



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2804 OF 2023

The Pentecostal Mission Society & Ors. ... Petitioners

V/s.

Municipal Corporation Of Greater Mumbai & Ors. ... Respondents

ALONG WITH

INTERIM APPLICATION (L.) NO. 9497 OF 2024

IN

WRIT PETITION NO. 2804 OF 2023

John Philip Bamadas ... Applicant

In the matter between :-

The Pentecostal Mission Society & Ors. ... Petitioners

V/s.

Municipal Corporation Of Greater Mumbai & Ors. ... Respondents

ALONG WITH

INTERIM APPLICATION (L.) NO. 18723 OF 2023

IN

WRIT PETITION NO. 2804 OF 2023

Anselam s/o. Fabian Misquitta ... Applicant

In the matter between :-

The Pentecostal Mission Society & Ors. ... Petitioners

V/s.

Municipal Corporation Of Greater Mumbai & Ors. ... Respondents

Mr. Shriram S. Kulkarni a/w. Ms. Pranjal M. Khatavkar for Petitioner.
Mr. A.Y. Sakhare, Senior Advocate a/w. Mr. Anoop Patil, Ms. K.H. Mastakar
i/b. Ms. Komal Punjabi for Respondent Nos.1 & 2-BMC.
Mr. M.B. Agarwal, Dy. Ch. Eng. (Traffic).
Mr. Amit Patil, Ex. Eng. (Traffic).
Mr. Harshal Pimple, Asst. Eng. (Traffic)
Mr. Amol Sanas, Sub-Eng. (K/W) Ward.
Mr. Ganesh Kudal, Jr. Eng. (K/W) Ward.
Mr. Milind More, Addl. G.P a/w. Mr. Prashant Kamble, A.G.P for State.
Mr. Ajit J. Kenjale a/w. Mr. Sai Rajendra Kadam for Applicant in
IAL/9497/2024.
Mr. Siddharth Singh i/b. Mr. A.M. Saraogi for Applicant in IAL/18723/2023.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**
DATE : 24th October 2024.

PC. :

1) Exasperated by the conduct of the BMC, in an Order dated 9th September 2024 passed in Contempt Petition No. 78 of 2024, in the case of *Arvind Sarnappa Vani v The State of Maharashtra*¹ the Co-ordinate Bench in paragraph No.3 observed as under :-

“It has become almost routine for the BMC officials not to comply with this Court’s orders. Rarely any extension is sought and parties are forced to file Contempt Petitions to secure compliance. This is yet another case of such a genre.”

1 [2024:BHC-OS:13976-DB](#)

2) Present Petition is an even more pathetic case than the one of which paragraph is extracted herein above. In the present case, the Petitioner's Counsel submitted that a representation was made by the Petitioner to the Hon'ble Chief Minister.

2.1) However, Mr Sakhare upon instruction from Mr. M.B. Agarwal, Dy. Ch. Eng. (Traffic) informed us that, till date the said proposal is not sent to the Office of the Hon'ble Chief Minister.

2.2) Upon perusal of the record it can be evinced that the Petitioner had made a representation to the Hon'ble Chief Minister initially on 16th May 2023. Upon which the Hon'ble Chief Minister put the following remarks.

आयुक्त, बृहन्मुंबई म.न.पा.

"अ", तपासून तात्काळ प्रस्ताव सादर करावा.

स्वाक्षरी / -

मुख्यमंत्री

महाराष्ट्र राज्य

2.3) The free English translation of the said remark is that; "the Commissioner of BMC to examine the subject 'A' and submit a proposal forthwith." Apparently, the Hon'ble Chief Minister has signed below his remark.

2.4) Subsequently, the Petitioner made another representation to the the Hon'ble Chief Minister on 10th August 2023, on which the Hon'ble Chief Minister put the following remark on 18th August 2023.

प्रधान सचिव नावे-1

“अ” प्रस्ताव सादर करावा.

स्वाक्षरी / -

मुख्यमंत्री

महाराष्ट्र राज्य

2.5) The free English translation of the said remark is that; “the Principal Secretary, Urban Development Department-1 to submit proposal-A”. The Hon’ble Chief Minister has signed below the said Note.

More than 14 months have elapsed since the note was signed on 18th August 2023 by the Hon’ble Chief Minister.

3) Having perused the two representations we inquired with the Counsel as to whether the Commissioner of BMC was informed and aware of directions of the Hon’ble Chief Minister.

4) Since there was no clear answer forthcoming, we directed the learned Senior Counsel to produce the original file of the said proposal before this Court to know whether the Officer(s) of BMC has informed the Commissioner of BMC about the passing of directions by the Hon’ble Chief Minister. A photocopy of letter dated 16th May 2022 is produced before us. The matter was then adjourned to the afternoon session.

5) In the afternoon session, a couple of documents were produced before us -- not the entire file.

6) Upon inquiry as to whose signature was appended to the document tendered before us, Mr. Sakhare, on instructions, submitted that,

the signature on the left side margin of the said letter is of the Commissioner of BMC, who has marked the said communication to the Additional Municipal Commissioner (P) and Chief Engineer (DP).

7) Record clearly indicates that, despite the fact that, the Hon'ble Chief Minister had directed the Commissioner of BMC to look into the grievances of the Petitioner, till date the plight of Petitioner has not been resolved by all the persons concerned. We have been informed that, the file is still travelling from one table to another. We are aghast to hear such submission.

8) As stated above, despite the exasperation expressed by a coordinate Bench of this Court on 9th September 2024, there is no improvement at the end of BMC. Moreover, its even more disturbing to note that even directions issued by the Hon'ble Chief Minister are not being adhered to and with utter callousness have been disregarded by the Officers of BMC. We wonder whose instructions do the BMC follow?

9) In view of the above conduct on the part of the BMC as can be evinced in the present case, we request the learned Advocate General, State of Maharashtra to bring the above noted facts to the Hon'ble Chief Minister so also the Principal Secretary, Urban Development Department, Government of Maharashtra, immediately.

10) We further direct Principal Secretary, Urban Development Department to file his detailed Affidavit in response to the Petition. We

expect the Principal Secretary to state on oath, as to whether our present Order is brought to the notice of the Hon'ble Chief Minister and his response thereto. We request the Principal Secretary to also state on oath, as to whether such conduct of the Officers of BMC should be tolerated, moreso when directions issued by the Hon'ble Chief Minister of our State are blatantly and with impunity flouted.

The said Reply be filed and served on or before 13th November 2024.

11) Stand over to 20th November 2024.

12) Till the Principal Secretary, Urban Development Department, Government of Maharashtra files his detailed Affidavit i.e. till 20th November 2024, all concerned are directed to maintain status-quo, as of today.

13) All the concerned to act on an authenticated copy of this Order.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)

RAJESH
VASANT
CHITTEWAN

Digitally signed
by RAJESH
VASANT
CHITTEWAN
Date: 2024.11.04
15:00:56 +0530