

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.4278 OF 2022

Sheshmani Abhayraj Pandey

... Petitioner.

V/s.

The State of Maharashtra & Ors.

... Respondents.

Mr. Choudhari Moin, i/by M/s. A.A. Siddiqui & Associates for the Petitioner.
Smt. P.H. Kantharia, GP, a/w Ms. Lavina Kripalani, AGP for Respondent-
State.

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

DATE : 12th December 2024.

PC:-

1) By the present Petition, the Petitioner, an alleged stall owner of a stall that was demolished by the Respondent No.2 Corporation prays for following substantive reliefs:

“a. That this Honourable Court be pleased to declare that The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 is valid and having binding effect upon the Respondents.

b. That this Honourable court be pleased to issue writ of mandamus or any other appropriate writ order and direction directing the Municipal Corporation for Gr. Mumbai to restore the stall i.e. Bindeshwari Pan Bhandar, situated at- A.K. Road, Behind Arasa Hotel, Court Galli, Andheri (E), Mumbai- 400 069, constructed of Tin supported with M.S. Angle with Patra Sheet roof, two side supported by iron sheet and two side stall / Ghsop iss supprted with shutter adm. Area about 5x5 Sq. Ft which has been demolished by the erring officers by named

Mr. Mahesh Manohar Nemade (Sub- Engg. Maintenance), Mr. Dhanraj Rahane (Jr. Engg. Maintenance) and other officers attached with the licence department of K/East Ward, M.C.G.M., Andheri (E), Mumbai, which demolished on 06/01/2021, in contravention of The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and the law declared by the Hon'ble Supreme Court of India as well as Hon'ble High Court Bombay.”

- 2) As far as prayer clause (a) is concerned, the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 is a central legislation and it is the presumption under the law that the government/state shall implement it in its true letter and spirit and in view thereof we could not find any reason to grant prayer clause (a) to the Petitioner.
- 3) As far as prayer clause (b) is concerned, whether the Petitioner erected the stall with lawful authority is a disputed question of fact.
- 4) The Petitioner will have to prove his case by leading necessary cogent evidence in that behalf before a Court of competent jurisdiction.
- 5) As there are disputed questions of fact, the same cannot be adjudicated in our jurisdiction under Article 226 of Constitution of India. In view thereof we find no merits in the Petition and is accordingly dismissed.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)