

**MAHARASHTRA STATE HUMAN RIGHTS COMMISSION, MUMBAI**

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Maharaj Terminus,
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MSHRC/SK/2026/ 10653

Date: 12/03/26

Case No. 94/13/18/2025

With

Case No. 6455/13/18/2024

Name of Complainant : Poojarani Pankaj Gupta

**Respondent : 1. The Commissioner,
Municipal Corporation,
Nanded.

2. The Superintendent of Police,
Nanded.**

Date : 10th March 2026

Coram : Sanjay Kumar, Member

ORDER

1. None is present.
2. Two complaints were submitted to the State commission by the complainant, Smt. Poojarani Pankaj Gupta, for the same cause with same application, on two different dates; 25/10/2024 and 03/01/2025, which were inadvertently registered as two separate Cases Vide Nos. 6455/13/18/2024 and 94/13/18/2025 respectively,

but later during scrutiny, both cases were clubbed together in Case No. 6455/13/18/2024.

3. The complaint is about non registration of offence by Police Authority against officials responsible for maintenance of trees in Nanded Waghala City Municipal Corporation, Nanded (NWCMC). The complainant lost her 10 years old son because of fall of tree on her son while he was going with his family on two-wheeler on a public road under the geographical jurisdiction of, NWCMC. The upkeep and maintenance of trees on public footpath is absolute responsibility of NWCMC. She further mentioned that Garden Superintendent, Mirza Farhatullah Baig, NWCMC, in the beginning assured her family of the adequate compensation for the death of his son and reimbursement of expenses occurred in medical treatment, but later he simply refused and not responding to the call of the family.
4. In pursuance to the complaint, Respondents were asked to submit fact finding enquiry reports in the matter. Accordingly, replies were submitted, which are taken on record. Garden Superintendent, Mirza Farhatullah Baig, NWCMC, was given opportunity to submit his say, as prescribed U/s. 16, of The Protection of Human Rights Act, in his defense. On behalf of Garden Superintendent and Respondent, Commissioner, NWCMC, Ld. Advocate Shahed Ali Ansari submitted a written argument dated 23.09.2025 which is also taken on record.

Factual background of the case:

- a. On 28/07/2024 at about 12:30 hrs., complainant along with his son and her husband after making purchase, was returning to her

residence riding on Activa with registration no MH-26-BL 0473, driven by her husband. A roadside tree fell upon them injuring all three of them. The minor son, Yash Pankaj Gupta, 10 yrs old, who was seating between the complainant and her husband, succumbed to injuries while undergoing treatment at Global Hospital, Nanded at 17.00 hrs., the same day. No assistance was extended by the NWCMC in rescuing them from incident site or for treatment at hospital. Later, officials of, NWCMC approached them and told that cost of treatment of injured would be borne by the NWCMC, but no such payments were made. Garden superintendent, Mirza Farhatullah Baig, NWCMC, who is responsible for maintenance of trees of NWCMC, in the beginning, assured the complainant and her family of Compensation but later he was not reachable and even not responding to the call of the family. The complainant has asked registration of offence against officials responsible for maintenance of tree and suitable compensation for death of her son and reimbursement of medical expenses for treatment of injured.

5. Superintendent of Police, Nanded has submitted his report on 17/05/2025 on this issue. The report says that on the information of Pankaj Rajendra Gupta, father of the deceased, Yash Gupta and husband of Complainant of this case at the State Commission Poojarani Gupta, about the death of his minor son, due to fall of tree near Anti-Corruption office, Nanded on 28/07/2024, an AD Vide No. 37/2024 u/s 194 BNSS was registered at Bhagya Nagar Police station at 20.13 hours. The inquiry of the AD was conducted. In the

information as well as Panchnama of Place of incident, it is mentioned that drizzling was taking place at the time of incident. The cause of death after postmortem was given as "Pelvic fracture with left side femur fracture" by Autopsy Surgeons of Dr. S.C. Government Medical College, Vishnupuri, Nanded.

6. Commissioner, NWCMC, respondent no 1., has submitted its report dated 14/05/2024. In his report, he mentioned the incident as unfortunate one and asserted that there is no negligence of any of the employees of NWCMC. This was an "Act of God". As incident was "act of God", NWCMC is no way responsible. He mentioned that Garden Supervisor, Shri. Ulhas Kondiba Mahabale, has submitted report after verifying and pruning the dangerous branches of trees about the safety from trees as well as health of trees, in North Nanded. The municipal corporation has not received any complaint about the condition of that particular tree. The tree was not in dangerous category and was planted only in 2008. The tree was healthy and not suffering from any disease. The incident occurred due to heavy rain and gusty wind at the time of incident. The Commissioner has concluded that NWCMC is no way responsible for the incident and not liable for paying any compensation. With the reports, Commissioner of NWCMC has submitted certain documents which included; copy of the diary of control room for Disaster management, documents showing performance in regard with statutory duties of NWCMC related with tree maintenance, rainfall recording and analysis of Nanded City.

7. Respondent No 1. Commissioner, NWCMC has submitted written argument dated 23.09.2025 through his Advocate Shahed Ali Ansari which is taken on record. The argument put forward by the NWCMC are:

- i) The tree was medium sized, fully green, robust and free from disease or structural weakness.
- ii) No complaint regarding the tree's condition was received prior to the incident.
- iii) The incident was an unforeseeable accident caused by an Act of God. In support, some citations were given.
- iv) Representation to the State Government for compensation from CM relief fund.
- v) NWCMC has performed its statutory duties, these duties are not absolute duties and do not extend to guarantee against act of GOD.
- vi) No negligence or Human Rights Violation.

8. In view of the above submissions, the facts which are not under dispute are:

- a. The death of Minor son of the complainant, Yash Pankaj Gupta (10 years) due to the fall of tree on him, when he was one of the riders with his family on a two-wheeler on 28/07/2024. The complainant and her husband were also injured in the same incident.
- b. The upkeep and maintenance of the tree was responsibility of NWCMC.

9. NWCMC has argued that this incident was an ACT OF GOD, and NWCMC is not liable for any compensation to injured or deceased. In support of its argument, NWCMC submitted some documents and referred some citations.

10. The commission went through the submissions and documents. The commission's observations are as follows:

- a. The reasons attributed to fall of tree as an ACT OF GOD is not tenable and acceptable. The NWCMC failed to provide any substantive supportive documents to show that at the time of incident Gusty winds were blowing and heavy rain was taking place. The claim that the tree in question was young, robust, healthy and without any disease and structural deformity is not acceptable and believable. It is to be answered why and how only one healthy tree was uprooted with Gusty wind and rainfall on that particular day? NWCMC has not mentioned of any other incident due to Gusty wind and rain on that particular day.
- b. The copy of the diary of disaster management control room submitted to substantiate the claim shows no incident on 28/07/2024. There is only one entry in month of July 2024 on 31/07/2024 showing the volume of water at reservoir. Whereas, in the same diary for the month from May to July 2024, there are entries of falling of branches of trees, heavy rainfall etc.
- c. Rainfall recording and Analysis data supplied was up to 30.06.24, which has no relevance to the incident, as it occurred on July 28/07/2024.

- d. The document submitted to support the performance of statutory duties and some action taken reports are attached. In action taken report dated 10/04/2024 Garden Superintendent, North Nanded had submitted that pruning of 6 branches of 3 trees were done between Jay Bhim Nagar and Shivaji Nagar besides, pruning of 3 branches of two trees was done between Y point and Labour Colony. The action taken report dated 28.05.2024 also related with pruning of branches, the action taken report dated 5.09.2024 is irrelevant as it is of post event. No mention in any report about the health condition of a tree in the area.
- e. The duty to maintain the trees is cast upon the NWCMC and therefore the maintenance and upkeep of the trees was a statutory duty on the shoulder of the Corporation and therefore it being the absolute duty on the shoulders of corporation, victim's Family member or complainant of this case is not required to show as to how failure to comply with duty had arisen. Corporation failed to provide cogent evidence in support of argument of "ACT OF GOD".
- f. The Hon'ble Supreme court in Municipal Corporation of Delhi V/s. Subhagwanti & others (1966 AIR1750) accepted the application of Principle of **Res ipsa loquitur** in similar case and observed that in such a case it is no defence for the owner to provide that he neither knew nor ought to have known of the danger. The owner is legally responsible irrespective of whether the damage is caused by a patent or a latent defect. The argument that no complaint about the health of

the tree was made to Corporation and tree was green and robust has no meaning, as the fact is that the tree has fallen during drizzling.

- g. The right to life enshrined in Constitutions of India at art. 21, includes the right to live in a safe environment. Failure of Public authority to maintain civic infrastructure, resulting in loss of life, constitutes clear violation of human Rights. The death of complainant's son, Yash Gupta, due to negligence of a public authority reflects a grave failure of public duty.
- h. The NWCMC has raised the question about maintainability of the case at Human Right commission. Section 12 of the protection of Human Rights Act, 1993, reads as thus:

11. The Commission shall perform all or any of the following functions, namely:

- i) inquire, Suo Motu or on a petition presented to it by a victim or any person on his behalf or on a direction or order of any court], into complaint of.
- ii) violation of human rights or abetment thereof;
- iii) negligence in the prevention of such violation, by a public servant
- iv) The power enshrined in the PHR Act 12 (a)(ii) empowers commission to enquire into the negligence in preventing the Human rights violation.
- v) For deciding the cause of death, AD is already registered by the Police Authority, as AD no. 37/2024 u/s 194 BNSS at Bhagya Nagar Police station of Nanded. The Enquiry of death is on. The inquiry will look the criminal liability aspect of the incident, if any and take

necessary action. The complainant is free to approach the enquiry officer or accepting officer of inquiry report with his plea. The State commission does not wish to intervene with the enquiry of AD which is prerogative of the police Authority. The State Commission is concerned about the civil wrong committed to the complainant in the process.

12. The right to life under Article 21 has been expansively interpreted as not mere existence but a life with dignity and meaning. Good and safe roads are an essential component of such a meaningful life. It is well settled that Civic Authorities and other agencies of the state under obligation to ensure safety, welfare and convenience of the public, which includes the provision of safe road.
13. It is well settled that Compensation under public law is a remedy available to citizen for breach of their constitutional, basic, and inderfeasible rights. Such compensation is founded on Strict liability for violation of fundamental rights.
14. Commission is of considered view that NWCMC was negligent in performing its duty and therefore liable for damages to the Complainant for the injury caused to the deceased Yash Gupta and other members of family, by fall of the tree and consequences following therefrom. Although, Complainant in his application demanded for registration of offence against responsible officer and tacitly indicated for the compensation without mentioning any amount. The State Commission instead of computing the compensation for the death and injuries, based its computation for compensation on the decision of Hon'ble Bombay High Court, in Public Interest Litigation no. 71 of 2013, pronounced on Oct.13,2025, by Division Bench. The pronouncement was made in regard with potholes on the roads creating danger for user of roads, resulting in

deaths and injuries. This case is also related with negligent conduct of NWCMC in maintaining road safe for travel result in death and injuries. The pronouncement fixed the compensation in case of death of Rs. 600000/- and between Rs. 50,000-250,000/- in case of injury depending upon nature of injury.

15. In view of the above, following order is passed:

- a. The State Commission by invoking its power u/s. 18 (a) (i) of The Protection of Human Rights Act, 1993, recommends Commissioner NWCMC to pay compensation, to next of kin (NOK) of Deceased Yash Pankaj Gupta, of Rs. 6,00,000/- lakhs.
- b. The State Commission further recommend, Commissioner, NWCMC to pay sum of Rs. 50,000/- in total, for injured Mother, Poojarani Pankaj Gupta and father of deceased Pankaj Gupta for injuries suffered by them during incident.
- c. The payment of compensation should be made within 12 weeks from the date of order, failing which an interest of 8% per annum will be imposed till the date of realization of entire amount.
- d. The Secretary State Commission is directed to intimate about the recommendations to the Deputy Secretary, Desk Officer, Pol-14, Home Department, Government of Maharashtra, Nodal Officer for the State vide GR dtd. 04.02.2026, and Additional Director General of Police, Protection of Civil Rights, (PCR), Maharashtra State, Nodal Officer for Police Department as appointed by GR, dtd. 04.02.2026 for compliance as per the provisions of section 18 (e) of Protection of Human Rights Act.
- e. Intimate by sending the copy of order to all concerned; including complainant by Dak.
- f. With this order, the Case No. 6455/13/18/2024 stands closed and disposed.



(Signature)
(Sanjay Kumar)

Member, MSHRC

11/3/26