

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. OF 2020

IN

PUBLIC INTEREST LITIGATION NO. OF 2020

Ghar Bachao Ghar Banao Andolan) ... Applicant
(Original Petitioner)

IN THE MATTER BETWEEN:

Ghar Bachao Ghar Bano Andolan)
& 4 Ors) Petitioners

V/s

Municipal Corporation of Greater Mumbai)
& Ors.) Respondents

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

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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 The National Food
Security Act, 2013

AND

In the matter of Epidemic Diseases Act,
1897

AND

In the matter of the Essential
Commodities Act, 1957

AND

In the matter of the Drug Price Control
Order (DPCO), 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.

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.) ...
Applicants

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/O Shushil Sinda,)
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 Cama 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. I say that the Applicant No 1 (Original Petitioner herein) is an organisation that has been working in the City of Mumbai among other cities, particularly along with the Homeless, Slum Dwellers and other marginalised communities on Housing,

Food and Water Rights among other issues. The Applicant has on numerous previous occasions canvassed the rights of the urban poor among others before this Hon'ble Court. Hereto annexed and marked as EXHIBIT A is a copy of some of the previous orders of this Hon'ble Court on the Petitions filed by the present Applicant (Original Petitioner herein).

2. I say that the present IA seeks dispensation of certain procedural requirements with regard to the filing and numbering of the Public Interest Litigation No. ____ of 2020, in light of the urgency of the reliefs sought and the dire situation on the ground with regard to the outbreak of the novel Coronavirus.
3. I say that the present Public Interest Litigation petition has been filed seeking to assist the state of Maharashtra in the present crisis of the widespread increase in cases of the Covid-19 by identifying traditional blindspots that have either been denied civic services or civic services have been late to come by. The petitioners seek to petition the Hon'ble Court to ensure that the urban poor and other marginalised communities have an equitable chance at survival through adequate healthcare and civic services.
4. I say that prior to filing of this Petition a notification dated 14.03.2020 issued by The Hon'ble High Court, stating that, *“considering the safety and welfare of all the litigants, lawyers, staff members and the parties appearing in-person, security,*

maintenance and support staff, interns”, directed that the functioning of courts be restricted to urgent matters only.

5. That the Hon’ble Court has appealed to all the Bar associations and the Advocates that they shall endeavor to restrict the entry of the litigants in the Court. That, by a supplementary notification dated 16.03.2020, the Hon’ble Court has directed that the Office of Registry shall function from 17.03.2020 at 11.30 a.m. to 3.30 p.m. at all Benches and High Court of Bombay at Goa and by reducing working strength upto 50% until further orders. A copy of the notification dated 14.03.2020 and 16.03.2020 has been marked and annexed hereto as EXHIBIT B and notification dated 16.03.2020 has been marked as EXHIBIT C.
6. I say that consequently the intercity communication through its suburban train system came to be closed on 22.03.2020.
7. I say that on 23.03.2020, the Government of Maharashtra, vide the Department of Revenue and Forest, issued a notification putting a state on effective lockdown immediately. All public transport operations have been suspended and the borders of the state have been closed. As per the notification, residents of the state have been asked to stay at home and come out only for permitted activities. A copy of the said notification dated 23.03.2020 has been marked and annexed hereto as EXHIBIT E.

8. I say present petition came to be crafted among various civil society organisations and individuals and their lawyers By coming together with the use of technology.

9. I say that keeping in line with the advisory issued by the WHO, Union of India as well as the State of Maharashtra the Petitioners sought to file the present petition without undertaking a journey across the length and breadth of Mumbai. Accordingly the Petitioners have written to their advocates requesting dispensing with the personal affixing of their presence for signature and affirmations to the present Petition, Affidavit and the Vakalatnama.

10. Accordingly on 23 March 2020, when the office of the present advocate representing the petitioners sought to present the present PIL without signatures and the necessary affirmation same was not accepted by the Department, as there are no official instructions to affect.

11. I say that in the present Application the petitioners seek to file the present petition by seeking dispensing of their presence in the light of the above restrictions, as it is extremely onerous to call the Petitioners to the premises of the Court to sign the Petition, Vakalatnama and other paperwork, to them, their families, neighbours and also the Court Staff.

12. It is the case of the petitioners that the cause that they espouse in the present PIL is not only important but also of an imperative nature as it calls for urgent action by the state to address the traditional blindspots in the delivery of Civic Services which inter-alia include Health, Food and Sanitation.

13. The Petitioners undertake that as and when the situation permits they will comply with the necessary procedure of signing the present petition and affirming the same as required by law.

14. I say that subsequently on 23.03.2020 another circular was issued by the Hon'ble High Court modifying the earlier directions placing restriction on the working of the courts for the period during 24.03.2020 to 31.03.2020. A copy of the circular dated 23.03.2020 has been marked and annexed hereto as EXHIBIT D.

15. I say that The Hon'ble Supreme Court in wake of the widespread pandemic of Covid-19 across the country took suo moto cognizance in *Suo Moto Writ Petition 3 of 2020* of resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws. Thereby vide its order dated 23.03.2020 extended the limitation period for filing in all Courts and Tribunals with effect from 15.03.2020. The Hon'ble Supreme Court observed that "*To*

obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.” A copy of the said order dated 23.03.2020 has been marked and annexed hereto as EXHIBIT F.

16.I say that notarisation, affirmation and obtaining the relevant signatures of each of the petitioners ,in compliance with the laid down procedure of the Hon’ble High Court , after the notification of the abovementioned notification, ought to be dispensed with appropriate modifications forthwith to ensure that the urgency of the facts and prayers in the said PIL is remedied by the Hon’ble Court.

17.I say that the Petitioners undertake to comply with the prescribed procedure at any appropriate time as decided by the Hon’ble Court , after the current situation across the city normalises and restrictions on public transport and public gatherings have been lifted.

18.I say that the prayers sought in the concerned PIL are of an extremely urgent nature and pertain to the fundamental rights of

the marginalised and vulnerable populations of the city. I say that the spirit of Public Interest Litigation jurisprudence, as developed by the Hon'ble Supreme Court, has always been to ensure that procedural hurdles do not block access to justice. I say that in light of the outbreak of the COVID-19, it is pertinent that the present prayers be allowed.

19. I say that, in the case of **Bandhua Mukti Morcha vs Union Of India 1984 SCR (2) 67**, the Apex Court has held that, *“For effectively safeguarding the fundamental rights guaranteed by the Constitution, the Court in appropriate cases in the interests of justice will certainly be competent to treat a proceeding, though not in conformity with the procedure prescribed by the Rules of this Court, as an appropriate proceeding under [Article 32](#) of the Constitution and to entertain the same. Fundamental rights guaranteed under the Constitution are indeed too sacred to be ignored or trifled with merely on the ground of technicality or any rule of procedure.”*

20. The Applicant have paid the court fees of Rs ___

21. The Applicant therefore prays that :

- a. That given the exigent circumstances this Hon'ble Court be pleased to dispense with the regular procedural requirements particularly of but not restricted to affixing

the Applicant's signature and affirmation to the present PIL on necessary undertakings.

- b. That this Hon'ble Court be pleased to place the concerned public interest litigation on board on 26.03.2020 for urgent hearing
- c. That this Hon'ble Court be pleased to hear the matter through Video Conferencing.
- d. Ad- interim in terms of prayer (a) and (b)
- e. For such further and other reliefs as per circumstances of the cases.

Dated this _____ day of March, 2020

APPLICANT

Advocate for the Applicant

VERIFICATION

I, Bilal , Age _____ , presently residing at _____ ,
do hereby state and solemnly declare that what is stated in Para. No. 1 to 19
is true to my own knowledge and what is based in the remaining Paras no.
20 to 21 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.

Krantilc@gmail.com

