

Ashwini

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO. 5960 OF 2023
IN
SUO MOTU PUBLIC INTEREST LITIGATION NO. 1 OF 2023
WITH
INTERIM APPLICATION (L) NO. 3692 OF 2023
IN
SUO MOTU PUBLIC INTEREST LITIGATION NO. 1 OF 2023
WITH
INTERIM APPLICATION (L) NO. 5960 OF 2023
IN
SUO MOTU PUBLIC INTEREST LITIGATION NO. 1 OF 2023**

Bombay Bar Association ...Applicant
In the matter between
High Court On Its Own Motion ...Petitioner
Versus
State of Maharashtra ...Respondent

**WITH
WRIT PETITION NO. 630 OF 2013**

Pankaj Kumar H Agrawal & Anr ...Petitioners
Versus
The State of Maharashtra & Another ...Respondents

**Dr Milind Sathe, Senior Advocate, with Armin Wandrewala,
Namrata Vinod & Mukul Taly, i/b S Mahomedbhai & Co, for the
Applicant in IAL/5960/2023.**

Mr Dipesh Siroya, *for the Applicant in IAL/3692/2023.*

Mr Anand Mishra, *i/b AM Saraogi, for the Petitioner in
WP/630/2023.*

**Mrs PH Kantharia, GP, with Amit Shastri, AGP, for the
Respondent-State.**

**Mr SU Kamdar, Senior Advocate, with Sagar Patil, for the
Respondent-MCGM.**

Mr Kathe, Deputy Superintendent (License Department), is present.

**CORAM G.S. Patel &
Neela Gokhale, JJ.**
DATED: 3rd March 2023

PC:-

1. There is an Interim Application filed by the Bombay Bar Association in the Suo Motu Petition. This complains about persons using the footpaths and sidewalks essentially around the Flora Fountain / High Court area. There is no complaint as yet about construction, but only about these persons, from the photographs annexed to the Interim Application, clearly poor people, who use the footpath to sleep. They live there.

2. There are many dimensions to the issue presented. We do not think it would be appropriate to list them all today in the Interim Application. But it does seem to us that the Interim Application is on a point quite distinct from the Suo Motu Writ Petition and indeed the originating Petition that is Writ Petition No. 630 of 2023. Those matters were concerned with the use of footpaths and sidewalks for commercial purposes by erecting stalls or permitting vending outside the Hawkers Policy. Those Petitions were not

intended to cover the issue raised in the present Interim Application.

3. We do not suggest that the issues in the Interim Application should not be addressed or that they are trivial. In no city in the world are the problems of the homeless and of shelters for the homeless trivial. But each city has probably to deal with this in a manner best suited to that city.

4. All that we can do in the Interim Application is to permit the Petitioners to file it as a separate Writ Petition or Public Interest Litigation and then obtain the necessary directions from the Hon'ble the Acting Chief Justice on the administrative side. We therefore make no orders on this Interim Application except to this limited extent. Should that Petition by the BBA, once filed, be assigned to this Court, we grant the present Applicants liberty to move for a listing.

5. Mr Kamdar for the MCGM states that while Affidavits have been prepared in the suo motu Writ Petition, he personally would like to reconsider them. These Affidavits are therefore presently not to be filed. We grant time until 17th March 2023 to file those affidavits on behalf of the MCGM.

(Neela Gokhale, J)

(G. S. Patel, J)