



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2172 OF 2024

Chandan Sharad Pawar
Versus
The Municipal Corporation of
Greater Mumbai & Ors.

...Petitioner
...Respondents

WITH
WRIT PETITION NO. 1178 OF 2024

Pravin Dhudidas Makawana
Versus
The Municipal Corporation of
Greater Mumbai & Ors.

...Petitioner
...Respondents

WITH
WRIT PETITION NO. 346 OF 2023
WITH
REVIEW PETITION (L) NO. 12801 OF 2023
AND
INTERIM APPLICATION (L) NO. 7082 OF 2023
IN
WRIT PETITION NO. 346 OF 2023

Akhil Bharatiya Safai Kamgar
and General Union
Versus
The Government of India
Through Chief Secretary

...Petitioner
...Respondent

Mr. Jaymangal Dhanraj a/w. Mr. Pankaj Jadhav, Ms. Swati Rathod, Mr. Laxman Muppan, Advocate for Petitioner in W.P. 2172 OF 2024.

Dr. Suresh Mane a/w. Mr. Dinesh R. Sonawane, Advocate for the Petitioner in W.P. 1178 of 2024.

Mr. Mihir Desai, Senior Advocate a/w. Ms. Rishika Agarwal, Advocate for the Petitioner in W.P. 346 of 2023.

Mr. N. V. Walawalkar, Senior Advocate a/w. Mr. Joel Carlos, Ms. Pushpa Yadav,
Advocate for Respondent – BMC.

Mr. Murlidharan Kalathil i/b. Mr. P. G. Lad, Advocate for MHADA

Ms. Anjali Helkar, G.P. for Respondent – State.

**CORAM: G. S. KULKARNI &
DR. NEELA GOKHALE, JJ.**

DATE: 31st AUGUST 2026

P.C.

1. These are proceedings which pertain to the benefit as conferred by the State Government to the sanitary workers of the Mumbai Municipal Corporation who perform the most vital public health functions touching the society at large. It is for such purpose the State Government formulated a policy in the year 2008 obligating the Municipal Corporation to provide housing to the sanitary workers on ownership basis. It requires no elaboration that sanitary workers remain amongst the most exploited, marginalized and vulnerable workforces. They cannot be met with a plight of a systemic neglect, when it comes to their entitlement under the avowed Government Policy, to provide a permanent roof over their heads. For almost 18 years their plea for such benefit has been neglected by the Municipal Corporation. The question is whether the Municipal Corporation with an abundance of resources available to it, including valuable lands which have already vanished from its public pool of lands for several reasons would continue to deprive the sanitary workers of such benefits. Also would it at all be conscionable for the Municipal Commissioner and /or the municipal machinery to neglect such

class of employees merely because they belong to the lowest rung in the hierarchy of employees of the Municipal Corporation. We are of the clear opinion that the law would not permit the Municipal Corporation to discriminate against the sanitary workers, bearing in mind the constitutional principles of safeguarding their interests in every possible manner. It is with this preface that we address the immediate concerns arising from today's hearing.

2. It is unfortunate that, despite clear orders passed by this Court on 10th August 2026, an affidavit of the Municipal Commissioner as affirmed today is placed on record which sadly does not comply with the said orders passed by the Court. The said orders were unambiguous, plain and simple, as is evident from what was observed therein and more particularly in paragraphs 3 and 4 thereof.

3. We had heard the present proceedings in the morning session and considering such affidavit of the Municipal Commissioner tendered by Mr. Walawalkar, learned Senior Advocate representing the Corporation, we requested Mr. Walawalkar that he should discuss the same with the Municipal Commissioner by indicating that there was something drastically amiss in the said affidavit, and as to what should be the appropriate approach to be adopted, in the facts and circumstances of the case. This more particularly given that the order dated 10th August 2026 was clear of such expectations the case would require. We accordingly passed over the matter to be called out at 3 p.m.

4. At 03:00 p.m. in the post-lunch session, Mr Walawalkar has stated that he had a discussion with the Municipal Commissioner, who has instructed him to

make a statement before the Court, that she has nothing further to add beyond what is set out in today's affidavit filed by the Municipal Commissioner.

5. We are quite surprised with such stand taken by the Municipal Commissioner, primarily for two reasons, firstly, the Municipal Commissioner's affidavit, in our opinion, clearly does not comply with what was observed and accepted by this Court, as set out in paragraphs 3 and 4 of the order passed by this Court on 10th August 2026. This apart, our order dated 10th August 2026 was based on an earlier affidavit filed by the Municipal Commissioner, in which we had appreciated that a fair stand was taken in paragraph No. 9 of the said affidavit, to the effect that the Municipal Commissioner would take stock of such lands which belong to the BMC and would take all possible steps to ensure that the same are identified for inclusion in the pool of lands for the purpose of implementation of the Government Resolution dated 22nd October 2008. By such Government Resolution, the State Government has taken a well-considered policy decision that the sanitary workers employed by the Municipal Corporation be given accommodation on ownership basis. Considering the nature of their work and their dedicated services to the Municipal Corporation, this policy, although framed in 2008, quite surprisingly, has not been implemented even to an inch, by the Municipal Corporation despite the passage of about 18 years. The sanitary workers since then are running from pillar to post to get the fruits of the said Government Policy.

6. It is in these circumstances that we had made observations more particularly in paragraphs No. 3 and 4 of our Order dated 10th August 2026. For convenience,

the order dated 10th August 2026 is reproduced herein below:

“1. On 17/07/2026, this Court passed an order whereby directions were issued to the Municipal Corporation to file an Affidavit placing on record the details of all the lands available with the Municipal Corporation, so as to ascertain whether it has any land or any other resources to implement the State Government policy in regard to providing free housing to the employees who are Sanitation workers / Safai Karmacharies. Pursuant to the said order, an Affidavit is filed by the Municipal Commissioner dated 21st July, 2026. We have perused the said Affidavit. Paragraphs 4, 5 and 7 of the said Affidavit are required to be noted, which read thus :-

“4. I say that pursuant to the order passed by this Hon'ble Court and within the short time available with me I am placing: certain information for the perusal of this Hon'ble Court. I say that as per the records available with the Estate Department, there are approximately 4,176 properties allotted on leasehold basis.

5. Further, there are about 3,505 BMC tenanted properties, including staff quarters, which are occupied by municipal tenants/municipal staff. In addition, there are around 3,668 vacant land tenancies which were allotted long back under agreements between the Municipal Corporation and the respective vacant land tenants. The said lands are presently in use in accordance with the terms and conditions of the respective agreements.

7. The BMC has recently prepared the Development Plan for the areas falling within its jurisdiction. The Sanctioned Development Plan shows approximately 8,000 existing amenities, including educational institutions, healthcare facilities, open spaces, housing, public utilities and facilities, public offices, social amenities, and municipal services for the benefit of the general public. In addition, the Development Plan earmarks approximately 6,000 reservations for various public purposes. These reserved lands are proposed to be acquired by the Corporation, as and when required, in accordance with the provisions of the Maharashtra Regional and Town Planning Act, 1966, the Development Control and Promotion Regulations (DCPR 2034), and other applicable statutory provisions, to facilitate the creation of public amenities and infrastructure for the benefit of the general public.

9. As stated in the affidavit dated 17.7.2026 of the Chief Engineer (SWM), I will be taking stock of such lands which belong to the BMC and will take all possible steps that the same should be identified for use in the pool of lands for the purposes of the implementation of the GR dated 22.10.2008.

10. I say that the disposal of the lands belonging to the BMC is not at the sole discretion of the Commissioner. I say that various aspects like the DP reservations under the MR & TP Act, the budgetary provisions for the same under the MMC Act and even the power of disposal under the MMC Act have to be taken into consideration before any such land is allotted for construction of houses for such workers. I say that as on date, as per the terms of the said government resolution the State Government will have to allot land/s to the BMC for the implementation of the said G.R. and only then can further course be charted towards implementation of the same.”

2. Thus, a fair stand has been taken on behalf of the Municipal Commissioner in paragraph 9 of the affidavit (supra), that the Municipal Commissioner will be taking stock of such lands which belong to the BMC and will take all possible steps to identify them for its use in the pool of lands for the purposes of implementing the GR dated 22/10/2008. As also in paragraph 10 of the Reply Affidavit (supra), it is stated that as per the terms of the said Government Resolution, the State Government will have to

allot land/s to the BMC for the implementation of the said GR and only then, further course/action would be charted towards implementation of the same. However, the said recourse would be required to be taken only when the Municipal Corporation encounters a situation where, as on date, there is no land whatsoever available with the Municipal Corporation to be utilized for the purpose of implementation of this policy. We hope that on a deeper scrutiny and appropriate allocation such situation does not arise.

3. In these circumstances, we are of the opinion that on such issues, some clarity is required to come on record. It is necessary for this purpose for the Corporation to file a further affidavit. After an extensive examination of the lands in its pool, the details of the same be furnished in a list of such properties, as set out in paragraphs 4, 5 and 7, of the aforesaid affidavit of the Municipal Commissioner, which states that about 4,176 lands of the Municipal Corporation of Greater Mumbai are allotted on leasehold basis (paragraph 4), about 3,505 BMC tenanted lands (paragraph 5), and approximately 8,000 existing amenities, as set out in paragraph 7. Out of these properties, how much of this land can be used for creating housing for the Sanitation workers to implement the State Government policy, needs to be ascertained, firstly at the level of the Municipal Corporation, and if necessary, after hearing the learned counsel for the parties, the Court would be required to form an independent Committee to ascertain the usage and utility of all the lands in the pool of the Municipal Corporation, so that the State policy to maintain the dignity and fulfill the housing requirements of the Sanitation workers is duly respected by the Municipal Corporation.

4. Let the details of the aforementioned lands, as directed by us, be placed on record by the Municipal Commissioner, so that a fair stand as taken by the Municipal Commissioner in paragraph 9 of the said Affidavit can be tested. The Municipal Commissioner may also clarify as to which land would be feasible and can be utilized for constructing the houses as per the policy of the Government to accommodate such employees. It is only after such well considered Affidavit is filed, a clear perspective would be available on record as to whether the Municipal Corporation would be required to approach the State Government to locate the Government's land to implement the State Government policy at the hands of the Municipal Corporation."

5. Let such Affidavit be placed on record within a period of three weeks from today. A copy of the same be furnished to the Advocates for the Petitioners in the respective Petitions, well in advance prior to the adjourned date of hearing.

6. After such Affidavit is placed on record, we will proceed to hear the parties and pass appropriate orders.

7. All contentions of the parties are expressly kept open.

8. We direct the concerned officers from the different departments dealing with such Municipal lands to give detailed and specific information to the Municipal Commissioner of all the lands including any open lands so that the Municipal Commissioner can provide absolute clarity on the issue.

9. List the matters, first on board, on 31 August 2026."

(emphasis supplied)

7. In this view of the matter, as we are not satisfied with the affidavit of the Municipal Commissioner as tendered today, we have no alternative but to direct the Municipal Commissioner to place on record a further affidavit setting out the details of all the municipal lands as referred in the earlier affidavit of the Municipal

Commissioner, including all the details of such lands qua its present occupancy, as referred in paragraph 3 of the order dated 10th August 2026, so that further appropriate orders can be passed. Without such details to accept any vague case being put up by the Municipal Corporation, would certainly not be in the interest of justice. Hence, let the appropriate details of such lands be brought on record in the present proceedings, as directed.

8. We may also observe that, at this stage, we refrain from drawing any inference that, although the order passed by this Court was clear, for some reasons there was any attempt on the part of some Municipal officers to suppress such information and/or that there was an intention that the Court be not apprised of the details of the lands and the nature of lands. This more particularly when the Court can take sufficient judicial notice as to how large tracts of municipal lands have vanished from the municipal pool of lands including those which were permitted to be encroached by slums and thereafter, handed over to the private developers to be developed as slum schemes, thereby conferring a bonanza of such municipal gift to such encroachers and the other beneficiaries. However, on the other hand, the Municipal Corporation's own sanitary workers are being deprived of housing for 18 years. We may thus observe, that when the orders passed by the Court were clear, they ought to have been complied in letter and spirit. We, hence, regret the Municipal Commissioner being advised to file such affidavit when every word of our prior order had significance in relation to the controversy in hand, which required a deeper sensitivity and due consideration on the issues.

9. We accordingly adjourn the proceedings to **9th September 2026 (to be listed First On Board)**, to enable the Municipal Commissioner to reconsider the contents of today's affidavit and place an appropriate fresh affidavit on record.
10. We accordingly propose to hear the parties on the adjourned date of hearing and pass further appropriate orders.
11. Stand over **9th September 2026**. To be listed first on the Board. Part Heard.

(DR. NEELA GOKHALE, J)

(G. S. KULKARNI, J.)