

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. OF 2020

IN

PUBLIC INTEREST LITIGATION NO. OF 2020

In the matter of Articles 14, 19, 21, 39 (a), 47
and 226 of the Constitution of India, 1950

AND

In the matter of Epidemic Diseases Act, 1897
2013.

AND

In the matter of the COVID - 19 Pandemic and
the State Response thereto.

AND

In the matter of non availability of ART
Treatment for Positive Persons particularly 3rd
Line ART.

1) Veshya AIDS Muquabla Parishad)
Through Ms. Maya Gurav - President)
Address. Baljagat, Behind Parshwanath)
English Medium School, Balajinagar,)
Kupwad Road, Sangli, Maharashtra, 416416) ... Applicant

In the matter between

1) Ghar Bachao Ghar Bano Andolan)
Having its office at)
c/o Chemical Mazdoor Sabha)
Haji Habib building, 1st floor,)
'A' Wing, Room no. 29-30,)
Naigaon Cross road, Dadar East)
Mumbai 400014.)

2) Homeless Collective)
Having its office at)

C/0 Shushil Sinde,)
2, Gautamimata Nagar,)
B. G. Kher Road, Worli Naka,)
Mumbai : 400018.)

3) Pani Haq Samiti)
Through Sitaram Shelar)
1/2, Shiv Vaibhav Housing Society,)
Majasgaon Tekadi,)
Jogeshwari East,)
Mumbai - 400060)

4) Sudharak Olwe)
41, Tower A/6,)
Godrej Garden Enclave,)
Pirojsha Nagar, Vikhroli(E),)
Mumbao- 400079.)

5) Sumit Wajale)
111,1st floor, Shastri Nagar CHS)

Shastri Nagar Bandra (East))
Mumbai 400 051) ... Petitioners

Versus

1. Municipal Corporation of Greater)
Mumbai Through its Commissioner,)
Mahapalika Marg, Mumbai - 400 001)

2. Commissioner of Police,)
Commissionerate,)
D N Road, Opp Crawford Market,)
Mumbai)

3. State of Maharashtra, through)
The Chief Secretary)
Mantralaya, Mumbai-400023)

4. State of Maharashtra)
Through its Secretary,)

Department of Social Justice &)
Special Assistance)
1st Floor, Annex Building,)
Mantralaya, Madam Cama Road,)
Hutatma Rajguru Chowk,)
Nariman Point, Mumbai - 400032)

5.State of Maharashtra)
Through its Addl. Chief Secretary,)
Department of Finance,)
New Customs House,)
Shoorji Vallabhdas Rd, Ballard Estate,)
Fort, Mumbai, 400001`)

6. State of Maharashtra ,)
Through its Secretary,)
Women and Child Development Department)
3rd Floor, New Administrative Building)
Madam Kama Road, Hutatma)
Rajguru Chowk, Mumbai 400032)

7. State of Maharashtra,)
Through Secretary,)
Ministry of Consumer Affairs,)
Food and Civil Supply Department)
Mantralaya, Mumbai- 400032)

8. State of Maharashtra)
through the Principal)
Secretary, Urban Development Department))
having its office at)
Mantralaya, Mumbai)

9. State of Maharashtra)
Through its Secretary,)
Rural development Department)
Having its office at Mantralaya, Mumbai)

10. State of Maharashtra)
through the Principal)

Secretary, Health Department)

having its office at)

Mantralaya, Mumbai)

11. State of Maharashtra)

through the Secretary,)

Water & Sanitation)

having its office at)

Mantralaya, Mumbai)

12. State of Maharashtra)

through the Secretary,)

Industry & Labour,)

having its office at)

Mantralaya, Mumbai)

13. State of Maharashtra)

through the Secretary,)

School Education & Sports,)

having its office at)

Mantralaya, Mumbai)

14. Union of India through the Secretary,)

Ministry of Housing & Urban)

Poverty Alleviation, having its)

Office at Nariman Bhavan, New Delhi)

15. Union of India through the Secretary,)

The Ministry of Labour & Employment)

Through Secretary,)

Shram Shakti Bhawan, Rafi Marg,)

New Delhi, 110001)...Respondents

TO,

THE HONOURABLE THE CHIEF JUSTICE AND OTHER HONOURABLE
JUDGES OF THE HIGH COURT OF JUDICATURE AT BOMBAY

THE HUMBLE PETITION OF THE PETITIONERS

ABOVE NAMED

MOST RESPECTFULLY SHEWETH

1. The Applicant is a registered voluntary organisation working with HIV+ Persons at Sangli and Kolhapur and works closely with Maharashtra State AIDS Society.
2. The present application seeks reliefs for providing Antiretroviral treatment drugs to HIV positive persons at Sangli and Satara, amidst intercity travel restrictions in wake of orders imposed by State government to control the rapid spread of Covid-19
3. Facts leading to the present Application are as follows;
 - a. The application is filed on behalf of HIV positive persons who are residents of Sangli and Satara and are having to travel to JJ Hospital in Mumbai for their 3rd Line ART Treatment. While the Applicants represent a few such persons in need of treatment, the number of persons requiring such treatment is substantially higher.
 - b. Positive persons are entitled to free Anti Retro Viral Therapy Treatment for Free. Free 1st Line ART has come to be provided to Positive

Persons under orders of the Hon'ble Supreme Court. Subsequently 2nd Line and 3rd Line Treatment came to be provided for Free in lines of the directives of this Hon'ble Court where a Division bench vide order dated 13.08.2009. Copy of the order of the division bench of this Hon'ble Court, dated 13.08.2009, is hereto annexed and marked as **EXHIBIT A** and order dated 7.09.2009 is annexed at **EXHIBIT B**.

- c. ART treatment came to be provided for free of cost as the Constitutional Courts were cognizant of the exorbitant costs associated with ART treatment and the fact that many of those in need of ART Treatment are unable to afford the same.

- d. HIV-AIDS is a medical diagnosis of an individual with a compromised immunity. A compromised immunity is borne out by the CD4 count of an individual. Persons are put onto ART treatment on the basis of the CD4 count that is to say when the CD4 count goes below a particular range a person is advised to go onto a ART treatment.

- e. An essential ingredient of the ART treatment is that a person is required to consistently take his daily medication. A failure to stick to one's daily medical regime has debilitating and fatal consequences for persons on ART Treatment and may also lead to drug resistant HIV .

- f. In the present instance the Applicant represents numerous persons who are on 3rd Line ART treatment in the cities of Sangli and Satara. These persons travel to Mumbai at least once a month to collect their dosage of monthly ART medication. This is no longer possible due to the stoppage of Inter City Transport facilities particularly public transport.

- g. Given the circumstances it is imperative that an arrangement be arrived at for decentralising the dispensation of 3rd Line ART treatment be arrived at on a priority as it would be inhumane to expect persons with compromised immunities to undertake intercity travel monthly for their treatment in the midst of this pandemic.

- h. That those on 3rd Line ART Treatment are not able to access the same from the private sector due to financial constraints, and this too under the assumption that such medication is available in the private sector if at all

- i. That even otherwise those on 3rd Line ART will not be able to access private transport arrangements to make it to Mumbai and back given its exorbitant costs.

4. The Applicant therefore prays;

- a) That given the exigent circumstances this Hon'ble Court be pleased to dispense with the affixing of the Applicant's signature and affirmation to the present Application on necessary undertakings.

- b) That this Hon'ble Court be pleased to issue a Writ, Order or direction in the nature of Mandamus directing the Respondents to ensure that all HIV+ persons are able to attain ART Treatment including 3rd Line ART Treatment in their respective Districts itself.

- c) Pending hearing and final disposal of this Application the Respondent Authorities be directed to make available 3rd Line

- d) Interim and Ad- interim in terms of prayer (b)

- e) For such other and further relief as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Dated this _____ day of March, 2020

VERIFICATION

I, _____, Age _____, presently residing at _____,
do hereby state and solemnly declare that what is stated in Para. No. 1 to 3 is true to
my own knowledge and what is based in the remaining Paras no 4 is stated on
information and belief and I believe the same to be true.

Solemnly affirmed at Mumbai _____)

on this day of _____ March, 2020 _____)

Applicant

Identified by me

Advocates for the Applicant

Before me

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IA NO OF 2020

IN

PIL NO OF 2020

Ghar Bacho Ghar Bano Andolan)

& 4 others) ...Petitioners

Versus

MCGM & Others) ...Respondents

Dated this day of March, 2020

Kranti LC/Niranjan Deshpande/Mohammad Abdi/V G Sreeram

Advocate for the Petitioner

403, Sheel Chambers

Cawasji Patel Marg

Fort, Mumbai-400001

Advocate Code No.

Kranitlc@gmail.com

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