IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
(904) WRIT PETITION (L) NO. 21694 OF 2025

Gunvatrai Maganlal Shah ...Petitioner
Versus
State of Maharashtra & Ors ...Respondents

WITH
INTERIM APPLICATION (L) NO.22798 OF 2025

WITH
(905) WRIT PETITION (L) NO. 21199 OF 2025

Pallavi Sachin Patil ...Petitioner
Versus
Municipal Corporation of Greater
Mumbai, Through Its Commissioner & Ors ...Respondents

Mr. Harish Pandya a/w Mr. Malhar Zatakia Mr. Rohit Agarwal, Mr. Rajesh Bhavsar i/b Mr. Dhruv Jain for Petitioner in WPL/21199/2024.
Mr. Praful Shah a/w Mr. Yakshay Chheda i/b SSB Legal & Advisory for Petitioner in WPL/21694/2025.
Mr. J. P. Cama, Sr. Adv. a/w Party in Person Mr. Anand Pai i/b Mr. Sahil Sayyed for Applicants/Intervenors.
Ms. Rupali Adhate a/w Ms. Rutuja Bodake, Ms. Pushpa Yadav i/b Ms. Komal Punjabi for BMC.
Dr. Athavale, Professor, Head Pulmonary Medicine and EPRC KEM, Hospital
Mr. Dhairyasheel Pawar, AE Maintenance and G/N Ward, Mr. N. Bhoir, AE SWM, G/N, Mr. Vitthal Jadhav (Heritage Dept.) present.
Mr. Manish Upadhye, AGP for State.
Ms. Manisha T. Karia, Sr. Adv. a/w Mr. Vishal Navale for Respondent No. 3 in WPL/21199/2025.
Mr. Ashutosh Misra for UOI, Respondent No. 4 in WPL/21199/2025

CORAM : G.S. KULKARNI &
ARIF S. DOCTOR, JJ.
DATE : 24th JULY, 2025.

Meera Jadhav

P.C:

1 We find that in the lead Petition, i.e. Writ Petition (L) No.21199 of 2025 a reply affidavit on behalf of the Mumbai Municipal Corporation – Respondent No.8 of Dr. Amita U. Athavale, Professor and Head (Department of Pulmonary Medicine and Environmental Pollution Research Centre) is placed on record. It has referred to materials that a person is likely to suffer acute interstitial pneumonitis on exposure to pigeons which are being bred as a hobby. Several aspects in that regard, which according to the deponent have triggered asthama and other diseases like hypersensitivity, pneumonitis are discussed. Also the health consequences of exposure to pigeon droppings and their feathers are set out. The prognosis and the disease behaviour and the management protocol in that regard; the adverse effects on the children's health by Chronic hypersensitivity pneumonitis due to pigeons droppings on the basis of scientific material, is what is discussed in the affidavit. It is contended that on the available medical literature and the study of individual patients regarding presence of causative agents present in pigeon droppings and antigens related to hypersensitivity pneumonitis and asthma, trigger as a health hazard. These are certainly matters of serious concern for human health.

2 Mr. Pandya, learned counsel for the Petitioner in Writ Petition (L) No.21199 of 2025 intends to place on record a rejoinder on behalf of the Petitioner to such an affidavit, as he disputes the contentions as urged on behalf of the MCGM.

3 Mr. Shah, learned counsel for the Petitioner in Writ Petition (L) No.21694 of 2025 also intends to place on record a rejoinder affidavit considering that the reply as filed on behalf of the MCGM is a common affidavit in both the petitions.

4 Let such affidavits be placed on record on or before the adjourned date of hearing.

5 Ms. Karia, learned Senior Counsel for the Animal Welfare Board of India- Respondent No.3 has made submissions as to what can be the approach in handling the situation qua the pigeons as a consequence of closure of the Kabutarkhanas. She has submitted that Respondent no.3 would intend to make suggestions to the Municipal Corporation, so that the birds are not adversely affected. We permit Respondent No.3 to furnish its suggestions to the Municipal Commissioner of the MCGM, as also place the same on record, to be taken into consideration, when we pass further appropriate orders on the present proceedings.

6 We have an intervention of Shri Anand Pai, who is represented by Mr. J. P. Cama, learned Senior Counsel. Mr. Cama has submitted that he intends to bring on record the case of a victim namely a Senior Advocate of this Court Shri Ratnakar Pai, who recently passed away being diagnosed with medical condition of Interstitial Lung Disease, caused by pigeon droppings. As the intervener's case is of a direct experience of the health hazard being suffered by a Senior member of the Bar, we consider such intervention to be vital. We accordingly permit the intervention of Mr. Anand Ratnakar Pai. Interim

Application (L) No.22798 of 2025 is accordingly allowed. Petitioners are directed to amend the petition and add Mr. Anand Ratnakar Pai as party respondent.

7 Considering the issues as involved, we are of the opinion that the present proceedings ought not to be considered as adversarial proceedings, in as much as the decision of the Municipal Corporation is stated to be taken in the larger interest of the societal health, which includes health of all categories of persons from children to senior citizens. We need to consider such issues from the perspective of the human health being paramount, as the issues as canvassed, directly affect the right to life and livelihood as guaranteed under Article 21 of the Constitution of India. There cannot be anything more vital than human health and if there is any hazard and/or potential for such hazard by breeding of pigeons and by congregating them in Kabutarkhanas certainly, it is a matter of grave social concern. In such situation when steps are being taken in the interest of public health by the Municipal Corporation, on the basis of modern research and empirical materials could such action be labelled as illegal is the question.

8 We would however certainly look into all the issues after the rejoinder affidavits are filed. We also permit Respondent No.3 to place on record its reply affidavit.

9 Learned Counsel for the Municipal Corporation has also drawn our attention to an order passed by a Co-ordinate Bench of this Court (Coram : A. S. Oka and P. N. Deshmukh JJ. as their Lordships then were) in 2018 that is

about 7 years back in the case of **Adarsh Chowpatty Pragati Mandal & Ors. Vs. State of Maharashtra & Anr.** [Writ Petition No.2197 of 1998] dated 21st June 2018, in which the following observations were made in regard to the health hazard as created by the Kabutarkhanas and by referring to the medical opinion of Dr. Sujeet Rajan. The Division Bench has made the following observations:

> Curriculum vitae of Dr.Sujeet Rajan is also annexed to the report along with a copy of this opinion dated 20th February 2018. It is stated that after recording that he visited the site on 19th February 2018, he has opined that the exposure to the pigeons and their droppings can wreak havoc in child's or adult's lungs. He has pointed out that the Kabutarkhana at the said beach is a feasting area for pigeons and Nana-Nani Park is very close to the said area. In his report, he has stated thus:
>
> In susceptible people (and often a genetic predisposition can exist too), the pigeon antigen inhaled into the lungs can cause a complex allergic reaction which is very different to that which occurs in asthma. Unlike the airways which get affected in asthma, the structure of the lungs get affected and cause a disease called hypersensitivity pneumonitis (from hereon referred to as HP).
>
> In its acute stage, HP can cause acute breathlessness, and just avoiding exposure to pigeons can reduce symptoms and normalise the lungs. Most people realise too late, cr report symptoms when they get more severe, by which time fibrosis has already started in the lungs. There is no drug currently available in the world to cure or reverse fibrosis, and as it progresses, many of these patients require oxygen at home, and often die suffering on ventilators, or waiting for a lung transplant-something not yet available in Mumbai, extremely expensive, and fraught with complications and poor survival rates, in the few centers in India that offer it.
>
> It is extremely important to dismantle open pigeon feeding areas in Mumbai such as this prominent one at Girgaum Chowpatty, where many children also come to play, and land up feeding pigeons inadvertently. I have at least half a dozen children now with HP, and it is hard to manage such young patients with steroids and other immunosuppressants, and counsel their parents about a progressive lung disease in their child."
>
> Considering the recommendations of Dr. Sujeet Rajan, steps will have to be taken for removing the railing so that Kabutarkhana ceases to exist."

10 We are also of the opinion that Dr. Sujeet Rajan be requested to furnish medical materials on such health hazard as generated by the pigeons and pigeons droppings. Affidavit filed on behalf of Dr. Amita Athavale be furnished to the office of Dr. Sujeet Rajan so that he could prepare his comments and his opinion can be placed on record to assist the Court. Registry to do the needful. We request Dr. Sujeet Rajan to make his opinion available within 10 days from today, so that his opinion can be served on all the parties.

11 We list the proceedings on **7th August 2025** at 3.00 p.m., (High On Board.)

12 Till the adjourned date of hearing, ad-interim orders passed by us on 15th July 2025 shall continue to operate.

13 We are informed that the Municipal employees are using fire crackers to disburse the pigeons. We direct that the fire crackers if are used, they shall not be used.

[ARIF S. DOCTOR, J.] [G.S. KULKARNI, J.]

Meera Jadhav