



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10919 OF 2023

Sachin D. Basare .. Petitioner.
v/s.
State of Maharashtra & Others .. Respondents.

Ms. Siddhi Bhosale i/b. Mr. Jayesh Wani, for the Petitioner.
Mr. A. Y. Sakhare, Sr. Advocate with Mr. B. V. Samant, AGP for Respondent Nos.1 to 3-State.
Mr. Surel Shah i/b. Mr. Sandeep D. Shinde, for Respondent Nos. 4 to 7.
Mr. Pradeep Thorat with Ms. Ekta Tripathi and Mr. Shyamsundar Jadhav, for the Intervenor.

**CORAM: SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ.**
DATE : 6th SEPTEMBER, 2023.

PC:-

Heard learned Sr. Counsel for the Police Department, learned Counsel for the Corporation, learned AGP for the State and also learned Counsel for the Petitioners.

2 We find that the solution provided by the Police Department, which is in the nature of alternate venues to be selected by the Petitioner to celebrate the Dahi Handi Festival, has found favour with the Petitioner.

3 Alternate venues have been suggested in the rough sketch of Chhatrapati Shivaji Maharaj Chowk, which is tendered across the bar by the learned Sr. Advocate for the State. Same is taken on record and marked as 'A' for identification. Alternate venues are marked in the shape

of rectangle in green colour. One alternate venue is between Hotel Gurudev and Hotel Kuba and the other alternate venue is near Shankarrao Chowk. Out of these two venues, the learned Counsel for the Petitioner, on instructions, submits that the Petitioner would select the venue situated between Hotel Gurudev and Hotel Kuba.

4 With such solution having been found out, which has been accepted by the Petitioner, we direct the Police Department to grant its NOC for hosting Dahi Handi Festival and organizing related events at the said alternate venue situated between Hotel Gurudev and Hotel Kuba, forthwith.

5 We further direct the Corporation to grant necessary permission for hosting all the events relating to celebration of Dahi Handi Festival to the Petitioner at the said alternate venue latest by 5.00 p.m today, provided the required NOCs are produced by the Petitioner before the Corporation. The permission shall be so granted by the Corporation subject to usual conditions and it shall be done on the basis of the application already pending with the Corporation.

6 As regards the celebration of Dahi Handi Festival, we would like to place on record our concern about the manner in which the policy regulating celebration of such festivals has been framed. The Policy, in our considered view, does not take into account the inconvenience and traffic congestion that may result on account of granting permissions to various groups which celebrate Dahi Handi Festival in public streets and public squares of Mumbai. If it is contended by anybody that such celebrations

are part of traditions, culture and social mores of the glorious city of Mumbai, the traditions and cultural practices must also evolve with changing time and changing demographics of the city. Today, we are witness to great influx of migrants to this city and also inherent increase in population of Mumbai. Added to this, we face a situation where there is increase in the density of population in most of the areas of Mumbai and at the same time, we have also seen that the capacity of the public roads and public amenities has not been increased in proportion to increase in the population and its density. Therefore, now the time has come for the authorities and for the policy makers to revisit the policy already framed to regulate such festivals. The Policy makers would have to ask a question to themselves as to whether or not permission should be given to celebrate the festivals at public squares and in public streets, where huge crowds/groups are expected to visit to take part in the celebrations. The Policy makers would have to also think as to whether or not such celebrations should be perforce shifted to open spaces and public grounds. The Policy makers would also have to consider the issue pertaining to imposing of additional conditions for limiting the number of participants in such events. The policy makers would also have to think of identifying the time slots within which such festivals be celebrated by different groups at the same venue. Needless to say, such a policy would also have to cast duty on the organizers to restore the venues to their original condition, after the event is over. If the policy is re-framed or modified by taking into consideration all these aspects, we are of the view that there would be a proper balance struck between the need for public expression of religious sentiments on one hand and need for protecting larger public interest by reducing the inconvenience to the road users

and the residents of near by localities and also reducing traffic congestion at such venues on the other hand.

7 We hope that, from next year onwards, a modified policy regulating such festivals in a more effective way, by taking into consideration the suggestions given herein above, would be put in place by the concerned authorities.

8 Petition is disposed of in the above terms. No costs.

Parties to act on an authenticated copy of this order.

(FIRDOSH P POONIWALLA ,J.)

(SUNIL B. SHUKRE,J.)