



Jvs.

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

PUBLIC INTEREST LITIGATION NO. 96 OF 2024

Rohit Manohar Joshi & Ors. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

WITH

INTERIM APPLICATION NO.11933 OF 2024

IN

PUBLIC INTEREST LITIGATION NO. 96 OF 2024

Shri Ganesh Murtikar Utkarsha
Sanstha ... Applicant

In the matter between

Rohit Manohar Joshi & Ors. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

WITH

INTERIM APPLICATION (ST.) NO.24690 OF 2024

IN

PUBLIC INTEREST LITIGATION NO. 96 OF 2024

Akhil Sarvajanik Utsav
Samiti (Maharashtra) ... Applicant

In the matter between

Rohit Manohar Joshi & Ors. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

Ms.Ronita Bhattacharya Bector a/w. Ms. Sejal
Khan, for petitioner in PIL/96/2024.

Mr. Satish Muley a/w. Mr. Mosin Naik, for
Applicant in IA(St.)/24960/2024 in PIL/96/2024.

Mr. S.M. Gorwadkar, Sr. Advocate i/b. Mr.
Satyajeet Joshi, Mr. Chinmay Joshi and Mr. V.N.

Bolinjkar, for Applicant in IA/11933/2024 in PIL/96/2024.

Dr. Birendra Saraf, A.G. a/w. Mr. S. K. Mishra, Sr. Advocate as Spl. Counsel a/w. Mr. P.P. Kakade, G.P. a/w. Mr. O.A. Chandurkar, Addl.G.P. a/w. Mrs. G.R. Raghuwanshi, AGP for the State-Respondent Nos.1,4,11,13,15 & 17.

Ms. Jaya Bagwe, for Respondent No.2 (M.P.C.B.)

Mr. Milind Sathe, Sr. Advocate a/w. Mr. R. Y. Sirsikar, for Respondent No.3 (B.M.C.)

Mr. N.R. Bubna, for Respondent No.6.

Ms. Pooja Joshi Deshpande, for Respondent No.7.

Mr. Sandeep D. Shinde, for Respondent No.8

Mr. A.S. Rao, for Respondent No.10.

Mr. Rakesh Bhatkar, for Respondent No.12.

Mr. Sarang S. Aradhya a/w. Ms. Gauri Velankar and Mr. Saarth Chordia and Mr. Shantanu Gurav, for Respondent No.14.

Mr. M.L. Patil, for Respondent No.16.

Mr. Abhijit Adagule, for Respondent No.18.

Mr. Abhinandan Yagnik and Mr. C.M. Lokesh, for Respondent No.20.

Mr. Maruresh Lagu a/w. Mr. Sagar Patil, for intervenor.

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

DATED : AUGUST 30, 2024

P.C.:

IA/11933/2024:

1. This interim application has been moved by Ganesh Murtikar Utkarsha Sanstha and certain other individuals seeking their impleadment as party respondents. Applicant

no. 1 is a society registered under the Societies Registration Act, 1860 and comprises of members who are said to be engaged in the business of making and selling idols in Thane city during Ganesh festivals. The other applicants are the individuals engaged in the said business.

2. Having regard to the reasons indicated in the interim application, the same is allowed in terms of prayer clause (b).

3. Let the necessary amendment be incorporated by the learned counsel for the petitioner during the course of the day. Reverification is dispensed with.

4. The interim application is disposed of.

IA(ST)/24690/2024:

5. This interim application has been moved by Akhil Sarvajanic Utsav Samiti, which is a Trust and has been created with an objective of taking up social, cultural and religious causes of the community. One of the functions discharged by the Trust, as disclosed in the interim application, is that it has taken various initiatives focusing on eco-friendly practices during Ganesh festivals.

6. Accordingly, in our opinion, the applicant may be of some assistance to the Court keeping in view the concerns expressed in the PIL petition.

7. We, thus, allow the interim application in terms of prayer clause (b).

8. Let the necessary amendment be incorporated by the learned counsel for the petitioner during the course of the day. Reverification is dispensed with.

PIL/96/2024:

9. The respondents, including the State of Maharashtra and all other Municipal Corporations and bodies and the newly impleaded respondents shall file their affidavits in reply within four weeks.

10. It has been informed by Dr. Saraf, learned Advocate General that a preliminary affidavit in reply has already been filed on behalf of the State. If any additional affidavit in reply needs to be filed by the State, it may be filed within the aforesaid period. Certain Municipal Corporations have also filed their affidavits in reply. Rejoinder to all such affidavits in reply, if any, may be filed by the learned counsel for the petitioners within two weeks thereafter.

11. Stand over to **21st October 2024 (High on Board)**

12. In view of the ensuing Ganesh festival, which is to commence from 7th September 2024, learned counsel for the petitioner has prayed that on account of the fact that the revised guidelines for idol immersion issued by the Central Pollution Control Board (CPCB) on 12th May 2020 are not being adhered to and followed by all concerned in their true letter and spirit, hence, appropriate directions may be issued that the said guidelines may be followed and acted upon. Special emphasis has been laid by learned counsel for the petitioners in respect of clause (2) of the said guidelines,

which contains certain directions for idol makers, craftsmen or artisans. It has been stated in this regard that despite the said guidelines containing a ban on use of Plaster of Paris for making idols, it is still unabated in Mumbai and rest of the State of Maharashtra.

13. Clauses (2) and (4) of the said guidelines contain instructions to idol makers as also to the local and urban authorities.

14. The very fact that the association of idol manufacturers has sought its intervention in this PIL petition reveals that so far as ban on making idols using Plaster of Paris is concerned, it has not been enforced in full measure. Various submissions have been made on behalf of learned counsel representing the parties and one of the concerns expressed at the Bar is that the idol manufacturers have received orders long ago and therefore, any direction putting a complete ban on using Plaster of Paris for making idols at this juncture would not be in the interest of artisans whose livelihood would be at stake.

15. Such a plea, in our opinion, is not available either to the State or to the Municipal Corporations or even to the idol manufacturers or artisans for two reasons; firstly, the validity of the guidelines dated 12th May 2020 issued by the CPCB has been put to test in Courts, however, it has been upheld and the challenge did not succeed even before the Hon'ble Supreme Court and, secondly, the guidelines were promulgated as far back as on 12th May 2020, i.e., about more than four years ago. It has been stated that

implementation of these guidelines was deferred for a period of one year, however, since last more than three years, guidelines are in place and though various steps have been taken by the Municipal Corporations as also the State Government, the use of Plastic of Paris in making idols has not stopped. At least three Government orders have been brought to our notice issued in the years 2023 and 2024 directing all concerned including the District Magistrates and all the urban local bodies to observe and enforce the ban of Plaster of Paris for making idols, however, in our opinion, sufficient measures have not been taken in the sense that non-adherence to the guidelines does not entail any deterrence such as imposition of fine etc.

16. All these aspects shall be considered by the Court once detailed replies are filed by all concerned.

17. An order dated 28th August 2024 passed by this Court at Nagpur Bench in *Suo Motu* Public Interest Litigation No. 03 of 2021 has been brought to our notice. The Court at Nagpur Bench found it necessary to direct the authorities dealing with grant of permission to organize Ganesh pooja by sarvajanik mandals to update the format of application form seeking such permission to be made in tune with revised guidelines issued by the CPCB. Paragraphs 6 and 7 of this order dated 28th August 2024 are extracted hereinbelow: -

"6. In the aforesaid backdrop, it is necessary to direct the Authorities which are dealing with the grant of permission to update the formats of the application forms in tune with the aforesaid revised guidelines for Idol immersion.

7. *We are of the view that a clear understanding should be given to these Sarvajanik Mandals that the Plaster of Paris (POP) Idols cannot be installed in view of the aforesaid revised guidelines and the violation of the said guidelines would entail not only initiation of prosecution but also imposition of penalties-fine as provided under the provisions of the Control of the Pollution Act, 1974."*

18. We understand that permission to various sarvajanik mandals must have been granted by now, however, we direct that in terms of the order passed by this Court on 28th August 2024 by Nagpur Bench, the sarvajanik mandals seeking permission for Ganesh festival shall be clearly intimated that they have to mandatorily follow the guidelines and that they will have to abide at least by one condition of the guidelines that they will not install any Ganesh idol made of Plaster of Paris. In cases where permission has already been granted by the authority concerned, an additional condition shall be immediately communicated to them that sarvajanik mandals shall not install idols made of Plaster of Paris.

19. Learned Advocate General has also drawn our attention to two circulars/letters dated 26th April 2024 issued by the Principal Secretary, Environment and Climate Change Department of the State Government, which are addressed to all District Magistrates, Chief Executive Officers of all Zilla Parishads and Municipal Commissioners of all Municipal Corporations and Chief Executive Officers of all Municipal Councils, in which it has been directed that these bodies "*shall scrupulously implement the Revised Guidelines for Idol Immersion issued by the Central Pollution Control Board dtd. 12/5/2020*".

20. We hope and expect that the instructions issued and directions given by the State Government in the aforesaid letters/circulars dated 26th April 2024 shall be implemented by all concerned.

JAYANT
VISHWANATH
SALUNKE

Digitally signed
by JAYANT
VISHWANATH
SALUNKE
Date: 2024.08.30
17:41:43 +0530

(AMIT BORKAR, J.)

(CHIEF JUSTICE)