

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

SUO MOTU PETITION NO. 1 OF 2023

High Court on its own Motion ... Petitioner
V/s.

State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION NO. 621 OF 2024
IN
SUO MOTU PETITION NO. 1 OF 2023**

Bombay Bar Association ... Applicant
V/s.

High Court on its own Motion ... Respondent

**WITH
INTERIM APPLICATION (L) NO. 1242 OF 2025
IN
SUO MOTU PETITION NO. 1 OF 2023**

Indian Hotel and Restaurant Association
through Authorized Officer Atif Rasool Sojar ... Applicant
V/s.

High Court on its own Motion ... Respondent

**WITH
INTERIM APPLICATION (L) NO. 23233 OF 2024
IN
SUO MOTU PETITION NO. 1 OF 2023**

Charkop Gorai Hawkers Welfare ... Applicant
V/s.

High Court on its own Motion ... Respondent

**WITH
INTERIM APPLICATION (L) NO. 22809 OF 2024
IN
SUO MOTU PETITION NO. 1 OF 2023**

Lal Bavta General Kamgar Union
through President Madhukar Rajaram Parab ... Applicant
V/s.

State of Maharashtra and Ors. ... Respondents

**WITH
INTERIM APPLICATION (L) NO. 22832 OF 2024
IN
SUO MOTU PETITION NO. 1 OF 2023**

Kamgar Ekta Union Maharashtra
through President Mecanzy Peter Dabre ... Applicant
V/s.

State of Maharashtra and Ors. ... Respondents

**WITH
INTERIM APPLICATION (L) NO. 21142 OF 2024
IN
SUO MOTU PETITION NO. 1 OF 2023**

Chapel Lane (Damian Joseph Pinto Road)
and Tank Residents Association A.L.M. 143 ... Applicant
V/s.

High Court on its own Motion ... Respondent

**WITH
INTERIM APPLICATION NO. 782 OF 2024
IN
SUO MOTU PETITION NO. 1 OF 2023**

Bandra Reclamation Area Volunteers Organization ... Applicant
V/s.

State of Maharashtra and Anr. ... Respondents

**WITH
INTERIM APPLICATION NO. 666 OF 2024
IN
SUO MOTU PETITION NO. 1 OF 2023**

Atul Ramanlal Vora ... Applicant
V/s.

High Court on its Own Motion ... Respondent

**WITH
INTERIM APPLICATION (L) NO. 7056 OF 2024
IN
SUO MOTU PETITION NO. 1 OF 2023**

Vivek Jaswant Singh ... Applicant
V/s.

High Court on its Own Motion and Ors. ... Respondents

**WITH
CONTEMPT PETITION NO. 2 OF 2024
IN
PUBLIC INTEREST LITIGATION NO. 60 OF 2023**

Dharma Rajaram Vallakati ... Petitioner
V/s.

The State of Maharashtra
through Government Pleader ... Respondent

Mr. Jamshed Mestry, Amicus Curie present.

Mr. Sharan Jagtiani, Senior Advocate, Naushad Engineer, Senior Advocate,
Adv. Namrata Vinod & Yash Kataria i/by S. Mahomedbhai & Co. for the
Applicants in IA/621/2024

Ms. Pritha Paul for the Petitioner in WP/654/2023

Ms. Gayatri Singh, Senior Advocate a/w Adv. Kaustubh Gidh for the
Applicant in IAL/22809/2024 and IAL/22832/2024

Mr. S.M. Seegarla for the Petitioner in CONPW/2/2024 in PIL/60/2023

Mr. Amar Gharte for the Applicant in IA/782/2024 and IA/666/2024.

Ms. Gayatri Singh, Senior Advocate, a/w Adv. Kaustubh Gidh for Respondent Nos.5,11 and 12 in SMP/1/2023.

Mr. Anil Singh, Senior Advocate, a/w Adv. Pushpa Yadav for the Respondent No.2-BMC in SMP/1/2023.

Officer Mr. Vijay Adsul present.

Mr. Anoop Patil, a/w Ms. Pushpa Yadav i/b Ms. Oorja Dhond for the Respondent-BMC in CONPW/2/2024 in PIL/60/2023

Mr. Indrajeet Joshi for the Petitioner in WP/1262/2023

Ms. S.V. Tondwalkar for the Respondent/BMC in WP/1262/2023

Mr. Birendra Saraf, Advocate General a/w Ms. P.H. Kantharia, G.P a/w Abhay L. Patki, GP, Ms. Rita Joshi, AGP for the Respondent-State in SMP/1/2023.

Mr. Birendra Saraf, Advocate General a/w Ms. P.H. Kantharia, G.P a/w Adv. Suraj Gupte, AGP for the Respondent State in IA/621/2024.

Mr. Birendra Saraf, Advocate General a/w Ms. P.H. Kantharia, GP a/w Ms. Fatima Lakdawala, AGP for the Respondent-State in IA/782/2024.

Mr. Birendra Saraf, Advocate General a/w Ms. P.H. Kantharia, G.P, a/w Ms. Vrushali Kabre, AGP for the Respondent-State in IA/666/2024.

Mr. Birendra Saraf, Advocate General a/w Ms. P.H. Kantharia, G.P, a/w Adv. Anupama Pawar for the Respondent-State in IAL/7056/2024.

Mr. Birendra Saraf, Advocate General a/w Ms. P.H. Kantharia, G.P, a/w Mr. Manish Upadhye, AGP for the Respondent-State in CONPW/2/2024 in PIL/60/2023.

Mr. Birendra Saraf, Advocate General a/w Ms. P.H. Kantharia, G.P, a/w Ms. Varsha Sawant, AGP for the Respondent-State in WP/654/2023.

Mr. Vishwanath Chavan, PSI, DCP Operation, CP office, Mumbai, present.

Ms. D.A. Kekalekar, API, MRA Marg Police station, present.

Mr. Vijay Adsul, Deputy Sudt. (License), present

Mr. Maloji Shinde, Sr. PI, Borivali Police Station present

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

DATE : 15th January 2025.

P.C. :

1. Record clearly indicates that in the affidavit dated 29 July 2024, Mr. Anil Kate, Superintendent of License has made a categorical statement that, “the said spots are kept under continuous supervision during peak hours when the hawking is likely to be done. Corporation has deployed encroachment removal vans and staff to maintain the said spots ‘hawkers free’. However, it has been observed that in respect of these spots regular and continuous vigilance is required, in order to prevent recurrence”.

2. The said spots i.e. twenty most congested areas or streets are stated at Exhibit ‘H’ annexed to the said affidavit. The said chart is at page 755 of the compilation for the sake of convenience.

3. We, therefore, direct all the concerned authorities to adhere to the statement made by Mr. Kate and keep all the congested areas or streets free of illegal hawkers. It is made clear that the persons having valid license/s to hawk are not covered in the term of “illegal hawker”.

4. The learned Advocate General, on instructions, submitted that the concerned police or the local police are duty bound to provide the necessary protection to the officers of BMC while performing lawful duty as contemplated under Section 522 of the BMC Act in its true letter and spirit.

We appreciate the stand adopted by the State in that behalf.

5. In view of the deliberation of the Court, the learned Advocate General and Mr. Singh, learned Senior Advocate appearing for the BMC seek time to take further instructions and submit their respective response to this Court on the next occasion.

6. Stand over to 7th February 2025 at 2.30 p.m.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)

JYOTI
PRAKASH
PAWAR

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by JYOTI
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PAWAR
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