



Sumedh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 3195 OF 2018
WITH
CHAMBER SUMMONS NO. 235 OF 2019
IN
WRIT PETITION NO. 3195 OF 2018
WITH
CHAMBER SUMMONS (L) NO. 260 OF 2019
IN
WRIT PETITION NO. 3195 OF 2018
WITH
CHAMBER SUMMONS (L) NO. 262 OF 2019
IN
WRIT PETITION NO. 3195 OF 2018
WITH
CHAMBER SUMMONS (L) NO. 254 OF 2019
IN
WRIT PETITION NO. 3195 OF 2018**

Jiv Maitri Trust

...Petitioner

Versus

Union of India & Ors

...Respondents

Mr Harish Pandya, with Siddh Vidya, Shalaka, Raju Gupta, Mukesh

Gupta, Neelam Yadav i/b Siddh Vidya & Associates, for the Petitioner.

Mrs PH Kantharia, GP, with Jyoti Chavan, Addl GP, for the Respondent-State.

Dr Milind Sathe, Senior Advocate, with S Tondwalkar i/b Sunil Sonawane, for the Respondent-BMC.

Dr Sharad Aarakh, Dy Superintendent of Market-Present.

Dr Shivali Gangawane, Sr Veterinary Officer with Dr Pathan KA (GMDA)-Present.

Mr Mubin Solkar, with Arif Siddiqui, Mhod Naved J Mulla, Shabbir Shohra, Zaid Ansar, Anas Shaikh i/b Zain Khan, for the Applicant/Intervenor in CHSW(L)/262/2019.

**CORAM M.S. Sonak &
Kamal Khata, JJ.**

DATED: 13th June 2024

PC:-

1. Heard learned counsel for the parties.
2. Based on a praecipe and by seeking urgent circulation, the Petitioners seek interim relief to restrain implementation of communication dated 29th May 2024. Learned counsel for the Petitioner submits that on account of urgency such course of seeking interim relief based on a mere praecipe is adopted.
3. At the outset we are not sure if this is the appropriate course to seek interim reliefs in a pending Petition. We granted production in the morning session, we were under the impression that an application for interim relief has been filed and production of that application is sought for this afternoon.

4. Be that as it may, Dr Sathe learned senior Advocate for the Brihanmumbai Municipal Corporation (“**BMC**”) and Mr Mubin Solkar appears in that proposed intervenors in Chamber Summons (L) No. 262 of 2019 submitted that such applications are invariably made on the eve of Eid festival. They refers to order dated 8th June 2023 by which rule was issued in this Petition but interim relief was declined. This Court noted that in case there was any violation of the policy or legal requirements or the legal provisions, there was a mechanism put in place to lodge complaints and that mechanism continues to be remain in place.

5. Learned counsel for the Petitioner submits that the communication with regard to which stay is sought for is neither a permission nor some kind of circular. He submits that the statutory source for issuing such communication dated 29th May 2024 is also not known. He submits that this communication is not consistent with BMC’s own policy which is also challenged by the Petitioners in the main Petition.

6. Dr Sathe submits that the communication is applied for only for grant of permission to about 67 private shops and 47 Municipal markets. He points out that this permission is only for three days, i.e., 17th June 2024, 18th June 2024 and 19th June 2024 considering the festivity season. He points out that even in the past similar permissions were granted to about 72 establishments and the Petitioners had not bother to such permissions.

7. Learned counsel for the Petitioner intervenes and states that such permissions were challenged in the last year. However, learned counsel is unable to satisfy us that any interim relief was granted.

8. The Petitioners have also not amended the Petition to challenge the communication dated 19th May 2024. Without amending the Petition and challenging this communication, it would not be appropriate to press for any interim reliefs. Interim reliefs are always in aid of the final relief.

9. Accordingly, for the above reasons, we decline any Interim Relief to the Petitioners.

(Kamal Khata, J)

(M.S. Sonak, J)