

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

PUBLIC INTEREST LITIGATION NO. 60 OF 2023

Sandeep Pandurang Patil .. Petitioner

Versus

State of Maharashtra & Ors. .. Respondents

**WITH
PUBLIC INTEREST LITIGATION NO. 126 OF 2012**

Sunil Bapu Dupte .. Petitioner

Versus

State of Maharashtra & Ors. .. Respondents

Mr. D. S. Mhaispurkar a/w Ms. Siddhi Bhosale for petitioner in
PIL No. 60 of 2023.

Dr. Uday Warunjikar for petitioner in PIL No. 126 of 2012.

Mr. P. P. Kakade, Government Pleader a/w Mr. M. M. Pabale,
AGP for State in both the PILs.

Mr. A. S. Rao for respondent nos.2 and 3/KDMC in both the
PILs.

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

DATE: 29th AUGUST, 2023

P.C.:

1. On the oral prayer made by the learned counsel for the petitioners let Union of India be impleaded as party-respondent in both the Public Interest Litigation petitions. Necessary amendment shall be incorporated by the learned counsel for the petitioners within a week. Copy of the

complete paper book in both the PIL petitions shall be served in the office of the learned Additional Solicitor General.

2. Concern shown in these two Public Interest Litigation petitions is in respect of the alleged irregularities and illegalities in implementation of Basic Services for Urban Poor scheme (hereinafter referred to as "the said scheme", for short) being implemented by the Kalyan-Dombivali Municipal Corporation (hereinafter referred to as "the Corporation", for short) under Jawaharlal Nehru National Urban Renewal Mission within the territories of the Corporation.

3. The PIL petitions contain allegations with supporting documents as to how in the course of implementing the said scheme various ineligible persons have been allotted the tenements and various others who were eligible have been denied the said benefit. Another assertion made in the PIL petitions is that in the process of implementation of the said scheme, various encroachers have occupied the tenements having been permitted by those who have been allotted the same.

4. The scheme has a laudable object of not only developing the area but also providing basic infrastructure facilities such as housing and shops etc. to the urban poor; however, as per the allegations, the said scheme has been marred by large-scale irregularities. The burden of implementation of the said scheme is shared by the Government of India to the extent of 50%, by the State of Maharashtra to the extent of 30%, by the Corporation to the extent of 9% to 12% and by the beneficiary to the extent of 9% to 11%.

5. Having regard to the allegations made in the PIL No. 60 of 2023, this Court, by means of an order passed on 31st March, 2023, had directed the respondents to place on record entire material on the basis of which allotment of the tenements were made to those who were earlier held to be ineligible and not entitled to. It was also provided by the Court that till the entire record is placed before the Court, no further allotment shall be made as per the letter dated 26th September, 2022.

6. The issues raised in the PIL petitions, in our opinion, call for a thorough and deep inquiry and for undertaking such an inquiry so that the issues raised herein can be taken to some logical end, we are further of the opinion that such inquiry should be tasked to a Committee to be appointed by this Court which shall go into the issues raised in the PIL petitions in respect of illegalities in allotment of tenements as also encroachments which allegedly have come up after the said scheme was introduced and implemented. We, thus, appoint a Committee to conduct the inquiry by not only going into the records but also by paying necessary visits to the spot. The Committee shall thus ascertain as to in what manner the said scheme is being implemented by the Corporation and further as to whether there have been irregularities and illegalities in allotment of tenements and whether encroachers have been permitted by those who have been allotted the tenements or even by Corporation. The Committee shall also inquire as to what extent the object of the said scheme has been achieved till date.

7. The Committee shall comprise of the following:
- (a) Shri Nathani Ajay Husenbhai (Retired Principal Judge, City Civil and Sessions Court, Mumbai.
 - (b) An officer, not below the rank of Additional Municipal Commissioner, to be nominated by the Municipal Commissioner, Kalyan-Dombivali Municipal Corporation.
 - (c) A high-ranking officer in the department of Urban Development to be nominated by the Principal Secretary in the Department of Urban Development, Government of Maharashtra.
 - (d) A local officer, not below the rank of Sub Divisional Officer, to be appointed by the Collector concerned.

8. The Committee shall be chaired by Shri Nathani Ajay Husenbhai and shall function under his supervision/instructions. The Additional Commissioner rank officer to be nominated by the Municipal Commissioner of the Corporation shall function as a Member Secretary of the Committee, who shall provide all cooperation to the Committee, including presentation of the records which may be required for conducting the inquiry and providing the logistical support etc. Shri Nathani Ajay Husenbhai, the Chairperson of the Committee shall be paid a sum of Rs.1 lakh (Rupees One Lakh only) as remuneration to act as Chairperson of the Committee. Besides, he shall also be entitled to be paid the miscellaneous expenditure which he may incur on commuting etc., by the Corporation.

9. The Committee shall submit its report in a sealed cover within 10 (ten) weeks to the Court through the Registry of this Court.

10. The learned counsel representing the Corporation prays that since these PIL petitions are confined to Basic Services for Urban Poor scheme, the order dated 31st March, 2023 passed in PIL No. 60 of 2023 may be clarified to the extent that the said order will not have any bearing so far as allotment of tenements to the Project Affected Persons is concerned.

11. We, thus, clarify that the order dated 31st March, 2023 passed in PIL No. 60 of 2023 will not come in the way of the Corporation to make allotment of tenements to the Project Affected Persons; however, while making such allotment, the Corporation shall strictly abide by the rules relating to the beneficiaries. The interim order in its modified form shall continue to operate till the next date.

12. Stand over to **8th November, 2023**.

13. The learned AGP representing the State shall communicate this order to the Government as also to the Collector concerned forthwith. The Registry to communicate this order to all concerned.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)