IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

(901)WRIT PETITION NO. 1032 OF 2026

Mr.Sumit Subhash Sathe & Ors. … Petitioners
versus
The State of Maharashtra & Ors. … Respondents

AND
(902) WRIT PETITION NO. 2650 OF 2026

Abheeshek Shashikant Israji & Ors. … Petitioners
versus
The State of Maharashtra & Ors. … Respondents

…

Mr.Vinod P. Sangvikar with Ms.Saima S. Shaikh and Mr.Shubham Sonawale for the Petitioners in Serial No. 901.

Dr.Abhinav Chandrachud with Ms.Sakshi Thombre and Mr.Pratik Dixit for the Petitioners in Serial No. 902.

Mr. P.P.Kakade, Addl.GP with Ms.N.M.Mehra, AGP for Respondent Nos. 1 and 2, State in Serial No. 901.

Mr.P.P.Kakade, Addl.GP with Ms.P.N.Diwan, AGP for Respondent Nos. 1 and 2, State in Serial No. 902.

Mr.G.S.Hegde, Senior Advocate with Mr.Soham Bhalerao and Mr.Harshit Tyagi i/b. D.S.K.Legal for Respondent No.3 -CIDCO.

...

CORAM : RAVINDRA V. GHUGE &
ABHAY MANTRI, JJ.

DATE : MARCH 25, 2026

P.C:

1. The Father of the Constitution, Bharat Ratna Dr. Babasaheb R. Ambedkar, concluded his speech in the Constituent Assembly on

25.11.1949 by saying,

"*However good a Constitution may be, if those who are implementing it are not good, it will prove to be bad. However, bad a Constitution may be, if those implementing it are good, it will prove to be good".*

2. We have heard Dr.Chandrachud, the learned Advocate for the Petitioners, and Mr.Hegde, the learned Senior Advocate for the City and Industrial Development Corporation (CIDCO), for more than one and a half hours. We are reminded of the above statement in the concluding speech of the Father of the Constitution after noticing the manner in which, *prima-facie,* the Pradhan Mantri Awas Yojana (Urban) 2.0 (herein after referred to as the PMAY U-2.0), has been twisted and manipulated to the disadvantage of the poorest of the poor and to deliver an advantage for the rich and the super-rich.

3. The Petitioners have come before the Court as being members of the Low Income Group (LIG), for assailing the reduction in the size of the LIG flats, as well as the increase in their prices. While considering the rival submissions, we have come across an unconscionable step taken by CIDCO, which virtually destroys the very purpose and object of introducing the Housing Scheme under the PMAY U-2.0. As we deal with

the contentions of the parties, the conduct of CIDCO will speak for itself.

4. While considering the grievance of the Petitioners at an interim stage, we have been informed by the learned Senior Advocate representing CIDCO that the Scheme, which was floated in October 2024, was not very much successful. To support this contention, the following details have been conveyed to us:

(a) For the Economically Weaker Section (EWS), 15,030 tenements in multi-storeyed superstructure tower buildings were earmarked, with a size of 30 sq. meters carpet area (322 sq. feet carpet area).

(b) For the LIG, 10,693 units were earmarked with the same size.

(c) The total units available were 25,723.

(d) In the EWS category, 5,442 units were allotted.

(e) In the LIG category, 4,435 units were allotted.

(f) The total allotment letters issued for both categories were 10,273.

(g) There were certain cancellations.

(g) Following the cancellations, the subsisting allotments for both categories totaled 9,877 and

(h) 8795 units are unsold.

5. Under the PMAY- U 2.0 Scheme, Guidelines were published by the Ministry of Housing and Urban Affairs, Government of India, in September 2024. An 'Affordable House' was defined to be a house having carpet area up to 65 sq. meters in Metros and 90 sq. meters in Non-Metro, with house value of up to Rs. 45,00,000/-. For the LIG, households having an annual income between Rs. 3,00,000/-and Rs. 6,00,000/- were considered to fall within the definition of LIG.

6. There is no dispute that CIDCO floated the Scheme at issue in October 2024. The scope of PMAY-U 2.0 is set out in Clause 1.1, which reads as under:

> *"1.1 Pradhan Mantri Awas Yojana -Urban 2.0 (PMAY-U 2.0) - 'Housing for All' Mission for urban areas will be implemented for 5 years from 01.09.2024 to provide Central Assistance to all eligible beneficiaries/households/ implementing agencies through States/Union Territories (UTs)/Primary Lending Institutions (PLIs) to construct, purchase or rent a house at an affordable cost."*

7. The eligibility criteria for EWS, LIG, and Middle Income Group (MIG) categories are prescribed under Clause 3.1, stating, *“Families belonging to EWS/LIG/MIG category, living in urban areas, having no pucca house anywhere in the country, are eligible to purchase or construct a house under PMAY-U 2.0.”*

8. The State Government issued a Government Resolution (GR) dated 15.10.2024, through the Housing Development Department. The object of the GR was that every person should have a house of his own under PMAY-U 2.0 in the State of Maharashtra.

9. Clause 3.2 indicated that the Scheme, which was supported with financial assistance, was to enable a member of the EWS/LIG/MIG who did not have a pucca house (all-weather house) anywhere in the country, to own a house as his shelter.

10. Clause 3.3 indicated that the beneficiary of the said Scheme should not have taken advantage of any Government Scheme at any time in the 20 preceding years.

11. The CIDCO Authorities published a brochure with the title ‘CIDCO Mega Housing Scheme’, while announcing the construction of

26,000 homes out of a total Scheme for constructing 67,000 affordable homes in October 2024. The said Scheme was floated under PMAY-U 2.0. A subsidy of Rs. 2,50,000/- was made available for the EWS category under the PMAY.

12. From the '**State of Tenements for October 2024 – CIDCO Launch Scheme**' (the word should be 'Statement' instead of 'State'), at various locations, the carpet area was reduced to 322 sq. ft from the originally prescribed 600 sq. ft under PMAY-U 2.0, for the EWS. For the LIG, at various locations, it was maintained at the reduced size of 322 sq. ft, like the EWS. For LIG A, in some areas, the carpet area was increased to 398 sq. ft, and for LIG B, it was increased in some areas to 540 sq. ft. The pricing was not declared in October 2024.

13. What is shocking is that CIDCO modified one condition from the PMAY U-2.0 under Clause 2(III), stating that, " *applicant or his/her spouse and unmarried children should not have a house in Navi Mumbai."* This is in complete contradiction to the prescription of PMAY U-2.0 under which CIDCO has floated this Scheme.

14. It is further shocking to know under the eligibility criteria at clause 1 (b) which reads as "*For LIG, the applicants annual family income*

should be more than Rs. 6 lakhs. There is no income limit for LIG category". Under the same eligibility criteria, clause 2 mentions that, *" LIG category- Applicant or his/her spouse and unmarried children should not have a House in Navi Mumbai."*

15. During the course of submissions, the learned Senior Advocate representing CIDCO was instructed to say that the applications from all candidates who did not have a house in Navi Mumbai, were entertained by CIDCO. Meaning that any body who had a house/flat outside Navi Mumbai and whose income was limitless, was eligible to the house while competing with the LIG applicants.

16. The learned Senior Advocate for CIDCO submits, on instructions, that though the advertisement was published in October 2024 indicating that the Scheme was under PMAY, PMAY-U 2.0 will not be applicable because CIDCO has not specified whether it is the earlier PMAY Scheme or the PMAY -U 2.0. It should, therefore, be presumed that it is under the first PMAY Scheme, as the construction had begun prior to the PMAY- U 2.0 Scheme.

17. The learned Addl. GP submits that the Desk Officer, Maharashtra Government, Housing Development Department, has issued a Circular dated 25.07.2023 permitting an increase in the minimum earnings for the EWS ceiling from Rs. 3,00,000/- to Rs. 6,00,000/-, which was approved by the Union of India vide communication dated 12.07.2023.

18. All the applicants were subjected to a lucky draw. It was not CIDCO's concern whether the applicant was earning Rs. 6,00,000/-per hour, per day, or per annum. All the applicants, irrespective of their earning capacity, were part of the lucky draw, and by the lucky draw, those whose names were called out, whether they were eligible as per the eligibility criteria under PMAY U-2.0 or as per the advertisement published by CIDCO, got the home.

19. The learned Senior Advocate then added that because several flats were unsold, all such applicants who actually fell under the originally defined LIG, along with those who fell under the new definition of LIG by CIDCO, meaning that there was no limit on earnings to be eligible, were all issued allotment letters.

20. It does not require any debate that CIDCO was floating a Housing Scheme strictly under PMAY-U 2.0. It could not have diluted the

parameters set out in the said Scheme. The State Government categorically stated in the GR dated 15.10.2024 that only those persons who did not have a pucca house anywhere in India could be entitled to the benefits of such a Scheme. Such Schemes have been introduced by the Government of India with the sole objective of ensuring that each family gets a house. The very object of introducing such Scheme under PMAY-U 2.0 was to ensure that every citizen of this country would have a roof over his head under his ownership.

21. It cannot be an object of CIDCO that each of their constructed homes should be sold in whatever manner CIDCO as may be deemed fit and proper by CIDCO, even if it goes against the fundamental principles of the Scheme Guidelines under PMAY-U 2.0.

22. Our judicial conscience is shocked by the fact, and as has been canvassed before us on instructions, that a person earning less than Rs. 6,00,000/- per annum, who is defined to be part of the LIG, will compete with a person who could earn Rs. 6,00,000/- per hour, for a house in the said Scheme. Was it the object of CIDCO to cater to people with unlimited income in buying small homes? Was it the brainchild of the Government of India, to ensure that the poorest of the poor would also get a small home as a shelter?

23. Does it appeal to reason and logic, and does it stand the test of judicial scrutiny that such small homes, which were intended to be of the size of 600 sq. ft, could be reduced to 322 sq. ft and be sold to people who earn in billions, along with those who may not even afford a small four-wheeler?

24. A single glance at the CIDCO Scheme of October 2024, in the light of the provisions found in the guidelines for PMAY U-2.0, would shock the conscience of any prudent person, and it is not surprising that our judicial conscience is shocked.

25. In the light of the above factual situation, we posed two questions to the learned Senior Advocate for CIDCO, calling upon him to explain that if an LIG group includes a person who may be earning Rs.6,00,000/- per annum or could be earning Rs. 6,00,000/- per hour, then who would fall under the MIG and High Income Group (HIG)?

26. PMAY U-2.0 defines MIG (I) as households having an annual income from Rs. 6,00,000 up to Rs. 12,00,000. Under MIG (II), the household should have an annual income from Rs. 12,00,001 - *to Rs. 18,00,000.*

27. The learned Senior Advocate has very fairly stated that this seems to have been lost sight of by CIDCO, and, considering the questions posed by this Court, CIDCO authorities will now have to resort to brainstorming and reconsider their approach.

28. We are concerned today by the fact that the very purpose and object of PMAY-U 2.0 has been *prima-facie* defeated by the advertisement published by CIDCO in October 2024, which is not only in complete opposition and contrary to PMAY-U 2.0, but also to the GR dated 15.10.2024.

29. The learned Senior Advocate representing CIDCO has raised three issues for buttressing his submissions on the maintainability of these Petitions, which are as under:

(a) The Petitioners have voluntarily applied for the benefits of the CIDCO Scheme in different areas.

(b) Subsequently, they were made aware of the pricing, and they exercised their options.

(c) Though it may appear that the size of the homes was reduced from 60 sq. meters to 30 sq. meters, they were made aware before they logged their options.

(d) The allotment commenced almost a year ago, and therefore these Petitions are time-barred.

(e) The Petitioners are estopped from raising a grievance as regards the size of the homes as well as the pricing of the homes.

30. The learned Advocate for the Petitioners in support of his submissions and to contradict the submissions of the learned Senior Advocate for the CIDCO, submits as under :

(a) These Petitioners are those persons who do not have bargaining power.

(b) They were assured of 60 sq. meters of carpet area accommodation under PMAY-U 2.0, which is reduced to 30 sq. meters by the advertisement published by CIDCO.

(c) The capping on the pricing was Rs. 45,00,000/- for LIG. Now, in some areas, the pricing is raised to Rs. 75,00,000/-.

(d) If these Petitioners cannot afford the said values or prices, they would have to, per-force withdraw their applications.

(e) By introducing an unusual condition of removing the ceiling on LIG and virtually making it an open scheme to let any person walk in and apply, whether he has an earning of Rs. 1.00 upto 6,00,000/- per annum or Rs. 1,00,00,000/- per day, defeats the very object of PMAY-U 2.0.

31. The learned Senior Advocate appearing for CIDCO has relied upon the following judgments in support of his objection:

(i) *Nitish Kailash Kapadne Versus State of Maharashtra and Others, 2024 SCC OnLine Bom 53: (2024) 2 Mah LJ 626;*

(ii) Bareilly Development Authority and Another Versus Ajai Pal Singh and Others, (1989) 2 SCC 116: 1989 SCC OnLine SC 104;

(iii) The judgment dated 01.11.2023 passed by the Division Bench of this Court in Writ Petition No. 11762 of 2023 (Inducare Pharma Pvt. Ltd. Vs. Chief Executive Officer, Zilla Parishad, Ratnagiri & Anr.); and

(iv) Directorate of Film Festivals and Others Versus Gaurav Ashwin Jain and Others, (2007) 4 SCC 737: 2007 SCC

OnLine SC 500.

32. Mr. Chandrachud, the learned Advocate for the Petitioners, contends that the objections raised by the Petitioners are put to rest by the following three judgments:

(i) Vidya Devi Versus State of Himachal Pradesh and Others, (2020) 2 SCC 569;

(ii) Olga Tellis and Others Versus Bombay Municipal Corporation and Others and another connected Petitions, (1985) 3 SCC 545; and

(iii) The judgment dated 02.04.2025 delivered by the Division Bench of this Court in Writ Petition No. 3836 of 2024 (Shahbaz Mumtaz Khan Versus Indian Oil Corporation Ltd. and Others)

33. At the stage of issuance of notice and on the point of grant of ad-interim relief, *prima facie* considering the judgments delivered by the Hon'ble Supreme Court (Five-Judge Bench) in *Olga Tellis and Others (supra)* and in the light of *Vidya Devi (supra)*, at this interim stage, we are of the view that these Petitions deserve to be entertained.

34. The learned Senior Advocate representing CIDCO has contended that these Petitions are barred by limitation and the Petitioners, who have themselves opted for the Scheme, cannot subsequently raise an objection. We find, *prima facie,* that the Petitioners have approached this Court after one year, post applications for the Scheme. This period cannot be termed as being a gross delay on their part. Insofar as the Petitioners' grievance, after choosing the particular Scheme, is about the very object of the Scheme having been neutralized by the CIDCO authorities, inasmuch as PMAY-U 2.0 assured them of a carpet area of 60 sq. meters, which is reduced to 30 sq. meters, and the price of Rs. 45,00,000/- is enhanced to Rs. 75,00,000/-. We cannot ignore such grievance on technical objections.

35. What we find most serious, and which has shocked our judicial conscience as recorded above, is whether CIDCO could have modified the Scheme of affordable homes for the homeless, intended by the introduction of PMAY-U 2.0, by virtually neutralizing the object of the scheme. The public interest at large of every domiciled resident of the State of Maharashtra is involved in these matters. When the Scheme was intended to ensure that a homeless person should be getting a small home which he or she can afford, CIDCO has virtually defeated the purpose of the scheme by the impugned October 2024 advertisement.

36. Would the object of PMAY-U 2.0 be satisfied, by reducing the sizes of the small homes to half of their size, which were originally supposed to have a carpet area of 60 sq. meters (now reduced to 30 sq. meters) and by increasing the number of homes to cater to people with unlimited income? It is anybody's guess. From this point of view as well, we are entertaining these Petitions.

37. **Issue notice to the Respondents,** returnable on 25.06.2026 at 3.00 pm. The learned Addl. GP waives service of notice on behalf of Respondent Nos. 1 and 2, State. The learned Senior Advocate waives service of notice on behalf of Respondent No.3, CIDCO.

38. Let the affidavit in reply be filed by the Respondents, on or before 10.06.2026. If so desired, let the affidavit in rejoinder be filed by the Petitioners, on or before 19.06.2026.

39. By way of ad-interim relief, we direct as under :

(a) Only those Applicants, who have an annual earning of Rs. 6,00,000/- and less, and who do not have a pucca house anywhere in India, and who are eligible as per the LIG guidelines of PMAY-U 2.0, shall alone be considered for allotment of the flats.

(b) The eligible Petitioners, as well as the identically placed Applicants, who may not have approached this Court, and who are eligible as per clause (a) above, shall deposit an amount of Rs. 45,00,000/- with CIDCO, which was the original pricing under PMAY-U 2.0. These allottees shall not be compelled to pay amounts beyond the said amount, without the leave of the Court.

(c) No further allotments shall be made to any Applicant who is not eligible as per clause (a) above.

(d) Those allotments made to people who have unlimited annual income, meaning beyond Rs. 6,00,000/- per annum, and who are not eligible as per clause (a) above, shall not be formalized and possession shall not be handed over to them by CIDCO.

(e) No equities or rights would be created in favour of those Applicants/Petitioners, who are not eligible as per clause (a) above, even if they may have received an allotment or possession of the flat, until further orders.

40. Parties are put to notice that if time permits, these matters would be heard finally at admission stage at **3.00 pm** on **25.06.2026.**

(ABHAY MANTRI, J.) **(RAVINDRA V. GHUGE, J.)**