

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION (L) NO. 11413 OF 2023**

Renu Kapoor & Ors. Petitioners

Vs.

Union of India & Ors. Respondents

Mr. Rajiv Narula a/w. Mr. Gaurav Srivastav and Ms. Mehek Chowdhary I/b. Jhangiani, Narula and Associates for the Petitioners

Mr. D. P. Singh a/w. Ms. Savita Ganoo for Respondent Nos.1 to 4

Smt. P. H. Kantharia, GP with Mr. Milind V. More, Addl.GP for Respondent Nos.5, 12 to 14

Mr. Rohit Sakhadeo for Respondent No.6

Mr. Omprakash Jha with Heenal Wadhwa I/b. The Law Point for Respondent No.7

Mr. C. M. Lokesh for Respondent No.8

Ms. Jaya Bagwe a/w. Ashwin Umrikar for Respondent No.9
MPCB

Mr. Abdul Kader Lokhandwala I/b. Sukanya Bhavmik for Respondent No.10

Ms. Oorja Dhond I/b. S. K. Sonawane for Respondent No.11-
MCGM

Mr. Tejas Bhide with Shivani Pawle for Respondent No.17

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE : AUGUST 30, 2023

P.C.

1. In our order dated 14th June 2023 we required Maharashtra Pollution Control Board (hereinafter referred to as **"the MPCB"**) and all other Respondents to file their reply. It was further provided in the said order that a joint meeting of the Officers of the Mumbai Port Trust, MPCB and the Municipal Corporation concerned shall be held before reply affidavits are filed so that needless conflicts between these parties may be avoided.
2. Learned Counsel representing the MPCB has stated that in compliance of the said order of the Court, a meeting of the Officers was held on 4th July 2023. Minutes of the said meeting were also drawn and thereafter the Officers of the MPCB carried out a visit on the site on the basis of which, a visit report has also been prepared. The minutes of the meeting dated 4th July 2023 are taken on record. From a perusal of the aforesaid Minutes of the Meeting, it is evident that except for discussing individual roles of the Officers of the respective authorities, no concrete, feasible and viable solution has been suggested in the said meeting. The visit report, based on the visit carried out by the Officers of the MPCB is also taken on record. According to

the said visit report, no pollution was found and the reason for the same is that on account of monsoon, fishing activity is closed.

3. The menace of pollution on the Sassoon Dock at Colaba area is not being disputed by any of the Respondents. In our earlier order dated 14th June 2023, we have already observed that the Port Authority is the primary waste generator in terms of Rule 3(56) of the Solid Waste Management Rules 2016 (hereinafter referred to as "**2016 Rules**"). Based on the reading of the said 2016 Rules, it was also observed by the Court in its order dated 14th June 2023 that it will be joint responsibility of the Port Authority, Municipal Corporation and the MPCB to take effective steps to address the issue raised in this PIL Petition. However, even after the direction to hold a joint meeting of the Officers of these three organizations, no decision on any joint effort appears to be in sight.

4. Learned Counsel representing the Port Authority has drawn our attention to another perspective of the situation by submitting that the pollution at Sassoon dock is mainly caused on account of fishing activity in which the low income group

fishermen are involved and further that in case more stringent steps are taken, the same may lead to creation of law and order situation.

5. However, this by itself cannot be the basis for the Port Authority, the MPCB and the Municipal Corporation to shirk away from discharging their statutory duties / obligations cast upon them in terms of 2016 Rules. However, with a view to find a viable solution to the issue raised in this petition, we direct the Petitioner and the other Respondents as well to furnish information, if there are any associations in any form, of the fishermen which can be impleaded as a party Respondent in this petition so that the fishermen may also be given an opportunity of being heard in this matter and they can also be associated with the proceedings of the Court. Accordingly, by the next date of listing, the Petitioners as also the Respondents shall furnish the said information.

6. Before some final solution, with the assistance of the parties and other stake holders, can be found, it appears appropriate for the Court to issue directions to the Port Authority and other authorities / bodies to at least ensure compliance of

various directions and circulars issued in respect of fishing waste being generated at Sassoon Dock.

7. We, thus, direct that the Mumbai Port Authority shall ensure that the instructions contained in the letter / order dated 8th June 2022 which has been annexed at Exhibit-Z to the PIL Petition shall be complied with.

8. Our attention has also been drawn to a letter dated 4th March 2021 written by the Chairperson of the Mumbai Port Trust to the Government of India, Ministry of Ports, Shipping and Waterways, whereby the Government of India has been requested to sort out the issues relating to sanction of revised cost estimate for modernization of Sassoon Dock Fishery Harbour, Colaba.

9. Learned Counsel for Respondent No.6 - Maharashtra Fishermen Development Corporation has stated that the work relating to modernization of the dock is not progressing at the desired pace.

10. We are of the opinion that having regard to the entire facts and circumstances presented before us, the modernization of the

dock will be essential for mitigating the pollution being caused by the solid waste accumulating everyday on account of fishing activity.

11. Thus, we direct that an Affidavit-in-Reply in respect of the said issue shall be filed by the Union of India as well, by the next date of listing.

12. The MPCB, Mumbai Port Authority as also the Municipal Corporation concerned shall also file their affidavits by the next date of listing.

13. Stand over to 4th October 2023.

(ARIF S. DOCTOR,J)

(CHIEF JUSTICE)