



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

PUBLIC INTEREST LITIGATION (L) NO. 35767 OF 2022

Prameya Welfare Foundation Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Anr. Respondents

Ms. Sumedha Rao I/b. Rumana Bagdadi for the Petitioner

Ms. Purnima Kantharia with Ms. Oorja Dhond I/b. Mr. S. K.
Sonawane for Respondent No.1 - MCGM

Mr. Kedar Dighe, AGP for Respondent No.2 - State

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE : AUGUST 2, 2023

P.C.

1. Heard learned Counsel for the parties.
2. This Public Interest Litigation Petition (for short **PIL Petition**) has been filed by the Petitioner - Prameya Welfare Foundation, primarily praying that a direction may be issued to the Municipal Corporation of Greater Mumbai not to grant permission for future events to erect the pandals and temporary

structures for festivals and ceremonies to those mandals / organisers who have previously violated the conditions of the said permissions granted to them.

3. Learned Counsel representing the Municipal Corporation has brought to our notice the policy to grant permission for erection of temporary structures on roads on occasions of festivals and ceremonies, which is at Exhibit-A to the counter affidavit filed by the Corporation. The said policy guidelines have been framed by the Corporation pursuant to the provisions contained in Section 317 of the Mumbai Municipal Corporation Act, 1888. The said policy, *inter alia*, provides that if any of the terms and conditions of the permission are violated, the deposit shall be forfeited completely and the permission granted to erect the temporary structure will be withdrawn. Clause 18 of the policy guidelines in this regard is very clear. However, learned Counsel for the Petitioner emphasizes that this condition does not effectively work, since the same violators despite this, erect pandals / temporary structures in the ensuing year despite forfeiture of deposit. Since there is no such deterrent which ensures that they do not indulge in such violations in future.

4. Having regard to the contents of the petition and also to the submissions of the learned Counsel for the parties, what we notice is that the concern raised in the PIL Petition needs to be addressed and a permanent solution to this peculiar problem needs to be found. It is common knowledge that those who seek permissions to erect pandals or any temporary structures on the occasions of festivals and ceremonies, are supposed to leave the roads and footpaths in an undamaged condition, however, on account of their negligent conduct, some or the other damage is caused to the roads and footpaths which unnecessarily causes difficulties to the pedestrians and other users of the road. In this view, we are of the opinion that some decision, may be a policy decision, needs to be taken by the competent authority of the Municipal Corporation in respect of prayer clause (a) of the PIL petition, which reads as under:

"(a) This Hon'ble Court be pleased to issue a writ of mandamus, or any other writ, order or direction in the nature of writ of mandamus against the Respondent No.1 and 2 restraining them from granting permission for erecting Pandals to Mandals who have violated the conditions of the permission and have been levied fines, for digging public road in the year 2022."

5. Accordingly, we dispose of this PIL petition with a direction

to the competent authority of the Municipal Corporation to take a decision in respect of prayer clause (a) of the PIL Petition as extracted hereinabove so as to ensure that there is a mechanism which effectively ensures that those granted permission under Section 317 of the Mumbai Municipal Corporation Act, 1888 do not repeat the same.

6. The Municipal Corporation shall take into account the averments made in this PIL Petition treating the PIL Petition as a representation by the Petitioner.

7. The decision under this order shall be taken within six weeks from the date of production of a certified copy of this order before the authority concerned.

8. The PIL Petition stands disposed of.

(ARIF S. DOCTOR,J)

(CHIEF JUSTICE)