

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL WRIT PETITION NO. 7180 OF 2022

Lobhaji Appa Gawali Mangal Karyalay (Bhawan), through its Proprietor

-Vs-

Maharashtra Pollution Control Board, through it's Regional Officer, and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.S.N.Tapadia, counsel for the petitioner.
Mr. A.S.Thotange, counsel for respondent No.3.

**CORAM :SUNIL B.SHUKRE &
ANIL L. PANSARE, JJ.**

DATE : 18.11.2022.

1. Heard learned counsel for the petitioner.
2. This petition questions the legality and correctness of the order dated 31.10.2022 by contending that it does not give sufficient time to the petitioner to ensure compliance with the proposed directions issued on 14.07.2022. According to the learned counsel for the petitioner, running of business of marriage hall falls in hospitality sector and during the last three years, due to Covid-19 pandemic, this sector has suffered a lot, because of which the financial condition of the petitioner has got weak. Learned counsel for the petitioner further submits that even then, the petitioner tried his level best to ensure compliance with the proposed directions but, the compliance is taking time. He further submits that the petitioner sincerely desires to comply with all the proposed directions, in particular the direction relating to setting up a Sewage Treatment Plants (STP) for which

purpose, the process of calling of the quotations has been started by the petitioner, with the first quotation having been received on 01.08.2022 and the last of it received on 08.11.2022. He submits that although the petitioner has not as yet sent any communication to any of the contractors, who have quoted their rates by sending a formal communication, the petitioner would do so very shortly. He further submits that the petitioner has accepted bookings of the marriage hall for three days, 25,26 and 27 November-2022, in June 2022, even before the proposed directions dated 14.07.2022 were issued by the respondent No.1. He further submits that if the impugned communication is given effect to by the authorities, the petitioner would be failing in his commitments given to the private parties for the bookings which he has already accepted for the three dates 25, 26 and 27, November 2022, which will not only cause financial loss to the petitioner but also result in disrupting of the proposed marriages between the private parties, for no fault on the part of the private parties. He also submits that the petitioner has also provided (1) proper ducting, (2) proper exhaust system, (3) proper hood and (4) Chimney of adequate height over "Bhatti" or the fire wood hot plate.

3. He further submits that in similar fact situation this Court has granted time to the petitioner in Writ Petition No.4026 of 2021 on 12.10.2021 to complete the work of STP within a period of 45 days from the date of the order. On the above referred grounds, learned

counsel for the petitioner seeks interim relief in the matter.

4. Issue notice for final disposal at admission stage to the respondents, returnable on **30.11.2022**.

5. Learned counsel Mr.A.S. Thotange, appearing for respondent No.3, waives service of notice for respondent No.3 and seeks time to file reply in the matter.

6. Hamdast is granted for effecting service upon respondent Nos.1 and 2.

7. So far as the similarity attempted to be drawn by the petitioner between the fact situation of this case and the fact situation of WP No.4026 of 2021, we *prima facie* find that there is no similarity in between them. In that case, work of STP had already been started and whereas in this case, the STP work has not been started and it is also not really known that it would be started today or tomorrow.

8. The quotations being pointed out by the learned counsel for the petitioner in fact are from only two contractors, one is of Core Projects dated 01.08.2022 (page No.55) and the other is of Shree-Jee Associates dated 08.11.2022 (page No.78). In between 01.08.2022 and 08.11.2022 there is not a single quotation invited or received by the petitioner and this only shows the lackadaisical attitude of the petitioner in spite of having

received proposed directions on 14.07.2022 and in spite of having taken, as per his own version, marriage bookings for the three dates of 25,26 and 27 the November-2022. Had there been any other party in place of the petitioner, which has accepted huge responsibility in the nature of acceptance of marriage bookings for the three dates of November 2022, that person after having received a warning in the nature of proposed directions dated 14.07.2022 would have set himself upon the work of establishment of STP on war footing and would not have spent time of almost four months for completing the work. In fact, as stated earlier, the petitioner has not called for quotations from any other contractor between 01.08.2022 and 08.11.2022. Of course, learned counsel for the petitioner would give an explanation about the intervening silence on the part of the petitioner and according to him, the petitioner was busy negotiating terms of the contract with Core Projects and when the petitioner found that Core Projects was not ready to reduce its quotation, the petitioner turned his attention to other contractors resulting in receiving of quotation from Shree Jee Associates on 08.11.2022. This explanation, at this stage, cannot be accepted for the reason that the petitioner was already facing threat of closure of his marriage hall (Mangal karyalay) on one hand and fulfillment of his commitments to various private parties for the bookings they had done for 25th November,2022 to 27th November, 2022 on the other. In such a situation, as stated earlier, any person in the place of the petitioner, would have taken urgent steps and

would have ensured to complete the construction of STP at the earliest. That has not been done by the petitioner. In fact, as stated earlier, the petitioner has also not started the construction of STP and therefore, the parity sought to be drawn between the Writ Petition No.4026 of 2021 and this petition, in terms of the fact situation, is misplaced.

9. This is all about the carelessness and negligence and even defiance on the part of the petitioner. But, at the same time, this Court is required to examine the consequences of denial of any interim relief to the petitioner and if such denial impacts the private parties, the Court would also be required to consider whether the adverse impact created upon the private parties could be adequately compensated or not. If the answers to these questions are in favour of the private parties, this Court would be required to exercise its jurisdiction not to protect a person like the petitioner but to protect the interest of the private parties, who are likely to suffer irreparably, for no fault on their part, especially when, payment of compensation would bring no adequate relief to them. After all, not allowing the petitioner to go ahead with the proposed marriage function would ultimately lead to cancellation of marriage between young bride and groom causing great trauma, pain, inconvenience and financial loss and some times even resulting in breaking of hearts. Therefore, this Court would have to balance different interests by taking recourse to its equity jurisdiction and doing so, we express our inclination to

grant interim relief on stringent conditions.

10. Accordingly, we direct that the petitioner shall be permitted to run the marriage hall only for the purpose of completion of the marriage functions and ceremonies from 24th November to 28th November 2022. We further direct that for these five days from 24th November to 28th November 2022 only, supply of electricity and supply of tap water shall be restored to the petitioner and thereafter the authorities shall be at liberty to disconnect the same. This interim direction is subject to the following conditions:

a) The petitioner, in order to show his bonafides, shall deposit in this Court an amount of Rs.3,00,000/- (Rupees Three Lakhs only) latest by 22nd November 2022.

b) The petitioner shall not accept new bookings for any function till he complies with all the proposed directions dated 14.07.2022.

11. Steno copy of the order be furnished to the learned counsel for the petitioner and learned counsel appearing for respondent No.3.

(ANIL L. PANSARE,J)

(SUNIL B. SHUKRE,J)