

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

PIL Writ Petition No.156 of 2006

Mr. Shailesh Gandhi .. Petitioner
vs
The State Maharashtra and Ors. ..Respondents

The petitioner in person present.
Mr. Ravi Kadam, Advocate General with
Mr. Pradeep Jadhav AGP for the respondents.

With PIL Writ Petition No.6 of 2007

Forum for Improving quality of life
in Mumbai Suburbs through its Chairman
Secretary and Joint Secretary. .. Petitioners

vs

The State of Maharashtra and ors. ...Respondents

Mr. N.V. Walawalkar Senior Advocate- Amicus Curiae for
petitioners

Mr. Ravi Kadam, Advocate General with Mr. N.P. Pandit AGP
for Respondent- State

Mr.S.G. Surana for applicant in C.S.No. 77 of 2007

Mr. G.D. Utangale i/b M/s Utangale and Co for respondent No.2

Ms P. A. Purandare for respondent No.4-BMC.

CORAM: J.N. PATEL,Acg C.J. ,&
S.C.DHARMADHIKARI, J.

DATE: March 7, 2007.

P.C.:-

Heard the learned counsel for the parties.

1. On 7th February 2007, a proposal was made to this court by the learned Advocate General, which was later examined and this court by its order dated 24th February 2007 accepted the Government's stand and it has appointed Mr. B.K. Agrawal, retired IAS Officer to look into the complaints, which have been agitated in these petitions. Mr. Gandhi, who has filed Writ Petition No. 156 of 2006, has cited 86 complaints, out of which the learned Advocate General, as directed by this court, has identified 10 major cases so that the Commissioner appointed by the State can concentrate on these 10 cases and this proposal was given to the learned counsel for the petitioners and concerned respondents for examination so that this court can pass appropriate directions. It was also observed by this court that a Senior Police Officer also assists in the investigation and that is how the matter was adjourned.

2. Now after examining the issue and particularly, the circular which has been pointed out to us by the learned Advocate General that is circular dated 29th December, 2006 issued by the Housing Department, Government of Maharashtra, relating

to the constitution of inquiry committee for inquiring into the complaints received in respect of the slums rehabilitation scheme, which was issued in the context of a circular of Home Department dated 21st February, 1972, which provides for procedure for entrusting the work of investigation against mal-practices in government offices, we are of the view that the proposal of the State to nominate Mr. B.K. Agrawal, retired IAS officer as per the aforesaid circular to examine 10 cases, would not serve the purpose and also will not subserve the larger public interest. It will be in the fitness of things that the respondent-State adopts the procedure provided in the circular dated 21st February 1972 issued by its Home Department, and nominate senior officials, (preferably an I.A.S. Officer- non Departmental) not below the rank of Principal Secretary of the concerned department and to entrust the inquiry in respect of complaints against Sublime Servants for their scrutiny and take steps in accordance with the guidelines issued in the said circular dated 21st February, 1972. We make it clear that the court has not accepted the proposal made by the State Government as not feasible without expressing any opinion as regards the appointment of Mr. Agrawal and further it will be in consonance with the provisions in the circular dated 21st February 1972. We expect the learned Advocate General will

take instructions in the matter and apprise this court as to within how much time such exercise can be completed.

3. Our attention was also invited by the petitioner who is appearing in person in PIL No.156 of 2006 to Annexure D viz., an application made on 27th October, 2006 seeking information from the Public Information Officer, Additional Commissioner of Police, ACB, Mumbai. That application has been replied to by the Additional Commissioner of Police, ACB, Brihanmumbai Division, Mumbai on 7th November, 2006. The reply confirms receipt of 89 complaints and states that in pursuance of the orders of the Court, three F.I.Rs have been registered, details of which are set out at Exh.F. Thus, the contention is that offences under the Prevention of Corruption Act and other penal laws have been committed and are required to be investigated and the persons concerned dealt with in accordance with law. Therefore, it is necessary to issue directions to the concerned authorities to process all complaints and take action in accordance with law.

4. From a perusal of the petition and the annexures thereto so also above letters, prima facie, we are of the view that direction need to be issued for expeditious investigation of these

cases. The aforesaid direction is besides the cases which have been reported to the Police/ACB and in respect of cases where FIRs have been lodged, the concerned Police Station/ Department/ ACB would process those cases in accordance with the procedure prescribed for investigation of such cases and if the report discloses cognizable offence, register FIRs in the matter and investigate the cases as expeditiously as possible. We expect the State would provide all the necessary assistance in the form of infrastructure/ logistic and sufficient personnel to assist the concerned Police Station/ Department/ ACB to facilitate speedy investigation into these cases, giving them top priority, which is the need of the day, considering the large scale corruption reported in the implementation of the SRA scheme.

5. Mr. Walawalkar, Senior Advocate, who has been appointed as Amicus Curiae in Writ Petition No. 6 of 2007 submits that considering the subject matter of the petition, the court may pass appropriate orders, so that he can take the assistance of his colleagues at the Bar and, therefore, seeks appointment of a team of Advocates to assist him. We make it clear that Mr. Walawalkar is free to make choice from

his colleagues, whose assistances he requires in the matter so that this court can nominate them on the panel to assist him.

Adjourned for two weeks.

ACTING CHIEF JUSTICE

S.C. DHARMADHIKARI, J.