



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

**PUBLIC INTEREST LITIGATION (L) NO. 24245 OF 2023**

Vanashakti & Anr.

..... Petitioners

Vs.

Municipal Corporation of  
Greater Mumbai & Ors.

..... Respondents

Mr. Tushad Kakalia I/b. Mr. Yogesh H. Pandey for the Petitioners

Dr. Milind Sathe, Senior Advocate with Ms. Oorja Dhond I/b. S.  
K. Sonawane for Respondent No.1 – MCGM

Ms. P. H. Kantharia, Government Pleader for the State

Ms. Jaya Bagwe for Respondent No.3 – MPCB

Mr. C. M. Lokesh for Respondent No.6.

Mr. Balasaheb Wakchaure, CEO, Aarey – present

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

**DATE : SEPTEMBER 12, 2023**

**P.C.**

1. Learned Counsel for the Petitioners has presented a draft amendment. The Respondents do not have any objection to this. Accordingly, let amendments be incorporated by the learned Counsel for the Petitioners within a week.

2. Since the Dy. Conservator of Forest, Thane Forest Division is member Secretary of newly added Respondent No.10 – Monitoring Committee of Sanjay Gandhi National Park (for short the "**SGNP**"), learned State Counsel waives notice for the newly impleaded Respondent No.10.

3. The Court, while taking cognizance of the issues raised in this PIL Petition concerning immersion of idols in the lake of Eco-sensitive Zone of SGNP had passed an order on 4<sup>th</sup> September 2023 directing the Municipal Corporation of Greater Mumbai (for short the "**MCGM**") to file an affidavit not only explaining as to under what circumstances the letters dated 19<sup>th</sup> July 2023 and 18<sup>th</sup> August 2023 were written but also to give details of the steps taken by the Corporation to ensure compliances of the provisions of the Notification dated 5<sup>th</sup> December 2016 issued by the Government of India and also to comply with the guidelines issued by the Central Pollution Control Board (for short the "**CPCB**"), dated 12<sup>th</sup> May 2020.

4. In compliance of the said order, an affidavit on behalf of the Municipal Corporation has been filed which is sworn by the Dy. Municipal Commissioner (Zone-II). According to the said

affidavit, the letters as aforesaid were written to the Chief Executive Officer, Aarey Colony seeking no-objection for permitting immersion of idols in the lake this year. Similarly, in respect of letter dated 18<sup>th</sup> August 2023 it has been stated in the affidavit that the Chief Executive Officer, Aarey Colony was requested to allow utilizing the lake for immersion of idols this year as well so that timely arrangements can be made. The affidavit further recites that unless such permission is received from the Chief Executive Officer, Aarey Colony, immersion of idols will not be allowed in Aarey Colony.

5. On instructions, learned State Counsel who represents the Chief Executive Officer, Aarey Colony submits that no permission shall be granted for immersion of idols in the lake of Aarey Colony keeping in view the provisions contained in Notification dated 15<sup>th</sup> December 2016 and the guidelines issued by the CPCB in its Notification of 12<sup>th</sup> May 2020.

6. The PIL Petition, apart from raising the issue relating to pollution being caused on account of immersion of idols made of Plaster of Paris (PoP), also raises the issue in respect of proper implementation of the guidelines issued by the CPCB and

compliance of the Notification dated 5<sup>th</sup> December 2016. Respondent No.1 – MCGM in its affidavit has stated that various Circulars and Brochures have been issued for disseminating the information in general public for ensuring the compliance of the guidelines. Some steps taken by the Corporation are spelt out in paragraph No.2.2 of the affidavit which is extracted hereinbelow.

*2.2 I say that insofar as the implementation of the guidelines issued by CPCB on 12<sup>th</sup> May 2020 (Exhibit D @ pg.75) under the caption "Revised Guidelines for Idol Immersion". Considering the scale of massive celebrations of the Ganpati festivities within the city of Mumbai, the attraction for large idols and livelihood of the people dependent on the same, the Corporation has decided to implement the said guidelines in a phase-wise manner i.e. in 3 years phases of 2022, 2023 and 2024.*

*The BMC has issued Circulars, brochures as well as newspaper publications prescribing guidelines for compliance with the guidelines contained in paragraph 4. This includes:*

- i. BMC has procured eco-friendly white clay (shaadu) for the purposes of supply to idol makers. BMC has made a provision for 2400 tons of clay and has actually supplied above 450 metric tons to various idol makers;*
- ii. BMC ward offices have provided free of charge places to the white clay (Shaadu) idol makers for making white clay idols.*
- iii. Public appeal has been made through newspapers thereby requesting devotees / idol makers / ganpati pandals to use white clay and other eco-friendly materials for making Household Ganesh idols, to restrict its height to 4 feet and to make immersion only in the artificial lakes.*
- iv. Similarly for Public Ganpati Festivities, their committees have been appealed : as much as possible to use eco-friendly materials for idol-making, to keep the height of the idol low to the extent as possible and also to make immersion of idols upto the height of 4 feet in the artificial lakes.*

v. *BMC has provided throughout Mumbai about 191 artificial ponds for immersion;*

vi. *In all the ward officers of the Corporation meetings have been taken by the respective Assistant Commissioners of the wards with Ganpati Mandals (committees), Idol Makers and other concerned wherein they have been requested to celebrate this festival in an eco-friendly manner;*

7. Despite the aforesaid efforts made and steps taken by the MCGM, as per the submission made by the learned Counsel for the Petitioners neither statutory provisions contained in the Notification dated 5<sup>th</sup> December 2016 are being complied with nor the guidelines issued by the CPCB are being followed in letter and spirit. Our attention has specifically been drawn to Clause-4 of the guidelines issued by the CPCB which enlists as many as 25 steps to be taken by the respective authorities including the authorities of the Urban Local Bodies. Various provisions have been made in the said guidelines requiring the Urban Local Bodies to make efforts not only to identify and arrange adequate number of designated temporary or artificial ponds or tanks but also to ensure that such artificial ponds or tanks are arranged at suitable places. For ensuring safe immersion of idols the guidelines contain a detailed work-plan.

8. While noticing the submission of Mr.Sathe, learned Senior

Advocate representing the Corporation, that unless permission is accorded by the Chief Executive Officer, Aarey Colony for immersion of idols, no idols will be permitted to be immersed in the lake at the SGNP and the statement made by the learned State Counsel representing the Chief Executive Officer, Aarey Colony that no such permission is being accorded, we also direct that for safer immersion of the idols adequate arrangements shall be made by the different Urban Local Bodies throughout the City of Mumbai and in the suburbs lying in its vicinity in terms of the guidelines issued by the CPCB in its Notification dated 12<sup>th</sup> May 2020.

9. We also find it appropriate to require the State Government, the MCGM, the Maharashtra State Pollution Control Board, Chief Executive Officer, Aarey Colony and the Member Secretary of the Monitoring Committee to file response to the PIL Petition giving not only the paragraph wise reply to the averments made in the Writ Petition but also giving details of steps taken by these Authorities / Bodies to implement the guidelines dated 12<sup>th</sup> May 2020 issued by the CPCB as also for ensuring compliance of various provisions contained in the Notification dated 5<sup>th</sup> December 2016 issued by the Government

of India in the Ministry of Environment and Forest.

10. The said response shall be filed within four weeks. Two weeks thereafter shall be available for the Petitioners to file rejoinder, if any.

11. Stand Over to 1<sup>st</sup> November 2023.

**(ARIF S. DOCTOR,J)**

**(CHIEF JUSTICE)**