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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION (L)NO.11473 OF 2021**

T. J. Bhanu .. Petitioner
Vs.
State of Maharashtra & Anr. .. Respondents

None for the petitioner.

Mr. A. A. Kumbhakoni, Advocate General a/w Ms. P. H. Kantharia, Govt. Pleader a/w Ms. Geeta Shashtri, Addl. Govt. Pleader for respondent no.1 – State.

Mr. Anil C. Singh, Addl. Solicitor General a/w Mr. Aditya Thakkar, Mr. D. P. Singh and Mr. Yash Momaya for respondent no.2-UOI. Ms. K. H. Mastakar for MCGM.

**CORAM : DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE : SEPTEMBER 13, 2021

PC:

1. None appears for the petitioner.
2. Ms. Mastakar, learned advocate appears and submits that although the petitioner was permitted to implead the Municipal Corporation of Greater Mumbai as an additional respondent, no steps in that regard have been taken. Since we had considered it necessary to implead the Municipal Corporation as a respondent, being a necessary party, notwithstanding the omission on the part of the petitioner to do so, we direct the office to implead the Municipal Corporation of Greater Mumbai as an additional respondent in this writ petition.

3. We have heard Mr. Singh, learned Additional Solicitor General for the Union of India as well as Ms. Shastri, learned Addl. Government Pleader for the State.

4. Mr. Singh has submitted that in view of the steps taken by the State, nothing substantial survives for a decision by this Court. He has also submitted that a similar writ petition is pending consideration before the Supreme Court.

5. Mr. Singh has, however, referred to the provisions of section 100 of the Mental Health Care Act, 2017 to contend that the police has the duty to identify mentally ill persons who are either homeless or found wandering in the community and to take further steps so that such mentally ill persons can be reunited with their family members. It is also contended by him that after such reunion, the mentally ill persons may be vaccinated with the consent of their family members; if such reunion is not possible, the Act has provisions to accommodate such persons in shelter homes where too the vaccination can be administered.

6. Ms. Shastri, inviting our attention to the affidavit of Dr. Sadhana Tayade, Director in the office of Commissioner of Health Service, Mumbai, dated July 5, 2021, contends that in excess of nearly 21000 homeless persons have been registered for vaccination and that more than 8000 urban homeless persons have been vaccinated. Our attention has further been drawn to paragraph 7 of such affidavit to contend that 1761 mentally ill persons have been vaccinated in the four regional

Government Mental Hospitals, i.e., at Pune, Thane, Nagpur and Ratnagiri in the State of Maharashtra. She has also drawn our attention to the letters at pages 140 and 141 of the affidavit of Dr. Tayade to contend that appropriate instructions have been issued not only to the police authorities but also the Commissioner, Social Welfare Department as well as Health Officers of the Public Health Department and Municipal Bodies to address the concern of vaccinating mentally ill persons who are either homeless or have been found to be wandering in the community.

7. Having heard learned advocates for the parties, we notice that the affidavit of Dr. Tayade is silent on the point as to whether those who are mentally ill but are either homeless or have been found to be wandering in the community have been identified and also as to whether they have been vaccinated or not. The figure of 1761, in our *prima facie* opinion, may include persons who are mentally ill but are united with the family members who can give their consent on behalf of such mentally ill persons. The concern expressed in the writ petition being different, has to be addressed bearing in mind such aspect.

8. We remind the respondents that the concern in the writ petition is in respect of mentally ill persons who cannot take an informed decision; hence, we require the State to file a better affidavit giving full particulars of the steps that are proposed to be taken to reach out to such mentally ill persons for their vaccination, who because of their disability are not in a position to decide what is good for their well-being.

9. Let such affidavit be filed by three weeks. The Municipal Corporation of Greater Mumbai is also granted leave to file an affidavit to bring on record the number of mentally ill persons who have been identified for vaccination and, in fact, vaccinated, within its jurisdiction. List the writ petition on **October 4, 2021**. In the meanwhile, an appropriate policy may also be framed by the Central Government and/or the State Government covering such persons who cannot take an informed decision regarding vaccination and given effect.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)

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signed by
PRAVIN
DASHARATH
PANDIT
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