

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

Public Interest Litigation No.54 of 2022

Vijay S/o Shankarrao Talewar and others

Versus

The State of Maharashtra and others

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri F.T. Mirza, Advocate for Petitioners.

Shri D.P. Thakre, Additional Government Pleader for Respondent
Nos.1, 2, 6 and 7.

Shri S.M. Puranik and Shri J.B. Kasat, Advocates for NagpurMunicipal
Corporation.

Shri A.R. Patil, Advocate for Intervenor.

Shri Sundeep R. Badana, Advocate for Intervenor- Ankita Shah.

Shri S.S. Sanyal, Advocate for Intervenor.

Shri A.S. Manohar, Advocate for Intervenor.

Shri Vikram M. Vishwarupe, Advocate for Intervenor.

Shri Ashwin Deshpande, Advocate for Intervenor.

CORAM : SUNIL B. SHUKRE & M.W. CHANDWANI, JJ.

DATE : 23rd NOVEMBER, 2022

1. Heard.

2. Civil Application No.916 of 2022 has been filed by the N.G.O.-
Save Speechless Organization, which is a Public Trust, which is
founded with the object of providing the dog shelter homes for taking
proper care of stray dogs. The N.G.O. has prayed for it's addition as a
party-respondent in this petition. The cause being espoused by the
N.G.O. is noteworthy and laudable. We are of the view that the
presence of the N.G.O. as a party-respondent in this petition would be
of a great help to the cause being espoused in this petition. Of course,
Shri Mirza, learned counsel for the petitioners, submits that in
appropriate cases, the intervenors, who wish to be added as the
respondents, must be called upon to deposit an amount of not less
than Rs.10,00,000/- in this Court to show their *bona fides*. It is his

contention that providing of food, shelter and care to stray dogs happens at the cost of tax-payers' money and, therefore, if any N.G.O. or any individual is interested in the welfare of stray dogs, it or he must come forward and show it's or his *bona fides* so that the issue can be resolved properly by balancing the interest of members of public at large and the interest of dog lovers. We would have ordinarily accepted the argument of Shri Mirza, learned counsel for the petitioners, but, so far as the present N.G.O. is concerned, we find that the N.G.O. has already proved it's *bona fides*, as the N.G.O. is already running a dog shelter where it is taking care of about 150 to 200 stray dogs. Therefore, for allowing this application, there would be no need for imposing any condition of deposit of any amount by the N.G.O. Civil Application No.916 of 2022 is, therefore, allowed. The N.G.O. be added as another party-respondent in this petition.

3. Shri Mirza, learned counsel for the petitioners, submits that the Apex Court has only stayed the particular observation of this Court made in the order dated 20-10-2022, which reads as follows :

“8. ...If these so called friends of stray dogs are really interested in protection and welfare of the stray dogs, they must adopt the stray dogs, take home the stray dogs or at least put them up in some good dog shelter homes and bear all the expenses for their registration with Municipal Authorities and towards their maintenance, health and vaccination...”

Shri Mirza submits that except for this observation, the Apex Court has not stayed the order passed by this Court on the earlier occasion on 20-10-2022. He further submits that it is, therefore, necessary that the rest of the directions issued by this Court are

required to be followed by the parties, in particular by the Nagpur Municipal Corporation and the Commissioner of Police, Nagpur, and accordingly, the Nagpur Municipal Corporation and the Commissioner of Police be directed to comply with those directives.

4. Shri Thakre, learned Additional Government Pleader for the respondent-State, submits that he is yet to receive any instructions about exercise of the powers under Section 44 of the Maharashtra Police Act, 1951 by the Commissioner of Police, as directed by this Court, and, therefore, he seeks time to file a reply in that regard. In the meanwhile, we would request the learned Additional Government Pleader to take up the issue with the Commissioner of Police and see that no nuisance is created by the stray dogs and if it is found that there is nuisance created, it should be brought in control by the Commissioner of Police in exercise of the powers under Section 44 of the Maharashtra Police Act, 1951, conferred upon him, subject to directions of this Court dated 22-10-2022. In fact, the Apex Court has already directed the Nagpur Municipal Corporation to take steps to deal with ferocious and aggressive dogs in accordance with law in its latest order dated 16-11-2022. About the directions, which are required to be followed by the Nagpur Municipal Corporation and which have not been stayed by the Apex Court, we are of the view that the Nagpur Municipal Corporation must now show enthusiasm and must take the requisite initiative for complying with those directions; and doing so by it, would only lead to substantial reduction or elimination of the nuisance caused by ferocious and aggressive dogs. Of course, that has to be done in accordance with law in terms of the directions issued by the Apex Court and also by this Court on 20-10-2022, to the extent they are not stayed by the Apex Court.

5. Today, Shri Puranik, learned counsel for the Nagpur Municipal Corporation, is not available owing to some personal difficulty, and a request is made on his behalf to grant further time to file a detailed compliance report. We grant time till 7-12-2022.

6. Shri Ashwin Deshpande, learned counsel for one of the intervenors-respondents, draws our attention to the direction made in Para 19 of the order dated 20-10-2022 passed in Civil Application No.2364 of 2022, whereby this Court had directed the Commissioner of Municipal Corporation, Nagpur, to look into the complaint dated 18-10-2022 filed by Dhantoli Nagrik Mandal complaining about the nuisance created by stray dogs in that area. A further direction was issued to take steps and ensure that the nuisance is removed and eliminated on or before the next date. This Court had also directed the Commissioner of Municipal Corporation, Nagpur, to submit a compliance report on the next date.

7. There was a response, orally submitted by the Nagpur Municipal Corporation on the last date stating that about 24 stray dogs were detained by the Nagpur Municipal Corporation, which were later on released. However, the compliance report stating about the reduction or removal of the nuisance created by stray dogs is necessary and it is not as yet filed. We grant further time to the Corporation to file the same on record.

8. Shri Sanyal, the learned counsel for one of the intervenors-respondents, invites our attention to some documents filed on record of the case by him, which contain the research papers and the revised module for stray dogs management, rabies eradication, reducing man-dog conflict, devised by the Animal Welfare Board of India. He submits that the revised module formulated by the Animal Welfare

Board of India draws on experiences of several other countries, including European countries, and our own country, which were successful in reducing the dog population. He submits that this module takes care of not only the vaccination programmes and sterilization of stray dogs, but also the manner in which it has to be done and the nature of food that must be provided to stray dogs. He further submits that if this module is adopted and followed by the Nagpur Municipal Corporation, it would help in reducing or removing the man-dog conflict, putting an end to the nuisance of stray dogs. The Animal Welfare Board of India is not a party here. We direct the Nagpur Municipal Corporation to consider the guidelines prescribed in the revised module issued by the Animal Welfare Board of India for the purpose of elimination of stray dogs' nuisance and taking care of welfare of these stray dogs. The Nagpur Municipal Corporation may also consult the Animal Welfare Board of India, if it thinks fit.

9. As regards the submission of Shri Mirza, learned counsel for the petitioners, that the intervenors, who wish to be joined as the party-respondents, must be asked to deposit an amount of Rs.10,00,000/- in this Court to show their bona fides, we may say that the submission would be taken care of and would be considered in future, if any new applications are made by more intervenors. As regards the present intervenors, who have been permitted to be joined as the party-respondents, we must say that each of the intervenors must give his or its suggestions regarding the manner in which the nuisance of stray dogs must be controlled. We would also call upon them to contribute their individual bits for the cause which has been espoused in this petition.

10. Shri Ashwin Deshpande, learned counsel for one of the intervenors-respondents, and Shri Mirza, learned counsel for the

petitioners, have pointed out to us that as an aftermath of the order of this Court dated 20-10-2022, some of the persons have embarked upon the exercise of unauthorizedly collaring the stray dogs without obtaining their registration, just to create a confusion in the mind of the officials of the Corporation, who are tasked with taking of action for controlling the nuisance of stray dogs. We direct the Nagpur Municipal Corporation to check whether any stray dogs unauthorizedly collared and if so, take steps for removing their collars forthwith and later on deal with them in accordance with law. A compliance report in this regard be submitted on the next date.

11. Stand over to 7-12-2022.

(M.W. CHANDWANI, J.)

(SUNIL B. SHUKRE, J.)