



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Terminus (VT), Mumbai - 400 001
Tel : 2207 3434 Fax : 2207 3434, 2209 2857 Website : <http://mshrc.maharashtra.gov.in>

SHRC/VGM/08/2010/ 2145

Date: 26 August 2010



Case No. – 4315/2007-08

Name of the complainant : Pramodanand Prathisthan
Shapariya Bldg., 1st Floor,
Opp Camabaug, 74 Raja Ram Mohan Roy Marg
Mumbai - 400 004

Vs.

The Ward Officer
(D – Ward), BMC, Mumbai

Date : 17 August 2010
Coram : Justice V G Munshi, Member

ORDER

Read the averments made in the complaint and the report received from Respondent Asst Commissioner (Ward D) Municipal Corporation, Mumbai. Heard the parties. Read the case papers and seen the photographs filed on record.

2. Present complaint is filed by Shri Pramodanand, Trustee of Pramodanand Prathisthan, Mumbai against Asst. Commissioner (Ward D), Municipal Corporation, Mumbai.

3. Before proceeding with the merits of the case, points to be decided it is necessary to acquaint ourselves with facts and circumstances of the case with which we are concerned.



The complainant is resident of the given address. It is his case that it is the duty of Respondent Corporation to keep the entire residential area, the lanes, roads etc. passing through it regularly neat and clean and in proper condition. The complainant found that no such cleaning and sweeping work is undertaken by the Respondent Corporation, particularly in 'D' Ward area. It was alleged that no such work is undertaken in this area for last five to six years. The result was that this residential area is always full with dirt and unhygienic atmosphere. The complainant therefore, apprehends danger to his life and health, and also to the life and health of other residents of this area. It was added that the residents of this area therefore, suffer from number of diseases and are thus, leading miserable life. It was the grievance made by the complainant that the Respondent since last 5-6 years refused and totally neglected this work. Therefore, the complainant moved the Commission for necessary action.

4. The Respondent BMC, Mumbai by filing their report denied and disputed all the allegations of inaction made against them in the complaint. According to them firstly, the present complaint is not maintainable, within the meaning of Section 2 (d) and 12 of the Protection of Human Rights Act, 1993. Secondly, it does not make out a specific case of violation of human rights. Thirdly, the liability of the Respondent to keep the place neat and clean is limited to a public place. In short according, to the Respondent present complaint is made without any substance and therefore, needs to be dismissed.

5. The complainant appeared before Commission in order to substantiate his case and also filed and relied on the photographs. If one sees the photographs then we have to accept that the public places, lanes etc. are not at all properly cleaned. Therefore, there is reason to believe and accept that these places, lanes, roads in the given area are not regularly and properly cleaned. There cannot be any difference of opinion on the point that it is the duty of the Respondent Corporation and it is incumbent upon Corporation to clean these premises daily and to keep health atmosphere ~~and~~ in that area. Therefore, words cannot lie in the mouth of the Respondent that, it was not their duty to do all these things. If dirt is allowed to be accumulated in that area then it will certainly create unhygienic atmosphere in that area. The apprehension of danger to life and health of the persons of that area is genuine. In any case it is not permissible, and that too at the cost of the health of the residents.

6. The question arises in this matter is whether Commission has jurisdiction to entertain, deal and decide such issue. Section 12 of the Protection of Human Rights



R/R,HRG AND CLOSED

Act, 1993 deals with functions and powers of the Commission. The relevant portion of Sec. 12 (a) (i) of the Act of 1993 is reproduced as under.

Sec. 12 (a) (i)

“The Commission shall perform all or any of the following functions namely (a) inquire suo motu or on a petition presented to it by a victim or any person on his behalf into complaint of (i) violation of human rights or abatement thereof....”

Therefore, the complainant has to make out a case of violation of human rights, in view of the meaning assigned to the definition of “human rights” given under Sec. 2 (1) (d) with Sec. 12 (a) (i) of the Act of 1993.

Section 2 (1) (d) of the Act 1993 reads as under.

Sec. 2(i) (d)

“Human Rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in International covenants and enforceable by Courts in India.”

All the issues raised by the complainant relate to the life, health of an individual. The complainant is entitled to lead life in a health atmosphere. The inaction on the part of the other side amounts to violation of human rights. Therefore, the Commission has got jurisdiction to deal and decide such issue and when it is shown that it affects the human rights of an individual.

7. The health of a resident / citizen assumes great importance and is the matter of paramount consideration. Therefore, it is necessary to view the situation in this case through this angle. At the same time it is incumbent upon the Respondent to do their duty of cleaning the area regularly in order to avoid the probable danger of diseases etc. The Commission hopes and trusts that Respondent Corporation to perform their duties properly and to keep the area neat and clean for ever. In view of the provisions of Sec. 18 of the Protection of Human Rights Act, 1993, I make following recommendations.



R/R,HRG AND CLOSED

- (i) Asst. Commissioner (Ward 'D') Municipal Corporation, Mumbai to see that work of cleaning, as observed in above paragraphs, is done regularly, and no such unpleasant situation is repeated in future.
- (ii) The action taken report be submitted to the Commission in every quarter, of the year till further orders and compliance may be reported accordingly.
- (iii) Copy of this order be sent to Asst Commissioner (Ward D) Municipal Corporation, Mumbai for information and necessary action through Secretary, State Human Rights Commission, Mumbai.
- (iv)

The Case No. 4315/2007-08 is disposed of accordingly with these observations and recommendations.

The Secretary to communicate this order to the parties concerned.



Sd/-
✓
(Justice V G Munshi)
Member, SHRC