagvekar for Vasai Virar City Municipal Corporation.

Mr. Mayuresh Lagu a/w Sagar Patil, Mr. Shashank Dubey for Mira Bhyandar Municipal Corporation.

Ms. Sucheta D. Ghaisas for Bhiwandi Municipal Corporation.

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

DATE: 20th DECEMBER, 2024.

P.C.

1. By an order dated 31 October, 2023 passed by this Court, the present suo moto Public Interest Litigation was initiated based on various newspaper articles/reports on the deteriorating air quality in the city of Mumbai as also its surrounding areas. Referring to these news articles, the Court passed a detailed order recording serious concerns created by pollution and its impact on human health.

2. The Court had also appointed Mr Darius Khambata, Senior Advocate as amicus curiae. The proceedings were thereafter heard by this Court, when detailed orders were passed on 6 November, 2023, 10 November,

2023, 11 December, 2023, 6 February, 2024 and the last order, being 20 June, 2024. All these orders are self-explanatory, which not only speak on the measures which are required to be adopted by the State Government and other authorities like the Municipal Corporation, the Central and State Pollution Control Board, etc. so to take emergent steps to control pollution, generated from various sources, such as construction sites, small and big industries, vehicular pollution, to name a few. The purpose of passing these orders was not only to activate the existing official machinery in controlling atmospheric pollution, but also to ensure that new mechanisms are devised to control pollution. The health hazards which are caused by such pollution is a matter of common knowledge as also commented in detail by the Court in its earlier orders.

3. It is on the backdrop of our order dated 20 June, 2024, the proceedings are listed today and the learned counsel for the parties are heard. We note that in the order dated 20 June, 2024 there were various compliances to be achieved, namely, having an adequate staffing pattern for conducting effective pollution audit and steps being required to be taken by the Maharashtra Pollution Control Board (MPCB) to implement new staffing pattern for recruiting staff of 1310 in number which would include technical, scientific, administrative and accounts staff for the entire State of Maharashtra and such staffing pattern to be sanctioned by the State

Government. As recorded in paragraph 7 of the said order, such steps were required to be taken as the matter was pending with the State Government and final decision was not taken. On behalf of the State Government, the Court was informed that final decision on the proposal of the MPCB is likely to be taken within a month. The Court specifically observed that the problem of paucity of staff being faced by the MPCB was hampering the steps for taking up various measures, for mitigating the air pollution and conducting of pollution audit was one of such measures.

4. In the said order, the Court considering the affidavits filed in the present proceedings observed that the pollution audit of establishments located in the MMR area as also third party audit of 191 highly polluting industries was required to be undertaken. The Court also directed that the third party audit shall be entrusted to some institution/experts in respect of not only 191 red category industries but also all such red category industries situated in MMR region in a phased manner. It was also observed that based on the reports of third party audit, if any action is required, the same shall also be ensued as per the requirement of law. The Court also directed that the third party audit in respect of all red category industries shall be completed within a period of six months, however, it was provided that if MPCB faces any difficulty in meeting the deadline, they may approach the Court seeking extension of time but not as a matter of course. The Court

also recorded the need for mobile laboratories with state-of-the-art real-time chemical characterization facilities allowing the Source Apportionment (SA) studies and the report of the Experts suggesting that IIT Bombay has discussed these aspects with NEERI and MPCB and submitted a proposal to MPCB for consideration. A statement on behalf of MPCB was recorded to the effect that such recommendation, specially, the recommendation in respect of upgradation of mobile van laboratory was under consideration, however, it may involve huge expenditure. The Court accordingly directed that the concern relating to the air pollution in the entire MMR area and the recommendation in that regard made by the Committee of Experts dated 18 June, 2024 shall be acted upon, specially regarding upgradation of mobile van laboratories, for which it was directed that MPCB shall make appropriate arrangements for allotting funds to meet the expenditure, as also to seek financial assistance from State Government, which shall be provided forthwith and shall not be denied.

5. The Court had also emphasized the need for installation of the Air Monitoring Stations as per the norms prescribed by the Central Pollution Control Board (CPCB). The MPCB was directed to furnish details of the number of Air Monitoring Station required for MMR region as per the norms prescribed by CPCB. The CPCB was directed to file an affidavit stating as to what exactly are the norms regarding the Air Monitoring

Stations. These directions are still not complied by the CPCB.

6. The Court also was concerned with the traffic related recommendations as made in the recommendation of the Expert Committee constituted by this Court and embodied in the Minutes dated 9 May, 2024 relating to traffic. A direction was issued that authorities responsible for traffic management shall file affidavit giving details of the action taken to implement the recommendations. The Court while adjourning the proceedings directed that the Municipal Corporation shall file an affidavit, by the next date of listing, to clarify the issues as noted by the Court in the said order.

7. We are at pains to find that none of the directions as issued by us are complied by the different authorities in totality, much less as expected by the Court, when issues of serious concern touching human lives due to the impact of air pollution and a matter of serious concern arise in the present proceedings. The right of the citizens of a pollution free environment is a concomitant of Article 21 of the Constitution. The State authorities are required to be not only vigilant but in a continuous action mode to control and/or weed out pollution generated from the different sources. Innocent citizens cannot be victims of air pollution and helplessly suffer on such count, due to inaction of the authorities, in taking appropriate, timely and continuous measures.

8. We may observe that the present situation of air pollution in Mumbai is quite drastic and a matter of common knowledge. The question is whether the different authorities are at all serious about such alarming levels of pollution and whether they have taken adequate requisite steps to control the same.

9. After hearing learned counsel for the parties, we are quite pained to learn that hardly any effective steps are being taken in the present season and when the situation on the pollution levels has worsened which is a matter of common experience and knowledge. It cannot be that only after the Court passes orders, the State machinery would get activated and take action. There needs to be an inherent will, desire and resolve to curb environmental pollution and effective and drastic steps in that regard being required to be taken, so that people are not adversely affected on health and other counts, more particularly when Mumbai, being a city of international repute and the commercial capital of the country. No doubt that development/construction activities and other commercial activities need to go on, however, it cannot be that such activities are undertaken in an uncontrolled manner generating pollution and to the peril and health hazard of lakhs of inhabitants of the city.

10. In the aforesaid circumstances, there is no alternative, but to direct that an appropriate detailed compliance affidavit be filed by the different

authorities placing on record the up-to-date compliances of the requirements as noted by us in our order dated 20 June, 2024. Let such affidavits be placed on record well in advance before the adjourned date of hearing as also exchanged between all the parties.

11. Before parting we need to observe that there are certain issues on pollution which are required to be immediately addressed. The vehicular pollution on the main arterial roads of Mumbai namely Western Express Highway, Eastern Express Highway and other similar important roads where there is severe traffic congestion, due to ongoing road works and/or metro works, needs urgent attention. Traffic management on such roads is inadequate, which has resulted in severe traffic conditions, directly responsible for creating vehicular pollution, which seriously affects not only the residents in the vicinity but also the environment in its entirety. We direct the Traffic Department of the State Government to take urgent steps to curb traffic congestion and/or ease such traffic not only during the peak hours but also throughout the day, so that the vehicular pollution by static/slow moving vehicles is curtailed. Let compliance report in that regard be placed on record. A nodal officer be appointed for each of these roads to monitor traffic conditions so as to keep the pollution in control as also to maintain a record on accountability on such compliances. Such compliances also be monitored by the MPCB by providing effective machinery to measure the pollution levels and issue immediate intimation on matters of

concern and violations.

12. Insofar as Mumbai Municipal Corporation is concerned, all effective steps are required to be taken to activate sprinklers not only during the peak hours but throughout the day to control pollution created by dust as generated by construction and development works. Also, the Small and Medium Scale Industries within the city need to be monitored by the Mumbai Municipal Corporation ward-wise, so that the pollution generated by these industries is kept in check. Appropriate assistance from the MPCB can be availed in this regard for stringent action to be taken against polluting units. A report of the measures and action taken in this regard be also placed on record on the adjourned date of hearing.

13. In regard to the industrial pollution, if any, generated by Medium and Large Industries, the Maharashtra Pollution Control Board as also the Thane and the Navi Mumbai Municipal Corporation within whose Municipal area large number of such industries are located, namely, the Thane-Belapur belt and other industrial areas, need to be vigorously monitored and report in that regard be placed on record as also drastic actions be taken against the polluting units.

14. With the aforesaid directions, we adjourn the proceedings to **9 January, 2025 at 3.30. p.m.**

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)