



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

SUO MOTU PUBLIC INTEREST LITIGATION NO. 3 OF 2023

**High Court of Judicature at
Bombay on its Own Motion**

.. Petitioner

Versus

**Municipal Corporation of Greater
Mumbai & Ors.**

.. Respondents

Mr. Jamshed Mistry, *Amicus Curiae* with Ms. Ronita
Bhattacharya Bector.

Mr. Anil C. Singh, Senior Advocate with Ms. Oorja Dhond, Mr.
Aadarsh Vyas i/by S. K. Sonawane for respondent no.1-
MCGM.

Ms. P. H. Kantharia, Govt. Pleader with Mr. Abhay L. Patki,
Addl. Govt. Pleader for respondent no.2-State.

Mr. Akshay P. Shinde for respondent no.3 – MMRDA.

Mr. Prashant P. Chavan with Mr. Ravindra Nathani i/by Ms.
Reshmarani Nathani for respondent no.4.

Mr. Dattatray Bhoje, Assistant Engineer (Roads and Traffic) is
present.

Mr. Vishnudas Ghodke, Deputy Secretary, Mr. Saiprasad
Mukdatwar, Section Officer, Persons with Disabilities Welfare
Department are present.

Ms. Samiksha Kakade, Under Secretary (Law), Persons with
Disabilities Welfare Department is present.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
AMIT BORKAR, J.**

DATE: 11th JULY, 2024

P.C.:

1. Pursuant to our order passed yesterday, learned Addl.
Government Pleader has tendered a letter dated 10th July,
2024 addressed to him by the Deputy Secretary, Government

of Maharashtra, Persons with Disabilities Welfare Department. The said letter is taken on record. According to the said letter, the Government will take 15 days' time to constitute the State Advisory Board after the current assembly session is over. We are informed that the current assembly session will be over tomorrow, i.e., 12th July, 2024.

2. Accordingly, we direct that the State Advisory Board shall be constituted in terms of the provisions contained in Section 66 of the Rights of Persons with Disabilities Act, 2016 (hereinafter referred to as "the Act of 2016") and made functional within a month from today.

3. Mr. Mistry, learned *Amicus* has tendered an order passed by the Hon'ble Supreme Court dated 17th July, 2023 in Writ Petition (Civil) Diary No(s). 29329/2021, wherein the Hon'ble Supreme Court has taken a note of the affidavit filed by the Union of India and based on the information furnished to the Hon'ble Supreme Court, extracted the information in a tabulated form which shows that constitution of State Advisory Board as per Section 66 of the Act of 2016 has not been done in the States of Andhra Pradesh, Dadra and Nagar Haveli and Daman and Diu, Ladakh and Rajasthan. As per the said tabular statement, it appears that the information furnished by the State of Maharashtra in respect of constitution of the State Advisory Board was to the effect that the Board has been constituted.

4. It is true that the Board was constituted on 27th February, 2018 by issuance of a notification by the State Government, however, on account of vacancies of the non-official members, the said Board is not functional at least

since the year 2020. Hon'ble Supreme Court in the said order dated 17th July, 2023 has directed all the State Governments to ensure compliance with the provisions of the Act of 2016 so as to rectify the deficiencies. Even as per the said order of the Hon'ble Supreme Court, dated 17th July, 2023, the State of Maharashtra is under obligation to ensure compliance with the provisions of the Act of 2016, however, because of vacancies of the non-official members in the Board, the Board is not functional, depriving disables in the State, which forms a sizable section in the society, of the benefits which they can derive in case the Board starts functioning.

5. We may remind the State Government of certain observations made by the Hon'ble Supreme Court in the case of ***Exploitation of Children in Orphanages in State of Tamil Nadu vs. Union of India & Ors., reported in (2017) 5 SCC 578***. Observations made by the Hon'ble Supreme Court in the said judgment, which are relevant to be extracted here, are contained in paragraph 88, read as under:-

"88. The rule of law includes adherence to parliamentary legislation by all concerned including the State Governments and the Union Government and it would be extremely unfortunate if the Governments concerned voluntarily and knowingly flout the provisions of law solemnly enacted by Parliament. We need say nothing more on this subject, except that laws solemnly enacted by Parliament cannot be insulted by putting hurdles in the effective functioning of these Commissions, such as by not appointing the Chairperson or Members."

6. We, thus, hope and expect that, as directed above, within 30 days from today, the Board shall be made functional

in all respects. The infrastructure etc. required for making the Board functional shall also be arranged during this period by the State.

7. The affidavit, as directed yesterday, by the BMC and MMRDA shall be filed within three weeks.

8. Stand over to **14th August, 2024**. To be listed **High on Board**.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)