



Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 771 OF 2023

K. P. Purushothaman Nair .Petitioner
Vs.
Municipal Corporation of Gr. Mumbai .Respondent

Mr. K. P. P. Nair, Petitioner in person present.
Mr. Karan Bhosale with Mr. Kunal Waghmare i/b. Mr. Sunil Sonawane for
MCGM.

CORAM : G. S. KULKARNI &
R. N. LADDHA, JJ.
DATE : APRIL 24, 2023

P.C.:

1. We have heard Mr. K. P. P. Nair in person and Mr. Bhosale, learned counsel for the Municipal Corporation of Greater Mumbai (for short, “MCGM”).

2. This petition raises an important issue in regard to non-availability of foot-over-bridge connecting Bandra Railway Station, on the Bandra East side towards MHADA end, leading to the Bandra-Kurla Complex (for short, “BKC”). There is only one pavement for the commuters to travel from the Bandra Railway Station towards BKC. This segment faces a junction which has a flow of heavy traffic as the pedestrians are required to also cross the Western Express Highway. The petitioner contends that

there is only one pavement which is is being used by the commuters which is always crowded, resulting in the commuters suffering mishaps and accidents.

3. On 20 March 2023, after hearing the petitioner-in-person and the learned counsel for the Municipal Corporation, we had passed a detailed order observing that the safety of the commuters using footpath/pavement is paramount, as any mishap/bodily injury or death, occurring due to non-availability of safe footpath/pavement/walk-way would amount to breach of the fundamental rights guaranteed under the Constitution to the citizens. It was also observed that it is the public duty and an absolute obligation of the MCGM, to provide for such basic amenities while accepting its obligation and accountability towards the large number of commuters. We also recorded a statement made on behalf of the MCGM that the process to restore the Sky-Walk was initiated by the MCGM. Accordingly, to enable the learned counsel for the MCGM to take instructions we had adjourned the present proceedings. We also observed that the issues be placed before the Municipal Commissioner for his urgent consideration.

4. Mr. Bhosale, learned counsel for the MCGM has made submissions.

He has tendered an affidavit of Shri Chandrakant Suresh Suryavanshi, Assistant Engineer (Bridges), setting out the facts in regard to removal of the earlier sky-walk, which was constructed by the Mumbai Metropolitan Region Development Authority (**MMRDA**). The MCGM's affidavit sets out the steps which are now proposed to be taken by the MCGM to reinstall / reconstruct the sky-walk by issuing fresh tenders within two months and the construction of the new sky-walk, to be undertaken within 15 months of the award of the contract including the monsoon period. We would refer the relevant paragraphs of the said MCGM's affidavit which read thus:-

“10. Meanwhile this present Writ Petition was filed. As per the Order dated 20/03/2023 of this Hon'ble Court, the said Order was placed before the Municipal Commissioner. Under the directions from the Municipal Commissioner, a meeting was held at the office of the Additional Municipal Commissioner (Projects) (“AMC”). After going through all relevant documents including the construct with M/s. Construma Consultancy Pvt. Ltd., the following observations were made and decisions were taken:

i. The earlier tender was based on Unified Schedule of rates 2018 (“USOR 2018”). The scope of reconstruction of sky-walk was from Bandra (East) Station to Bandra Court. Consultant M/s. Construma Consultancy Pvt. Ltd. has prepared General Administration Drawing (GAD) from Bandra (East) Station to Bandra Court.

ii. The existing road from Bandra Station to Bandra Court is heavily crowded hence reconstruction of sky-walk will be carried out with new technology such as E 350 grade steel piers, pier caps & girders with minimum hindrance to the commuters and for early completion of work.

iii. Due to the possible increase in the scope of work of the proposed sky-walk from Bandra Court to MHADA office there will be further significant variation in the cost. Also with the introduction of USOR 2023 it is decided to call for a new

tender from Bandra Station to MHADA. It is pertinent to mention that the proposed extension of sky-walk from Bandra Court to MHADA office is subject to feasibility report.

11. As discussed and decided in the meeting dated 29/03/2023 with the Additional Municipal Commissioner (Projects) (AMC), the Contract with M/s. Construma Consultancy Pvt. Ltd. is foreclosed. The AMC has directed to invite new tender within 2 months to reconstruct the bridge within 15 months including monsoon.

12. The existing road i.e. Anant Kanekar Marg is heavily crowded hence reconstruction of sky-walk will be carried out with new technology with minimum hindrance to the commuters. The new tendering procedure will be completed within two months and construction of the new sky-walk will be carried out within the time period of fifteen months there from.”

5. Mr. Nair would submit that such steps being taken by the MCGM would be a blessing for thousands of daily commuters who are regular commuters on this path. In our opinion, the grievances as brought before this Court in the present proceeding are vital. Such grievances would stand redressed by the fair stand being taken by the MCGM, to reconstruct the sky-walk from Bandra Railway Station to Maharashtra Housing and Area Development Authority (for short, “MHADA”).

6. We may also observe that the restoration / reconstruction of the sky-walk needs to be of a high standard and a work of long durability, so that the facility would remain to be a permanent facility, more particularly considering the earlier experience, that due to the inferior quality of the sky-walk, the same was required to be removed. This should not be the

situation in respect of new sky-walk to be constructed at the cost of public money.

7. We would also intend the MCGM to consider as to whether a part of the sky-walk could be a mechanized walkway, with all safety mechanisms so that it becomes useful to the senior citizens, as also for persons with disabilities, who can then effectively use such facility. In this regard, we may observe that the Central and Western Railways as also the Metro Rails, have provided such mechanisms at several railway stations including providing escalators. Thus, benefits of modern technology needs to be made available to the commuters, to make their commuting life in Mumbai more easier and comfortable. Further the MCGM should also consider having elevators at both the ends of the sky-walk, so that commuting on sky-walk becomes easier for persons with disabilities and senior citizens. We are certain that the Municipal Commissioner would look into all these aspects before the tenders are finalized.

8. We are also of the opinion that considering the large number of commuters using this segment, the MCGM shall make an endeavour to make available all modern facilities in lighting technology in installing the sky-walks. This would cater to the safety of commuters during evening

and night hours more particularly, keeping in mind the use of such facility by senior citizens, women and children. We may reiterate that the personal safety of the commuters who use the sky-walk, pavements, is paramount. Also such aspects are required to be considered not only by the MCGM, but even by the State Government and the other concerned authorities. It is not new to the city that these sky-walks are habituated by miscreants, they are used by squatters and unauthorized hawkers, hence, permitting such persons to remain on the sky-walk has to be avoided.

9. All these are issues which fall for consideration of the MCGM and the other authorities who are experts in the field. We are sure that such aspects as highlighted by us would be considered and borne in mind by the MCGM in consultation with all other authorities, so that not only the proposed sky-walk but also all existing sky-walks in the city are made ideal, for their best possible utility, so as to achieve the purpose for which they are constructed.

10. Thus, such steps being taken by the MCGM and more particularly, that within a period of 15 months from the date of award of the contract, the entire work of restoration of the sky-walk in question would be completed, is a welcome measure being taken by the MCGM.

11. We accordingly dispose of this petition accepting the statements as made in the reply affidavit and permitting the MCGM to progress the work with all expediency.

12. Mr. Nair has brought to our notice another aspect namely an immediate requirement of a pavement which according to him, would be of about 200 sq. mtrs. from Bandra (East) Railway Station to HDIL. Mr. Bhosale has very fairly stated that if such a concern is brought to the notice of the MCGM by Mr. Nair, by a way of representation, the same would be given immediate attention, so that the problems of the commuters in that regard could be immediately attended. We appreciate the stand taken by the MCGM. We permit Mr. Nair to make a representation within a period of two days from today and copy of the same be also furnished to Mr. Bhosale, for further appropriate steps to be taken by the MCGM.

13. We express our appreciation to the efforts of Mr. Nair to espouse the cause in the present petition.

14. The petition stands disposed of in terms of the above observations. No costs.

[R. N. LADDHA, J.]

[G. S. KULKARNI, J.]