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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION (ST) NO. 3256 OF 2019

Yeshwanth Shenoy S/o.
V. L. Shenoy ...Petitioner

V/s.

The Union of India through
the Secretary, Ministry of
Civil Aviation & Ors. ...Respondents

Mr. Yeshwant Shenoy, petitioner-in-person,
present.

Mr. Amogh Singh a/w Mr. Pranav Thackur for
respondent nos.1 and 3.

Mr. Vikram Nankani, Senior Advocate a/w Ms.
Shoma Maitra a/w Mr. Nikhil Apte a/w Dhruv
Nyahadhish and Mehul Talera i/by Wadia Ghandy &
Co. for respondent no.4.

Mr. Abhijit Khare with Smt. T. H. Puranik & Ms. K.
H. Mastakar for respondent no.6/MCGM.

Mr. P. P. Kakade, Govt. Pleader a/w Mr. M. M.
Pabale, AGP for respondent nos.7, 8 & 9/State.

**CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE: JULY 29, 2022

P.C.:

1. This public interest litigation raises a concern of seminal importance. Aviation safety and ancillary matters have been placed before us. The petitioner seeks to obtain orders from

the Court to activate the respondents 2, 3 and 4 to comply with the provisions of the Aircraft (Demolition of obstructions caused by Buildings and Trees etc.) Rules, 1994 (hereafter "the 1994 Rules", for short).

2. Pursuant to the earlier orders passed by this Court, affidavits have been filed by the respondents. The affidavit dated 8th July 2022 filed on behalf of the respondent no.4, the Mumbai International Airport Limited, *inter alia*, reveals this. As per a survey conducted in 2010, particulars of 137 obstacles (buildings/ structures) on the approach surface of all the runways of the Chhatrapati Shivaji Maharaj International Airport (hereafter "the airport", for short) were submitted to the Director General of Civil Aviation (hereafter "DGCA", for short) for removal. Notices were issued under rule 4 of the 1994 Rules to 110 owners of such obstacles pursuant where to final orders of demolition were passed in May and June 2017 in respect of 63 such obstacles. Owners of nine (9) such obstacles preferred appeals to the DGCA, whereas six (6) owners complied with the final orders. It is revealed from the affidavit that 49 obstacles are yet to be removed and the particulars of such obstacles have been furnished by the respondent no. 4 to the District Collector, Mumbai Suburban District vide notification dated 3rd November, 2017. We have been informed by Mr. Nankani, learned senior advocate representing respondent no. 4 that Vileparle Mahila School, figuring at number 4 of the list, has since complied with the final order passed by the competent authority.

3. Our previous orders required the Collector as well as the Municipal Corporation for Greater Mumbai (hereafter "MCGM",

for short) to file affidavits to indicate the steps that have been taken for demolition of the obstacles in terms of rule 8 of the 1994 Rules. It is the statutory mandate that after a final order has been passed, it is for the District Collector to take measures for demolition of any such obstacle that impedes take-off and landing of the aircrafts at the airport.

4. Mr. Pabale, learned AGP appearing for the District Collector, Mumbai Suburban has filed an affidavit dated 27th July, 2022 of a Tehsildar (Leave Reserve) in the Office of the Collector. It appears therefrom that meetings were convened by the Collector with the officials of the MCGM. The affidavit points out that in the city of Mumbai, it is the MCGM being the planning authority in terms of the provisions of the Maharashtra Regional and Town Planning Act, 1966, which is authorized to carry out demolition of structures.

5. An attempt to shift the responsibility of demolition to the MCGM is clear from a reading of such affidavit. However, we are not at all impressed thereby. The 1994 Rules are the special law in this case and once rule 8 envisages that it is the District Collector who would be responsible for demolition of obstacles, we do not approve of the Collector's attempt to pass on the responsibility to the MCGM. It is indeed true that in the matter of demolition the Collector may require the assistance of the MCGM but it is not correct to contend that demolition has to be carried out by the MCGM. We find from the affidavit filed by the MCGM that it is willing to provide such assistance as may be required by the Collector. We, therefore, hold that it is the Collector who needs to proceed for demolition of the obstacles in accordance with the

provisions contained in rule 8 of the 1994 Rules.

6. Since 48 obstacles have been identified in course of the survey undertaken in 2010, as appears from the documents from pages 111 to 123 of the affidavit of the respondent no. 4, we direct the Collector to personally affirm an affidavit and indicate the road map as well as plan(s)/step(s)/measure(s) for the purpose of demolition of those 48 identified obstacles which do not enjoy any protection of either any appellate order of the DGCA or a judicial order of this Court. Let such an affidavit be filed by 19th August, 2022 which shall be placed before us for our consideration on 22nd August, 2022.

7. Insofar as other obstacles which have been identified by the respondent no. 4 and forms part of the affidavit at page 238 is concerned, we propose to pass orders after the response of the Collector is placed on affidavit in terms of this order.

8. If there are other planning authorities, apart from the MCGM, whose assistance would be required for the purpose of demolition of the obstacles, we permit the Collector to seek such assistance and if any such assistance is sought, all other planning authorities shall provide requisite assistance to give full effect to this order which is intended to take the proceedings to its logical conclusion in terms of rule 8 of the 1994 Rules.

9. Stand over to **22nd August, 2022.**

(M. S. KARNIK, J.)

(CHIEF JUSTICE)

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