

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 3756 OF 2019**

1. Harbour Water Suppliers Company Pvt. Ltd.)
a Company incorporated under the Companies)
Act, 1956, having its Registered Office at 301-303)
Zafryn Chambers, 3rd Floor, Opp. Sewri)
Railway Station, Sewri (East), Mumbai-400 015)

2. Shivram Shirke,)
The Authorized Signatory of Petitioner No. 1)
abovenamed, having its registered office)
at 301-303 Zafryn Chambers, 3rd Floor,)
Opp. Sewri Railway Station, Sewri (East),)
Mumbai-400 015)... Petitioners

Versus

1.The Municipal Corporation of Greater Mumbai)
A body corporate constituted under the MMC)
Act, 1888 having their Office at Brihan Mumbai)
Mahanagar Palika, Mumbai - 400 001)

2. The Assistant Engineer, (W.W.) E-Ward)
Office, 10 Shaikh Haffizuddin Marg,)
Byculla, Mumbai - 400 008)

Nitin

3. The Hydraulic Engineer,)
Brihan Mumbai Municipal Corporation)
Office, 1st Floor, Worli Hub, Worli Naka)
Mumbai – 400 018)... Respondents

**ALONG WITH
WRIT PETITION (L) NO. 50 OF 2020**

OK Marine (Through its sole Proprietor))
Having its address at 155, Abdulla Mansion,)
First Floor, B Block, SVP Road, Dongri)
Mumbai – 400 009)... Petitioner

Versus

1. Municipal Corporation of Greater Mumbai)
Through its Municipal Commissioner, having)
its office at Mahapalika Marg, Opposite CST)
Railway Station, Fort, Mumbai – 400 001)

2. The Assistant Engineer (Water Works))
E Ward, Second Floor, MCGM, 5 Shaikh)
Hafizuddin Marg, Byculla, Mumbai – 400 008)

3. The Chairman of the Standing Committee,)
having his office at Municipal Corporation of)
Greater Mumbai, Mahapalika Marg, Opposite)
CST Railway Station, Fort, Mumbai – 400 001)

4. The Hydraulic Engineer,)
Municipal Corporation of Greater Mumbai)
Worli Engineering Hub, Opposite Furniture)
Wala, Bhim Nagar, Worli, Mumbai – 400 018)
5. Mumbai Port Trust,)
Port House, Shoorji Vallabhdas Marg,)
Ballard Estate, Mumbai – 400 001)... Respondents

Mr.Gauraj Shah a/w. Mr. Meetal Savla for the Petitioners in WPL No. 3756 of 2019.

Mr.D.A.Nalavade a/w. Mr.J.A. Patnigere, Mr. S.B.Deshmukh for the Petitioner in WPL No. 50 of 2020.

Mr.N.R.Bubna a/w. Mr. S.M. Modle, Ms. Sheetal Metkari, Ms.Rupali Adhate, Ms.Yamuna Parekh for Respondent Nos. 1 to 3 in WPL No. 3756 of 2019.

Mr.Girish Godbole a/w. Mr. S.M.Modle, Ms.Sheetal Metkari, Ms.Rupali Adhate, Ms.Yamuna Parekh for Respondent Nos. 1 to 4 in WPL No. 50 of 2020.

Mr.Vishal Talsania i/b. Motiwalla and Company for Respondent No. 4 in WPL No. 3756 of 2019 and proposed Respondent in WPL No. 50 of 2020.

Mr.L.D.Kamlapurkar, Deputy Hydraulic Engineer, present.

Mr.S.D.Danadawate, Executive Engineer (Water Works) City, present.

Mr.A.H.Ansari, Assistant Engineer, (Water Works) E Ward, present.

**CORAM : S.J.KATHAWALLA, &
B.P.COLABAWALLA, JJ.**

DATE : 10TH JANUARY, 2020

JUDGMENT (PER S.J. KATHAWALLA, J.) :

1. The above two Writ Petitions bring before us the sad reality as to how the basic rights of individuals / citizens are trampled upon by the elected representatives of the people and the officials of the local bodies, who choose to

function as though the local body they represent is their own fiefdom.

2. In Writ Petition (L) No. 3756 of 2019, the Petitioner No. 1 – Harbour Water Supplier Company Private Limited and another, have sought a Writ of Mandamus against the Municipal Corporation of Greater Mumbai ('MCGM') to forthwith withdraw and / or cancel the act of disconnecting water supply (bearing No. EX@0001367, situated at Lakri Bunder, Darukhana, Mazgaon, Mumbai – 400 010 to the Petitioner No.1 and to restore the water supply. For convenience, Writ Petition (L) No. 3756 of 2019 shall hereinafter be referred to as the '**first Writ Petition**'.

3. In Writ Petition (L) No. 50 of 2020, Mr. Munawar Amirali Mukadam, the Proprietor of the Petitioner – OK Marine, has inter alia sought a Writ of Mandamus against the MCGM to quash the impugned Letter dated 9th December, 2019 (Exhibit-M to Writ Petition (L) No. 50 of 2020) issued by the Assistant Engineer (Water Works) of the MCGM. Writ Petition (L) No. 50 of 2020 shall for the sake of convenience hereinafter be referred to as the '**second Writ Petition**'.

4. In view of the urgency in the matter, the Rule is issued in both Writ Petitions. Mr. Bubna, the Learned Advocate appearing for the MCGM in the first Writ Petition and Mr. Godbole, the Learned Advocate appearing for the MCGM in the second Writ Petition waive service of Rule and by consent both the Petitions are taken up for final hearing.

**WRIT PETITION (L) NO. 3756 OF 2019 (FIRST WRIT PETITION):**

5. As stated earlier, the first Writ Petition is filed by the Petitioner No. 1 – Harbour Water Suppliers Company Private Limited impugning the disconnection of the water supply to its water connection bearing No. EX@0001367, situated at Lakri Bunder, Darukhana, Mazgaon, Mumbai – 400 010, by the MCGM, and seeking restoration of the same.

5.1 Petitioner No. 1 is carrying on the business of supply of water to ships, vessels and barges in the Mumbai Harbour since the year 1983, i.e. since more than 37 years. Originally, Mumbai Harbour allotted a plot at Pir Pau to Petitioner No. 1. Thereafter, pursuant to Consent Terms executed by the Petitioner No. 1 and the Bombay Port Trust (‘BPT’) and filed by them in Writ Petition No. 1306 of 1991 on 6th December, 1996, Petitioner No.1 was allotted site at Lakri Bunder to conduct their business of water supply. Since 1st June, 2002 the Petitioner No. 1 has been conducting its business of water supply from Lakri Bunder.

5.2 According to the Petitioners, for conducting their business, they have obtained necessary license from the MCGM which is valid till date; Petitioner No.1 was granted Water Connection No.EX@0001367 ; the Petitioners laid down a municipal pipeline of about one kilometer at Lakri Bunder at an expenditure of approximately Rs.50 Lacs, way back in the year 2002 ; the Petitioners have also installed huge pressure pumps and have purchased barges for the filling of water at Lakri Bunder Point ; that in the year 2005, during the monsoons due to heavy deluge,



part of the Jetty was washed away due to on coming waves as also mounds of silt had accumulated in the Basin thereby completely stopping the access to ships and vessels in the Harbour, because of which the Petitioners at a cost of Rs.40 Lacs rebuilt and constructed the affected part of the Jetty and also removed accumulated silt from the Harbour with the help of dredgers and trawlers; the MCGM has been continuously and uninterruptedly supplying water to the Petitioner No. 1 for their business of water supply in Mumbai Harbour for fishing trawlers / boats and ships; the water supplied by the Petitioners is the only potable water used for human consumption on ships; the Petitioner No. 1 had been regularly paying all the water charges, which are levied on monthly basis right since inception till date without any default ; the Petitioner No. 1 also holds a valid license from the BPT and has been paying all relevant and applicable charges in respect thereof continuously and uninterruptedly; the water supply is the most essential aspect of the Petitioner No.1's business and livelihood and also for the business, working and livelihood of the persons to whom water is supplied by the Petitioner.

5.3 According to the Petitioners, on 3rd December, 2019, abruptly and without any notice or intimation whatsoever, the water supply to Petitioner No. 1's aforementioned connection has been stopped by closing the valve in respect of the same. Initially, the Petitioner No. 1 was not sure whether it was a deliberate action or whether there was any technical or other issue. However, upon making enquiries, the Petitioners learnt that the valve has been closed at the instance of MCGM thereby



preventing water supply to their above connection.

5.4 In the circumstances, the Petitioner No. 1 by its email, as well as letter, both dated 16th December, 2019, called upon the MCGM to forthwith reinstate the water supply without any delay. Since the Petitioners did not receive any response from the MCGM and also since the water supply was not restored, on 19th December, 2019, they filed the first Writ Petition and sought restoration of the water supply to its water connection.

5.5 The Petitioners moved this Court for urgent ad-interim reliefs on 20th December, 2019. On that day, the Learned Advocate appearing for the MCGM drew our attention to the License dated 2nd August, 1999, which shows that the said License is revalidated only upto 2nd August, 2002. The matter was therefore adjourned to 2nd January, 2020. On 2nd January, 2020 the Learned Advocate appearing for the MCGM informed the Court that there were disputes between the Petitioners and the BPT and therefore the BPT should be joined as Party Respondent to the first Petition. This Court therefore directed the BPT to be joined as Party Respondent to the first Petition. On 6th January, 2020, the matter was adjourned to 7th January, 2020 and thereafter to 10th January, 2020 i.e. today.

5.6 Though Advocate Mr. Bubna appearing for the MCGM did not produce or make any mention before this Court of any letter purportedly forwarded to the Petitioners on any of the above dates i.e. 20th December, 2019, 2nd January, 2020, 6th January, 2020 or 7th January, 2020, today a Letter dated 9th December, 2019 is



produced before us. The said Letter is addressed to the Petitioner No. 1 by the Assistant Engineer (Water Works), 'E' Ward of the MCGM with copies to the Executive Engineer (Water Works) (C/S) and Deputy Hydraulic Engineer (City) and the Hydraulic Engineer. We will set out the contents of the said Letter dated 9th December, 2019 and deal with the same a little later.

5.7 In the meantime, i.e. on 31st December, 2019, the Petitioner No. 2 filed an Additional Affidavit.

5.8. On 2nd January, 2020, Mr. Abdul Haq Ansari, Assistant Engineer (Water Works) of the MCGM filed an Affidavit in Reply stating that on 18th December, 2019 the MCGM has received a Letter from the BPT, by virtue of which the BPT has granted NOC to another Contractor for supply of water at Lakri Bunder. In the said Affidavit in Reply, it is also stated that there were complaints from the citizens of Byculla, Darukhana and Mazgaon in view of insufficient water supply. In view thereof, the sale of water to the Petitioners in the first Petition is discontinued so as to resolve grievances of the citizens. We will set out a little later, how Mr. Ansari in his Affidavit dated 2nd January, 2020 not only suppressed the relevant facts in the matter from this Court, but also dared to mislead this Court.

5.9 Mr. Talsania, the Learned Advocate appearing for the BPT has informed the Court that certain disputes have arisen between the Petitioners in the first Petition and the BPT qua the supply of water by the Petitioners and the same is the subject matter of Writ Petition (L) No. 3464 of 2018 pending before this Court, in which an



Order of Status Quo is passed. Mr. Talsania has submitted that however it is clear that the water supply to the Petitioners is not stopped by the MCGM because of the dispute between the Petitioners and the BPT, but is stopped for other reasons with which the BPT is not concerned. He submits that in the first Writ Petition the BPT submits to the orders of this Court, with a request that all rights and contentions of the BPT in Writ Petition (L) No. 3464 of 2018 be kept open.

SUBMISSIONS OF ADVOCATE BUBNA FOR THE MCGM IN THE FIRST WRIT PETITION :

6. Mr. Bubna, the Learned Advocate appearing for the MCGM in the first Writ Petition has drawn our attention to the Letter dated 30th November, 2019 i.e., Exhibit-E annexed to the Affidavit in Reply dated 9th January, 2020 of Mr. L.D. Kamlapurkar, Deputy Hydraulic Engineer of the MCGM. The said Affidavit dated 9th January, 2020 is today filed in Court i.e. 10th January, 2020. We have perused the Letter dated 30th November, 2019 written in Marathi. The same is written by Mr. Yeshwant Jadhav, Chairman, Standing Committee on his letterhead. Mr. Jadhav, has forwarded copies of his said Letter dated 30th November, 2019 to his wife Ms. Yamini Yeshwant Jadhav, Shivsena MLA, Byculla Constituency, Mr. Harshad Kale, Deputy Commissioner of MCGM (Zone-1), Mrs. Alka S. Sasane, Assistant Commissioner, E Ward, Mr. Ramakant Rahate, Corporator and Mrs. Sonam Jamsutkar, Corporator. The **subject** shown in the said Letter is “*Review meeting of the senior officers of all the*



departments of E ward". In the body of the letter dated 30th November, 2019, it is stated that, "*With reference to the above subject, a review meeting is called on Tuesday, 3rd December, 2019 at 2.45 hours at E Ward Committee Hall, E Ward Office, Byculla, Mumbai. However, you are requested to remain present along with concerned senior officers. Thanks*".

7. Mr. Bubna, the Learned Advocate appearing for the MCGM has further drawn our attention to the Minutes of the Meeting, which was called and attended by Mr. Yeshwant Jadhav, Chairman of the Standing Committee and also attended by his wife Ms. Yamini Yeshwant Jadhav, MLA, Byculla Constituency and 48 other officials including Police Sub Inspector (Traffic) Byculla. The Minutes start with the sentence, "In the above meeting the following issues were placed". The minutes are thereafter recorded under six columns i.e. (1) "Serial No." (2) "Subject" (3) "Instructions of the Chairman of the Standing Committee and the Hon'ble MLA", (4) "explanation/clarification given by the officers / employees", (5) "Order of the Deputy Municipal Commissioner" and (6) "concerned officer/s". In Serial No. 11 of the Minutes, under the column "subject", it is mentioned "regarding water supply". In the column titled "Instructions from the Chairman of the Standing Committee and the Hon'ble MLA" (who is the wife of the said Chairman), it is mentioned that "(a) a proposal be submitted for water supply to Lakadi Bunder, Reti Bunder, Pawder Bunder, Darga Bunder, Jay Bhim Nagar, Oza Market, Lane Nos. 1, 2 and 3, (b) to cancel the **proposal** pertaining to supply of three lacs liter water to shipping companies and (c) to find



solution with regard to wastage / misuse of water at various places.” The Column captioned “explanation / clarification by officers / employees” is left completely blank. Under the caption “Order of the Deputy Commissioner”, it is recorded that “urgent action be taken through the hydraulic department”. In the column captioned ‘concerned officer’, it is stated : “Assistant Engineer (Hydraulic) E Ward”.

8. Mr. Bubna, Advocate appearing for the MCGM in the first petition admits that in view of the decision taken at the Meeting held on 3rd December, 2019, the water supply of the Petitioners in the first Writ Petition was discontinued on the day of the said Meeting itself.

9. Mr. Bubna has today for the first time drawn our attention to the Letter dated 9th December, 2019, addressed to the Petitioner No.1 in the first Writ Petition by Mr. Abdul Haq Ansari, Assistant Engineer (Water Works), which according to the Petitioner in the first Writ Petition is not received by them.

FINDINGS :

10. We have considered the facts as well as the submissions made in the first Writ Petition.

11. As far as the Petitioners in the first Writ Petition are concerned, admittedly the Petitioner No.1 is carrying on the business of water supply at Mumbai Harbour since 1983. Petitioner No.1 issued a valid license by the MCGM bearing water connection No. EX@0001367 situated as Lakri Bunder, Darukhana, Mazgaon, Mumbai – 400 010. Admittedly, the wife of the Chairman of the Standing Committee



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is recently elected as a member of the Legislative Assembly ('MLA') from the Byculla Constituency, which includes Mazgaon. The Chairman of the Standing Committee issued a Letter dated 30th November, 2019 on his letter-head and called a meeting on 3rd December, 2019. The said letter which was not specifically addressed to any individual, was forwarded by Mr.Yeshwant Jadhav to his wife Ms.Yamini Yeshwant Jadhav, MLA, Byculla Constituency, Mr. Harshad Kale, Deputy Municipal Commissioner (Zone-1), E Ward Office, Ms. Alka S. Sasane, Assistant Commissioner, 'E' Ward Office, Mr. Ramakant Rahate, Corporator and Ms. Sonam Jamsutkar, Corporator. No specific agenda for the meeting was set out in the said Letter. The subject mentioned in the Letter was, "***Review meeting of the senior officers of all the departments of E ward***". In the body of the said Letter, it was stated that, "***With reference to the above subject, a review meeting is called on Tuesday, 3rd December, 2019 at 2.45 hours at E Ward Committee Hall, E Ward Office, Byculla, Mumbai. However, you are requested to remain present along with concerned senior officers***".

The said Meeting was attended by 48 Officers of the MCGM including the Police Sub Inspector (Traffic). The said Meeting was also attended by Ms.Yamini Yeshwant Jadhav, (MLA from the Byculla Constituency). Item No. 11 of the Minutes of the Meeting pertains to supply of water by the MCGM. However, not a whisper is found in the same qua immediate disconnection of water supply to the Petitioner No. 1 in the first Writ Petition, who are admittedly supplied potable drinking water by the MCGM since the last 37 years, for onward supply to the ships, vessels and barges in the



Mumbai Harbour. However, on the very day of the Meeting called by Mr. Yashwant Jadhav, Chairman of the Standing Committee of MCGM i.e. on 3rd December, 2019, MCGM without giving any prior notice or hearing, or setting out any ground, unilaterally and arbitrarily stopped the water supply to the connection provided to the Petitioner No. 1 in the first Writ Petition. What is extremely distressing is the fact that despite the Petitioner No. 1 running around for days commencing from 3rd December, 2019, to find out the cause for such disconnection, they were not informed about the same. Later when they learnt that the MCGM had disconnected the water supply, they addressed a Letter dated 16th December, 2019 to the MCGM, to which the Officials of the MCGM failed and neglected to respond, i.e. they did not give any reason for sudden stoppage of water supply from 3rd December, 2019, which compelled the Petitioners to file the first Writ Petition on 20th December, 2019, seeking directions against the MCGM to forthwith withdraw the act of disconnection of the water supply to the Petitioner No. 1 and to restore the water supply.

12. The Learned Advocate appearing for the MCGM in the first Writ Petition appeared before this Court on 20th December, 2019, 2nd January, 2020, 6th January, 2020 and 7th January, 2020 but not even once made a whisper in Court about the Meeting called by the Chairman of the Standing Committee on 3rd December, 2019, or informed this Court about any decision taken at the said Meeting qua discontinuance of the water supply to the Petitioners in the first Writ Petition and / or any written order being passed by the MCGM qua the said discontinuance. In fact,



the Assistant Engineer of the MCGM suppressed the correct facts and misled this Court by not disclosing anything in his Affidavit in Reply dated 2nd January, 2020, about the Meeting called by the Chairman of the Standing Committee, or any decision taken thereat, qua the disconnection of water supply to the Petitioners in the first Petition or any order passed or communication prepared / forwarded to the Petitioners of the first Writ Petition with regard to the abrupt disconnection of water supply.

13. The ultimate shock comes today i.e. on 10th January, 2020, when the above Petitions are taken up for final hearing and for the first time a Letter dated 9th December, 2019 addressed to the Petitioner No. 1 in the first Writ Petition is placed before the Court by the MCGM. The contents of the Letter dated 9th December, 2019 addressed to the Petitioner No. 1 in the first Petition (which according to the Petitioner No. 1 is not received by them till date) is worth reading and is reproduced hereunder :

*“To,
M/s. Harbour Water Supplier Pvt. Ltd.
Lakda Bunder, Mbpt Area,
Darukhana, Mazgaon,
Mumbai – 400 010*

*Sub : To stop water supply from connection granted to you under CCN
No. EX@0001367 M/s. Harbour Water Supplier Pvt. Ltd. Lakda
Bunder, Mbpt Area, Darukhana, Mazgaon, Mumbai – 400 010 in E
Ward.*

Ref : Meeting of Hon. Standing Committee Chairmen and Hon. MLA of Byculla Vidhansabha in E Ward Conference room on dt. 03.12.2019.

With subject to above subject matter, a meeting was held on 3rd December, 2019 to discuss by various issues related to Byculla Vidhansabha.

Meeting was attended by DMC Zone - I, Assistant Commissioner E ward staff from all department of E Ward and local residence of Byculla Vidhansabha.

*From Water Department said meeting was attended by A.E.W.W. 'E' Ward (I/C) Shri Sachin Dorugade and S.E.W.W.E Shri Vilas Rathod, when it was inquired by Hon. Standing Committee Chairman to Mr.Dorguade and Mr.Rathod that he was received complaint that there is short water supply complaints from residents of his area Byculla, Darukhana, Mazgaon **therefore he directed to stop water supply to M/s. Harbour Water Suppliers Pvt. Ltd. Lakda Bunder, Mbpt Area, Darubkhana, Mazgaon, Mumbai - 400010. Because he is supplying water to the ships. Therefore, supply to M/s. Harbour Water Suppliers Pvt.Ltd. Lakda Bunder, Mbpt Area, Darukhana, Mazgaon, Mumbai - 400 010 is closed on value on dt. 3.12.2019.***

This is for your information please.

Your's Faithfully,

Sd/-



09.12.2019

Asstt. Engineer (Water Works)

'E' Ward

14. We immediately enquired from Advocate Bubna appearing for the MCGM as to when the Letter dated 9th December, 2019 was forwarded to the Petitioners by the signatory of the Letter Mr. Abdul H. Ansari, Assistant Engineer (Water Works), 'E' Ward (who is today present before us and is instructing Mr. Bubna, Advocate for the MCGM). Mr. Bubna states that it appears that the said Letter was not sent to the Petitioners of the first Writ Petition. This Court therefore put the following questions to Mr. Bubna and Mr. Abdul H. Ansari :

- i. Why was the letter dated 9th December, 2019 not forwarded to the Petitioner by Mr. Ansari ?
- ii. Why was the correct reason for disconnection not disclosed to this Court on 20th December, 2019, 2nd January, 2020, 6th January, 2020 and 7th January, 2020 ?
- iii. Why was the Letter dated 9th December, 2019 written to the Petitioners by Mr. Ansari, Assistant Engineer (Water Works) not disclosed to this Court prior to today i.e. 10th January, 2020 ?
- iv. Why did Mr. Ansari suppress the facts with regard to (a) the letter dated 30th November, 2019, written by Mr. Jadhav, Chairman of the Standing Committee, (b) the meeting held on 3rd December, 2019, (c) the decision taken / directions given at the meeting, the disconnection carried out on the very same day of the meeting, (d)



the Letter dated 9th December, 2019, addressed by him to the Petitioner No. 1 in the first Writ Petition, setting out the reasons for disconnection, in his Affidavit dated 2nd January, 2020, and instead misled this Court by giving some other excuses for the said disconnection, knowing the same to be false.

15. Neither Mr. Abdul H. Ansari nor Mr. Bubna gave any answer to any of the above questions put to them by the Court.

16. From the above Letter dated 9th December, 2019, the following becomes clear:

i. According to Mr. Ansari, Assistant Engineer (Water Works), E Ward, the Chairman of the Standing Committee Mr. Yeshwant Jadhav at the Meeting called by him on 3rd December, 2019, informed the Officers of the MCGM that he had received a complaint with regard to shortage of water supply from the residents of Byculla, Darukahana and Mazgaon i.e. from the Constituency of his wife, who had recently been elected as an MLA, and he straightway instructed / directed MCGM to stop water supply to the Petitioner No. 1 in the first Writ Petition, on the ground that they were supplying water to the ships.

ii. Consequent thereto, on the very day of the meeting i.e. 3rd December, 2019, the Deputy Municipal Commissioner, the Assistant Engineer and other Officials of the MCGM without giving any intimation or hearing to the Petitioner No. 1 in the first Writ Petition, disconnected the supply of water with immediate effect i.e. 3rd December, 2020.



iii. Though a Letter dated 9th December, 2019 was addressed to the Petitioner No. 1 in the first Writ Petition (i.e. six days after disconnection of water supply to the Petitioner No. 1 in the first Writ Petition), the MCGM is unable to show that the said Letter was forwarded to the Petitioner No. 1 on 9th December, 2019 or thereafter. It is therefore clear that the said Letter was not even forwarded to the Petitioner No. 1.

iv. Though the Petitioner No. 1 in the first Writ Petition, after making attempts to fathom the cause of disconnection and after learning that the MCGM had disconnected its water supply, recorded its grievance with regard to stoppage of water supply vide its Letter dated 16th December, 2019, the MCGM failed and neglected to even respond to the same and at the same time did not forward the Letter dated 9th December, 2019, addressed to the Petitioner No. 1, wherein it is recorded that it is the Chairman of the Standing Committee of MCGM who had directed disconnection of water supply to the Petitioner No. 1 of the first Writ Petition.

v. After the first Petition was filed on 19th December, 2019, seeking directions against the MCGM to cancel the act of disconnecting water supply to the Petitioner No. 1's water connection bearing No. EX@0003167, situate at Lakri Bunder, Darukhana, Mazgaon, Mumbai - 400 010, and to restore the water supply to the Petitioner No. 1 and though the matter thereafter appeared before this Court on 20th December, 2019, 2nd January, 2020, 6th January, 2020 and 7th January, 2020, Mr. Bubna, Advocate for the MCGM in the first Petition was not instructed to inform the



Court about any Meeting held on 3rd December, 2019, or any direction given by the Chairman of the Standing Committee, or any communication dated 9th December, 2019 addressed to the Petitioner No. 1 but not forwarded to the Petitioner No. 1 of the first Writ Petition.

vi. Though Mr. Abdul Haq Ansari, Assistant Engineer (Water Works) himself had signed the communication dated 9th December, 2019 addressed to the Petitioner No. 1 in the first Petition (the entire letter is reproduced hereinabove), he in his Affidavit in Reply dated 2nd January, 2020 filed before this Court, has not made a whisper about the Meeting called by the Chairman of the Standing Committee, pursuant to which Meeting, the direction was given by him to stop water supply to the Petitioner No. 1 in the first Writ Petition, or the communication addressed by him to the Petitioner No. 1 dated 9th December, 2019. Instead he tried to mislead this Court by referring to some Letter dated 18th December, 2019 issued by BPT granting NOC to another contractor for supply of water at Lakdi Bunder, which he was aware, was not the reason for disconnection of water supply to the Petitioner No. 1, as is clear from the reason for disconnection recorded by him in his Letter dated 9th December, 2019.

17. Mr. Bubna, the Learned Advocate appearing for the MCGM in the first Writ Petition, is unable to explain under what provision of law the Chairman of the Standing Committee and / or the Officials of the MCGM including the Deputy Commissioner have any right to call a meeting and issue oral directions and / or otherwise take a decision and that too without giving prior notice or hearing to the



affected party/ies before discontinuing the water supply to an entity who is admittedly supplied potable drinking water by MCGM since the last 37 years, only on the basis that the Chairman of the Standing Committee or any official of the MCGM had received complaints from the residents of the area concerning shortage of water (which complaints are not even brought on record) and under what provision of law the Officials of the MCGM forthwith stopped the water supply to the Petitioner No. 1 on the date of the Meeting itself i.e. 3rd December, 2019, without giving prior notice or hearing the Petitioner No. 1 of the first Writ Petition.

18. Such is the dictatorial regime / 'raj' prevalent today in the MCGM of Greater Mumbai. The concerned persons are functioning under a misconception that there is no Rule of Law applicable to the MCGM. Not only are they not bothered to follow the prescribed law and the rules, but are also dishonest with the Court, as can be seen from the aforestated conduct of Mr. Abdul Haq Ansari, Assistant Engineer (Water Works) of the MCGM. By filing his Affidavit dated 2nd January, 2020, Mr. Ansari, Assistant Engineer of MCGM mislead the Court by justifying the illegal action taken by MCGM on the ground that the water supply to the Petitioner No. 1 in the first Writ Petition was discontinued in view of BPT's Letter dated 18th December, 2019, stating that Petitioner No. 1 had seized to be a licensee of the BPT, despite being aware of the fact that the water supply to the Petitioner No. 1 was stopped for reasons set out / alleged by him in his own Letter dated 9th December, 2019, produced by the Advocate for the MCGM today for the first time in Court in his presence, which



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Letter for reasons best known to him / MCGM is not forwarded to the Petitioner No. 1 till date.

19. We are therefore of the view that the decision of the MCGM to disconnect the water supply to the Petitioner No.1s' water connection bearing No. EX@0001367, be quashed and set aside and the water supply to Petitioner No. 1 be restored. We are also of the view that Mr. Abdul Haq Ansari, Assistant Engineer (Water Works) 'E' Ward should explain on Affidavit why action should not be taken against him for his aforesaid conduct of suppressing facts from the Court and thereby misleading the Court. Mr. Bubna appearing for the MCGM on instructions states that the MCGM will forthwith restore water supply to the Petitioner No. 1 in the first Writ Petition.

WRIT PETITION (L) NO. 50 OF 2020 (SECOND WRIT PETITION):

20. As stated earlier, OK Marine - the Petitioner in the second Writ Petition is a proprietary concern of Munawar Amirali Mukadam, who is carrying on business of supplying water to different types of vessels such as ships, crafts, barges, fishing, vessels etc. in the Mumbai Harbour through its three barges, pursuant to the permission granted by the BPT to carry out the business from the year 2015. It is submitted by the Petitioner in the second Writ Petition that since the year 1981 the BPT had given license to a private firm i.e. Harbour Water Supplier Company Private Limited (Petitioner No. 1 in the first Writ Petition) for supply of MCGM water to



various vessels through underground pipeline by a connection given by the MCGM at Lakdi Bunder, Darukhana.

21. According to the Petitioner in the second Writ Petition, the BPT had invited tenders from private firms to supply MCGM water to barges, ships, crafts, etc. for a period of three years by laying an underground pipeline from Hosa Market, Darukhana, Mumbai Main Line upto Lakdi Bunder (North), Darukhana. The Petitioner in the second Petition was declared as sole successful bidder and the Letter of Intent dated 6th November, 2019 was issued by the BPT to the Petitioner. As per the said Letter of Intent, the Petitioner in the second Writ Petition on 19th November, 2019, paid advance fees of Rs.28,46,304/- for three years for 50 sq. mtr. plot at Lakdi Bunder (North), and also paid security deposit of Rs.2,26,213/- to BPT.

22. The Petitioner in the second Writ Petition also incurred cost of more than Rs.25 Lacs for laying underground steel pipeline for distance of approximately one kilometer, including cost for the pipe and also paid Rs.5,45,600/- to BPT for road reinstatement.

23. According to the Petitioner in the second Writ Petition, a permission form (P Form) was issued to the Petitioner by the Assistant Engineer (Water Works), which was valid upto 18th July, 2019. The said P Form is a commitment / guarantee of connection given by the MCGM on completion of the conditions mentioned in the P Form. As the Petitioner in the second Writ Petition was not having license from BPT up to 19th July, 2019, the said connection was not granted. Subsequently, the said



Permission Form was further renewed on 23rd August, 2019 by the MCGM setting out certain conditions to be complied with before granting the connection. On 28th November, 2019, a Letter was issued from the Assistant Engineer, Maintenance, WW-City I to the Petitioner in the second Writ Petition to pay cross connection charges. Accordingly, the Petitioner in the second Writ Petition paid charges of Rs.1,83,433/- on 29th November, 2019 for cross connection on main line. The MCGM was to come to site and provide connection on 3rd December, 2019.

24. The Petitioner in the second Writ Petition has in paragraph 17 of the second Writ Petition made serious allegations against Mr. Yeshwant Jadhav, Chairman of the Standing Committee of the MCGM. He has set out therein the high handed tactics indulged by Mr. Yeshwant Jadhav, Chairman of the Standing Committee. The Learned Advocate appearing for the Petitioner in the second Petition also informed the Court, that the Petitioner has tape recorded his conversation with Mr. Yeshwant Jadhav, Chairman of the Standing Committee of MCGM, which bears out his illegal conduct. In view thereof, the Petitioner in the second Writ Petition wrote two Letters dated 11th December, 2019 and 16th December, 2019 to the MCGM recording the conduct of Mr. Yeshwant Jadhav, the Chairman of the Standing Committee of MCGM and called upon the MCGM to honestly perform its duties without coming under anybody's pressure and provide water connection at the earliest, as thousands of sea fearers were suffering and were compelled to drink poor quality water due to non-supply of MCGM water through the Petitioner's barges in



sea. The Petitioner in the second Writ Petition forwarded reminder letters to the MCGM seeking supply of MCGM water.

25. Since the Petitioner in the second Writ Petition wrote a Letter dated 19th December, 2019, recording that the MCGM Officials are not coming for connection and are also not replying to his Letter on 20th December, 2019 the Petitioner in the second Writ Petition received a Letter dated 9th December, 2019 from the Assistant Engineer of the MCGM stating that a Meeting was held on 3rd December, 2019, which was amongst others attended by Mr. Yeshwant Jadhav, Chairman of the Standing Committee of the MCGM and the **proposed water connection** has been held up on the verbal request of Mr. Jadhav, in view of him having received complaint/s of short supply of water in Mazgaon area and also having received complaints that the MCGM is going to give new water connection to the Petitioner in the second Writ Petition, to supply water to the ships. It will not be out of place to mention here that in the Minutes of the Meeting dated 3rd December, 2019, called by Mr. Yeshwant Jadhav, Chairman of the Standing Committee of the MCGM produced before this Court, which Minutes are signed by the Officials of the Corporation including the Deputy Municipal Commissioner of the MCGM, it is recorded that Mr. Jadhav and his wife have given 'सूचना' that the proposal to supply water to shipping companies be rejected.

26. The Petitioner in the second Writ Petition has therefore submitted that the MCGM has accepted the Petitioner's proposal for new water connection and after



scrutiny it was duly sanctioned and pursuant to that a P Form was issued and therefore the MCGM cannot style the same as “Proposed Connection”. The Petitioner in the second Writ Petition has submitted that the reasons given for not complying with the contractual obligations is shocking, more so, since no complaints are received by the Assistant Engineer (Water Works) qua the alleged short supply of water, but is allegedly received by the Chairman of the Standing Committee. The Petitioner in the second Writ Petition submits that there is full pressure of water in the Mazgaon area. The Petitioner in the second Writ Petition therefore by his Letter dated 24th December, 2019 addressed to the MCGM recorded that keeping the water connection agreed to be given, on hold, on the alleged ground of short supply is arbitrary and illegal, and also attached request letters from shipping agents, fishing association and passenger launch association requesting for an immediate connection as they were suffering due to non-supply of MCGM water.

27. The Petitioner has in the above circumstances filed the second Writ Petition seeking directions against the MCGM to provide cross-water connection, which they were required to provide on 3rd December, 2019.

28. The MCGM has in the second Writ Petition filed its Affidavit in Reply dated 9th January, 2020, which is tendered in Court today. In the said Affidavit in Reply, the MCGM has submitted that the Petitioner in the second Writ Petition had made an online application dated 6th April, 2018, seeking water connection at Mbpt Plot No. 5/13, Reti Bunder, at Darukhana, Lakda Bunder, along with the required



scrutiny fees. After scrutinizing the documents submitted by the Petitioner in the second Writ Petition, his proposal seeking grant of 80 mm X 100 mm diameter water connection under Section 92 read with Section 169 of the Mumbai Municipal Corporation Act, 1888, was submitted by the concerned officers of the Water Works Department 'E' Ward, to the Hydraulic Engineer. The proposal was approved by the Hydraulic Engineer on 13th July, 2018 and permission form i.e. P Form was issued on 19th July, 2018 for water connection to the Petitioner, stating that the P Form was valid for one year i.e. 19th July, 2018 to 18th July, 2019. The Petitioner in the second Writ Petition thereafter sent a request letter dated 19th August, 2019, which was received by the MCGM on 22nd August, 2019 for renewal of the P Form and for changing address in the said P Form. The said application was essentially a completely new application but was mischievously styled as Renewal of Old P Form with change of location. Upon receipt of the request letter dated 19th August, 2019, the Assistant Engineer (Water Works), 'E' Ward issued permission form (P Form) dated 23rd August, 2019, with the condition that the P Form dated 19th July, 2018 is treated as cancelled. It is submitted that the Assistant Engineer did not have the authority to issue the P Form. It is submitted that since the P Form dated 23rd August, 2019 was issued without following procedure laid down by the MCGM, the same is liable to be cancelled.

29. It is also stated by the MCGM in its Affidavit in Reply dated 9th January, 2020 to the second Writ Petition that it is a normal practice followed by the MCGM to conduct review meetings of various officers of various departments and the concerned



public representatives, which meetings are attended by the Chairman of various committees of the MCGM. This practice is followed for streamlining the work of the administration and make the administration more responsive to address the grievances of the people in the concerned locality. Accordingly, such meeting was convened on 3rd December, 2019, which was attended by the Chairman of the Standing Committee, who is also the local Corporator and various Officers of the E Ward and from various other departments including Hydraulic Engineering Department. In the said Meeting, the Deputy Municipal Commissioner Zone-I issued direction to disconnect the water supply of the earlier vendor / licensee of the BPT i.e. the Petitioner No. 1 in the first Petition and on the same day i.e. 3rd December, 2019 the water of the Petitioner No. 1 in the first Petition was disconnected. The Minutes of the Meeting are annexed to the Affidavit in Reply dated 9th January, 2020. It is submitted that the Petitioner in the second Petition did not have any water supply and therefore there was no question of disconnecting the water supply as projected by the Petitioner.

SUBMISSIONS OF ADVOCATE GODBOLE FOR THE MCGM IN THE SECOND WRIT PETITION :

30. Mr. Godbole, Advocate appearing for the MCGM in the second Writ Petition, has drawn our attention to the Affidavit in Reply dated 9th January, 2020 filed by Mr. L.D. Kamalapurkar, Deputy Hydraulic Engineer of MCGM and the annexures thereto. He has pointed out that Exhibit-E to the said Affidavit, is a letter written by

Mr. Yeshwant Jadhav, Chairman of the Standing Committee, who is also a Corporator calling for a review meeting on 3rd December, 2019 with the senior officers of MCGM. Amongst others, Mr. Jadhav had also forwarded a copy of his letter to his wife – Ms. Yamani Yeshwant Jadhav, newly elected MLA from the Byculla Constituency. Mr. Godbole has also drawn our attention to the Minutes of the said Meeting held on 3rd December, 2019, which shows that the issue of water supply in ‘E’ Ward was taken up at the said Meeting and Mr. Jadhav, Chairman of the Standing Committee as well as his wife (newly elected MLA from the Byculla constituency) gave the following ‘सूचना’ :

- “(a) a proposal be submitted for water supply to Lakadi Bunder, Reti Bunder, Pawder Bunder, Darga Bunder, Jay Bhim Nagar, Oza Market, Lane Nos. 1, 2 and 3,
- (b) to cancel the **proposal** pertaining to supply of three lacs liter water to shipping companies and
- (c) to find solution with regard to wastage / misuse of water at various places.”

31. From the said Minutes, it is also clear that pursuant to the said ‘सूचना’ of Mr. Jadhav and his wife, the Deputy Municipal Commissioner passed an order to the effect that urgent action be taken through the Hydraulic Engineer. In response to the query of the Court, Mr. Godbole has admitted that in the Letter dated 30th November, 2019 written by Mr. Jadhav, no agenda for the meeting has been set out, ; that in the Minutes of the Meeting, there is no mention of any complaint received either by Mr.

Jadhav or by the MCGM and that no such complaint with regard to shortage of water to the residents of Byculla is brought on record ; that the Meeting dated 3rd December, 2019 was called at the instance of the Chairman of the Standing Committee, Mr. Jadhav and not by the MCGM ; that though Mr. L.D. Kamalapurkar, Hydraulic Engineer of the MCGM has in paragraph 9 of his Affidavit stated that, “*In the said meeting, Dy. Municipal Commissioner, Zone-I issued directions to disconnect the water supply of the earlier vendor / licensee of MBPT i.e. Harbour Water Suppliers Company Pvt. Ltd. Accordingly, on the same day i.e. 03/12/2019 the water supply to the competitor i.e. Harbour Water Supplies Co.Pvt. Ltd. was disconnected*”, no such direction is found in the Minutes and even otherwise no such directions are placed on record.

32. Mr. Godbole has submitted that pursuant to the said Meeting, the Assistant Engineer (Water Works) ‘E’ Ward, Mr. Abdul H. Ansari forwarded a Letter dated 9th December, 2019, which was forwarded to OK Marine, the Petitioner in the second Writ Petition (Exhibit-M to the second Writ Petition), which reads thus :

“To,

M/s. OK Marine,

Ship Owners, Ship Agents and Marine Consultancy

155, Abdullah Mension,

1st Floor, SVP Road,

Dongri, Mumbai – 400 009.

Sub : To held up granting new water connection to you at Mbpt plot situated at Lakdi Bunder (North) Darukhana, Mumbai – 400 010 in E Ward.

Ref : Meeting of Hon. Standing Committee Chairman and Hon. MLA of Byculla Vidhansabha in E Ward Conference room on dt.03.12.2019.

With subject to above subject matter, a meeting was held on 03.12.2019 to discuss by various issues related to Byculla Vidhansabha .

Meeting was attended by DMC Zone – I, Assist. Commissioner ‘E’ was staff from all department of E Ward and local residence of Byculla Vidhansabha.

From Water Department said meeting was attended by A.E.W.W. ‘E’ Ward (I/C) Shri Sachin Dorugade and S.E.W.W.E Shri Vilas Rathod, when it was inquired by Hon.Standing Committee Chairman to Mr.Dorguade and Mr.Rathod that he has received complaint that BMC is going to give new water connection to OK Marine, Darukhana Mazgaon to supply water to the ships. This matter was again discussed by Hon. Standing Committee Chairman in his chamber with HE on 06.12.2019, when Hon. Standing Committee Chairman again requested not to give this water connection because already there is complaint of short water supply in Mazgaon area, therefore proposed water connection to OK Marine has been held up by ‘E’ Ward office.

Submitted for your information please.

Your’s faithfully,

Sd/-

9/12/2019

Asstt. Engineer (Water Works)

‘E’ Ward”



33. Mr. Godbole has submitted that, however OK Marine, the Petitioner in the second Writ Petition, has made certain incorrect representations to the MCGM as set out by Mr. L.D. Kamalapurkar, in his Affidavit. Mr. Godbole hastens to add that as can be seen from the said Letter dated 9th December, 2019 addressed to OK Marine, Petitioner in the second Writ Petition, the same is not a ground for putting the issue of providing water connection to OK Marine on hold.

FINDINGS :

34. We have considered the facts as well as the submissions made in the second Writ Petition.

35. We would at the outset clarify that though the Petitioner in the second Writ Petition has made serious allegations of malpractice against Mr. Yashwant Jadhav, Chairman of the Standing Committee of the MCGM, and has also sought to rely on the tape recorded conversation between the Petitioner in the second Writ Petition and Mr. Yashwant Jadhav, we have already made it clear to the parties that we will not be going into the correctness of such personal allegations made by the Petitioner in the second Writ Petition, but will decide the Petition on the basis of the submissions made and documents produced before this Court by the Petitioner in the second Writ Petition and the MCGM. We have also made it clear that as far as such personal allegations made by the Petitioner in the second Writ Petition against Mr. Jadhav, are concerned, the Petitioner may take out appropriate proceedings before the appropriate forum.



36. As far as the Petitioner in the second Writ Petition is concerned, the BPT had invited tenders from the private firms to supply MCGM water to barges, ships, crafts, etc. for a period of three years by laying an underground pipeline from Hosa Market, Darukhana, Mumbai Main Line upto Lakdi Bunder (North), Darukhana. The Petitioner in the second Writ Petition was declared as sole successful bidder and the Letter of Intent dated 6th November, 2019 was issued by the BPT to the Petitioner in the second Writ Petition. Pursuant thereto, the Petitioner in the second Writ Petition paid advance fees of Rs.28,46,304/- for three years for 50 sq.mtr. plot at Lakdi Bunder (North) and also paid security deposit of Rs.2,26,213 to BPT.

37. According to the Petitioner in the second Writ Petition, he also incurred cost of more than Rs. 25 Lacs for laying underground steel pipeline for a distance of approximately one kilometer including cost for the pipe and also paid Rs.5,45,600/- to BPT for road reinstatement. A permission from BPT was issued to the Petitioner in the second Writ Petition by the Assistant Engineer (Water Works), which was valid upto 18th July, 2019. As the Petitioner in the second Writ Petition was not having a license from BPT upto 19th July, 2019, the said connection was not granted. Subsequently, the said Permission Form was further renewed on 23rd August, 2019 by the MCGM setting out certain conditions to be complied with before granting the connection. On 28th November, 2019 the Petitioner in the second Writ Petition was called upon by the Assistant Engineer, Maintenance, WW-City-I, to pay cross-connection charges of Rs.1,83,433/-, which was paid by the Petitioner in the second



Writ Petition on 29th November, 2019. The MCGM was to come to the site and provide connection on 3rd December, 2019.

38. As stated earlier, the MCGM has produced before us a Letter dated 30th November, 2019 written by Mr. Yeshwant Jadhav, Chairman of the Standing Committee of MCGM, calling for a Review Meeting on 3rd December, 2019 at 2.45 p.m. He had amongst others, forwarded a copy of his letter to his wife – Ms. Yamini Yashwant Jadhav, MLA from the Byculla Constituency. In the said Letter, there is no agenda set out with regard to the items to be reviewed at the said Meeting. A copy of the agenda is also not annexed to the said Letter. The Minutes of the Meeting placed before this Court shows that in the said Meeting Mr. Yashwant Jadhav and his wife have given 'सूचना' that the proposal to supply three lac liters of water to the Petitioner in the second Writ Petition be cancelled / rejected. In the Minutes under the caption 'order', the only order recorded is that of the Deputy Municipal Commissioner to the effect that urgent action be taken by the Hydraulic Department.

39. From the facts set out hereinabove, it is clear that several steps have been taken by the Petitioner in the second Writ Petition including the payments made to the MCGM with regard to the connection to be provided to the Petitioner in the second Writ Petition which payments were collected by MCGM from the Petitioner in the second Writ Petition and consequent thereto permissions granted / sanctioned. We have therefore serious doubts whether the MCGM can refer to the issue of connecting water supply to the Petitioner in the second Writ Petition as a 'proposal'.



Even if we assume that it is a 'proposal', in our view, the Chairman of the Standing Committee has no powers to call for a Review Meeting and give 'सूचना' to the Officers of the MCGM to cancel / reject any contractual deal between the MCGM and any citizen, especially where such contractual deal is within the four corners of the law, and the Officers of the MCGM have no power to cancel, or reject, or put on hold, any contractual deal with a citizen without giving any notice or hearing for such cancellation. In the instant case, the Officers of MCGM did not even bother to inform the Petitioner in the second Writ Petition that they will not visit the site for the purpose of the cross-connection, but only after the Petitioner in the second Writ Petition wrote very strong letters to the MCGM, including a Letter dated 17th December, 2019, that on 19th December, 2019 the Assistant Engineer, 'E' Ward forwarded a Letter to the Petitioner in the second Writ Petition informing him that providing a water connection to him is held up by the 'E' Ward Office of MCGM since in the Meeting held on 3rd December, 2019, the Chairman of the Standing Committee stated that he has received complaints that BPT is giving new water connection to the Petitioner in the second Writ Petition to supply water to the ships, which issue was again discussed by him in his Chambers with the Hydraulic Engineer on 6th December, 2019, when he requested not to give water connection to the Petitioner in the second Writ Petition. Interestingly, in the said Letter there is no allegation made against the Petitioner in the second Writ Petition with regard to any misrepresentation made by him to the MCGM and the same is made for the first time in the Affidavit filed by Mr.



L.D. Kamalapurkar, Hydraulic Engineer, which is today filed before this Court. Mr. Kamalapurkar has in his Affidavit made an unsuccessful attempt to do some damage control by alleging that it is a normal practice followed by the MCGM to conduct review meetings of various officers of various departments and the concerned public representatives, which are attended by the Chairman of the various committees of the MCGM, and that the Meeting held on 3rd December, 2019, was one such meeting, which was attended by the Chairman of the Standing Committee. Mr. Kamalapurkar has intentionally made this false statement, ignoring the fact that he himself has at page 106 of his Affidavit annexed a Letter dated 30th November, 2019, written on the letter-head of Mr. Jadhav, which shows that the Meeting was not called by the MCGM but was called by Chairman of the Standing Committee Mr. Yeshwant Jadhav and the Meeting was held as directed / scheduled by Mr. Jadhav and Mr. Jadhav along with his wife in the garb of a review meeting gave directions to the Officers of the MCGM to cancel / reject the 'proposal' of OK Marine i.e. the Petitioner in the second Writ Petition and the Officers of the MCGM readily favoured him, by following his instructions and placing the entire issue of water connection to be provided by the Petitioner in the second Writ Petition on hold, without giving any notice or hearing to the Petitioner in the second Writ Petition. The Letter dated 9th December, 2019 addressed to the Petitioners in the second Writ Petition, was prepared 06 days after the Meeting dated 3rd December, 2019 and served on the Petitioners in the second Writ Petition 16 days after the Meeting i.e. on 19th December, 2019. Though Mr.



Kamalapurkar has in his Affidavit dated 9th January, 2020 filed in the second Writ Petition, tried to improve upon all the admissions made by Mr. Ansari in his Letter dated 9th December, 2019, addressed to the Petitioners in the **first** Writ Petition wherein he had stated that their water supply is stopped on instructions of the Chairman of the Standing Committee, by now stating that the Deputy Municipal Commissioner, Zone-I had issued the direction to disconnect the water supply of the Petitioner in the **first** Writ Petition, when no such order of the Deputy Municipal Commissioner, Zone-I finds place in the Affidavit filed by Mr. Kamalapurkar, or in any of the documents produced on behalf of the MCGM. The above conduct, exposes the unpardonable games sought to be played by Officers holding responsible positions in the MCGM, not only with the members of the public but also with Courts.

40. We have asked Mr. Godbole whether there is a provision under which the Chairman of the Standing Committee of MCGM under the guise of calling a Review Meeting of the MCGM, can invite his wife (an MLA from the Byculla Constituency) and together give 'सूचना' at such a Meeting to cancel a water connection to be provided to a citizen, on the basis of which the senior officers, including the Deputy Municipal Commissioner puts the decision taken in favour of the citizen on hold, without giving any prior notice or hearing to such an affected citizen. The answer given by Mr. Godbole, is obviously in the negative.

41. We therefore as stated earlier, once again state at the cost of repetition, that such is the dictatorial regime / 'raj' prevalent today in the Municipal Corporation



of Greater Mumbai. The concerned persons are functioning under a misconception that there is no Rule of Law applicable to the MCGM. Not only are they not bothered to follow the prescribed law and the rules framed thereunder but they are also dishonest with the Court as illustrated hereinabove, by suppressing facts and making incorrect statements before the Court and also by making different statements at different times and through different officers. In the circumstances, we pass following Order :

IN WRIT PETITION (L) NO. 3756 OF 2019 (the first Writ Petition) :

- i. The Letter dated 9th December, 2019, issued by the Assistant Engineer (Water Works) 'E' Ward of the MCGM to the Petitioners in the first Writ Petition and the action of the disconnection of water supply to Harbour Water Suppliers Company Private Limited, is quashed and set aside.
- ii. The MCGM is directed to restore the water supply to Petitioner No.1 in the first Writ Petition i.e. Harbour Water Suppliers Company Private Limited with immediate effect.
- iii. The undertaking given by Advocate Bubna on behalf of the MCGM that the MCGM shall forthwith restore water supply to Harbour Water Suppliers Company Private Limited, is accepted.
- iv. Mr. Abdul Haq Ansari, Assistant Engineer (Water Works), 'E' Ward, is directed to file his Affidavit explaining as to why action should not be taken against him for suppressing facts from this Court with regard to: (a) Letter dated 30th



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November, 2019 written by Mr. Yeshwant Jadhav, Chairman of the Standing Committee, (b) Meeting held on 3rd December, 2019, (c) directions given at the said Meeting, which were carried out on the very same day of the Meeting (d) Letter dated 9th December, 2019 addressed by him to the Petitioner No. 1 in the first Writ Petition (e) the true / correct reasons for disconnection in his Affidavit dated 2nd January, 2020, but instead misleading the Court by giving some other excuses for the said disconnection, knowing the same to be false. The said Affidavit shall be filed by Mr. Ansari within a period of two weeks from the date of uploading this Order, i.e. on or before 30th March, 2020.

v. All rights and contentions of BPT in Writ Petition (L) No. 3464 of 2018 are kept open.

IN WRIT PETITION (L) NO. 50 OF 2020 (the second Writ Petition) :

vi. The Letter dated 9th December, 2019, written by the MCGM to the Petitioner in the second Writ Petition is quashed and set aside.

vii. Since we have interacted with the present Municipal Commissioner with regard to bringing improvements in the functioning of the MCGM, to the extent of ensuring speedy disposal of legal matters, and have found him to be a sincere and committed person, we hold that in the event of MCGM being of the view that the Petitioner in the second Writ Petition has obtained orders from the MCGM through misrepresentation, the MCGM shall issue notice to the Petitioner in the second Writ Petition i.e. OK Marine, and thereafter the Municipal Commissioner shall hear the



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parties and pass appropriate orders with regard to providing water connection to OK Marine, the Petitioner in the second Writ Petition. The Petitioner in the second Writ Petition shall be at liberty to contend before the Municipal Commissioner that the allegations of misrepresentation are only an afterthought, as such allegations are absent in the Letter dated 9th December, 2019, addressed by the MCGM to the Petitioner in the second Writ Petition .

viii. Rule in both the above Writ Petitions is made absolute in the above terms and the Writ Petitions are accordingly disposed of.

(B.P.COLABAWALLA, J.)

(S.J. KATHAWALLA, J.)