

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

**PUBLIC INTEREST LITIGATION (L) NO.26666 OF 2021**

**M. K. Julio Ribeiro and Ors. ... Petitioners**  
**versus**  
**Union of India and Ors ... Respondents**

**WITH  
CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO.65 OF 2022**

**Shri Sujay Anil Patki ... Petitioner**  
**versus**  
**The State of Maharashtra and Ors. ... Respondents**

Mr. Ramesh D. Soni with Mr. Archit Jayakar, Mr. Priyank Daga and Mr. Mihir Kakade i/by Jayakar & Partners for the petitioners in OS PIL(L) No.26666/2021.

Mr. Pritesh Burad with Ms. Twinkle Gadhiya i/by Pritesh Burad Associates for the petitioner in AS PIL/65/2022.

Mr. D.P. Singh with Mr. Aditya Thakkar for respondent no.1 – (Union of India) in OS PIL(L) No.26666/2021.

Mr. P. P. Kakade, Government Pleader with Mrs. R. A. Salunkhe, AGP for the State - respondent nos.1 and 2 in AS PIL/65/2022.

Ms. Jyoti Chavan, AGP for the State – respondent nos.2, 6 and 7 in OS PIL(L) No. 26666/2021.

**CORAM: DIPANKAR DATTA, CJ. &  
ABHAY AHUJA, J.**

**DATE: NOVEMBER 24, 2022.**

**P.C.:**

1. We have two writ petitions in the nature of public interest litigation on board. PIL (L) No.26666 of 2021 and PIL

No.65 of 2022 have been instituted complaining of a 'bandh' that was observed on 11<sup>th</sup> October, 2021 and its after effects on the economy.

2. PIL (L) No.26666 of 2021, instituted prior in point of time, was considered by co-ordinate Bench of this Court on 20<sup>th</sup> December, 2021. Notice was issued to the respondents, returnable on 14<sup>th</sup> February, 2020. Mr. Anil Singh, learned Additional Solicitor General appearing for the respondent no.1 (Union of India) and Ms. Chavan, learned AGP representing the respondents 2, 6 and 7 (the State of Maharashtra, Director General of Police, Maharashtra and the Commissioner of Police, Mumbai, respectively) had waived notice.

3. Reply affidavits PIL (L) No.26666 of 2021 have since been filed by the respondents 2, 6 and 7.

4. Meanwhile, PIL No.65 of 2022 was directed to be tagged with PIL (L) No.26666 of 2021.

5. In support of the case run in PIL (L) No.26666 of 2021, Mr. Soni, learned counsel has referred to us the decision of the Supreme Court reported in (1998) 1 SCC 201 [**Communist Party of India (M) Vs. Bharat Kumar and ors**], affirming the decision of a Bench of three Judges of the Kerala High Court reported in AIR 1997 Kerala 291 (**Bharat Kumar K. Palicha and anr. Vs. State of Kerala and ors.**), in support of the contention that calling of 'bandh' by the then ruling dispensation of the Maharashtra Vikas Aaghadi (hereafter "MVA", for short) on 11<sup>th</sup> October, 2021 is illegal and *ultra vires* the Fundamental Rights of the citizens.

6. Mr. Soni has also invited our attention to the decision of a co-ordinate Bench of this Court in Writ Petition No.2827 of

2003 (**B. G. Deshmukh and ors. Vs. State of Maharashtra and ors.**) where, under paragraph no.32, several directions were issued for compliance by public authorities as well as political parties, organizations, associations, group of individuals, giving calls for a 'bandh'. Some of the directions contained in the sub-paragraphs are quoted hereunder: -

"3. It is declared that the enforcement of a 'bandh' or a 'hartal' would amount to unconstitutional act, and any political party, organization, association, group or individual giving such call for bandh or hartal to force or intimidation or otherwise;

4. The concerned political party, organization, association, group or individual giving 'bandh' call will be served with a notice under section 149 of the Criminal Procedure Code. In the notice attention will be drawn to the judgments of the Supreme Court and this Court regarding illegality of 'bandh'. The notice will clearly state that such a political party, organization, association, group or individual will be liable for legal action and compensation for loss of life, injury or for loss livelihood due to 'bandh'.

5. We direct the State, District Collectors and all other officers of the State to ensure:

a. that no political party, organization, association, group or individual can, by organizing 'bandh', or by force or intimidation, stop or interfere with road and rail traffic or the movement of citizens in city of Mumbai or State.

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6. The police shall take appropriate action against the person or persons involved in such 'bandh' under provisions of the Indian Penal Code, Criminal Procedure code and Bombay Police Act, and submit action taken report in such cases to the Sessions Judge of the concerned District.

7. The general public shall be informed by issued press note through print media and through electronic media informing them about the

preparations made by the police to deal with 'bandh' and for making people secured.

12. There shall be video-recording so as to identify miscreants and to book them under law.

13. All police control rooms will be fully activated to follow up incident regarding 'bandh'. To take proper, stern and timely action.

15. The Chief Secretary of the Government Director-General of Police and all other officers to take all necessary steps to give effect to the above directions."

7. It has been ascertained by us from Ms. Chavan that no appeal was carried by the State from the decision in **B. G. Deshmukh** (supra); hence the decision has attained finality. We wish to ascertain from the State, the Director General of Police as well as the Commissioner of Police as to what steps were taken in compliance with the directions in **B. G. Deshmukh** (supra) to avoid the 'bandh' on 11<sup>th</sup> October, 2021. Let further affidavits be filed by them dealing with each and every paragraph of PIL (L) No.26666 of 2021 within three weeks from date.

8. Since it is evident from the wireless message at page 255 of the petition paper-book in PIL (L) No.26666 of 2021 that the 'bandh' call had been given by the MVA and that the constituents of the MVA, who are respondents 3, 4 and 5, have stayed away from proceedings till date, we issue **Rule** against such respondents returnable on 23<sup>rd</sup> January, 2023. The respondents 3, 4 and 5, upon service of the Rule, shall be at liberty to answer the same by filing appropriate affidavits, if so advised, by 9<sup>th</sup> January, 2023. Rejoinder affidavit thereto, if any, may be filed by the petitioners by 18<sup>th</sup> January, 2023.

9. Since we propose to consider PIL (L) No.26666 of 2021 as well as PIL No.65 of 2022 finally on the adjourned date, question of issuing notice on interim relief as prayed for by Mr. Soni does not arise at this stage. Even otherwise, interim relief, as prayed for, is in the nature of the principal relief claimed in the public interest litigation and there is no exceptional circumstance for grant of such interim order which would, in effect, amount to grant of principal relief, as claimed.

10. There shall be **Rule** against the respondents 3, 4 and 5 in PIL No.65 of 2022 too. Directions for exchange of affidavits as directed above shall apply *mutatis mutandis* insofar as this public interest litigation is concerned.

**(ABHAY AHUJA, J.)**

**(CHIEF JUSTICE)**