

Public Interest Litigation for Clean Air: Kabir Shah v. State of Maharashtra & Ors.

Kabir Shah,

Indian Inhabitant, Occupation — Student,
Residing in Mumbai. Petitioner

Versus

1. State of Maharashtra, through the Principal Secretary, Environment and Climate Change Department, Mantralaya, Mumbai – 400 032.
2. Maharashtra Pollution Control Board, through its Member Secretary, Kalpataru Point, Sion Circle, Mumbai – 400 022.
3. Municipal Corporation of Greater Mumbai, through its Municipal Commissioner, Mahapalika Marg, Fort, Mumbai – 400 001.
4. Mumbai Metropolitan Region Development Authority, through its Metropolitan Commissioner, Bandra-Kurla Complex, Mumbai – 400 051. ...Respondents

MOST RESPECTFULLY SHEWETH:

1. The Petitioner, Kabir Shah, is a citizen of India, and a student in Mumbai where he resides. The Petitioner has no personal, financial or private interest in the subject matter, and this petition is filed by way of public interest litigation in the interest of clean air for the residents of Mumbai. Indian courts have recognized that a petitioner need not be personally aggrieved by the subject matter in order to invoke the Court's PIL jurisdiction where the subject matter concerns public interest and enforcement of constitutional obligations, such as Article 21 (People's Union for Democratic Rights v. Union of India, AIR 1982 SC 1473; S.P. Gupta v. Union of India, AIR 1982 SC 149).

2. Respondent No. 1 is the State of Maharashtra, which holds an overarching obligation for environmental governance and compliance, along with a responsibility to ensure the enforcement of pollution-control law by subordinate authorities such as the MPCB, BMC and MMRDA, who are included as Respondents herein. Respondent No. 2 is the Maharashtra Pollution Control Board (MPCB), which is in charge of enforcing pollution-control regulations and granting or revoking permits to operate, along with monitoring pollution across the State. It has acted in the past regarding inadequate dust-control systems and insufficient statutory permissions, making it a key Respondent to this Petition (MPCB shuts 19 RMC plants in Mumbai region amid pollution violations, 2025). Respondent No. 3 is the Brihanmumbai Municipal Corporation (BMC), the civic governing body for

Mumbai. The BMC operates a specialised enforcement squad which inspects and investigates construction sites in Mumbai, along with monitoring and enforcing dust-mitigation rules and issuing construction permits (Mumbai air pollution: BMC issues notices to 63 construction sites and factories in Govandi-Shivaji Nagar for non-compliance, 2025). Respondent No. 4 is the Mumbai Metropolitan Region Development Authority (MMRDA), the planning and infrastructural authority for the Mumbai Metropolitan Region, which has issued its own dust-mitigation directives (MMRDA, 2024).

3. The present Petition is filed by the Petitioner by way of Public Interest Litigation, and the Petitioner does not have any personal interest in the subject matter of the Petition. The entire cost of this exercise is borne and paid by the Petitioner. To the best of the knowledge and research of the Petitioner, the exact issue raised and evidence presented in this Petition have not been dealt with or decided by this Hon'ble Court, nor has a similar or identical petition been filed by him earlier. The Petitioner acknowledges the pendency of the suo motu proceedings before this Hon'ble Court, while stating that this specific set of facts and evidence has not been separately placed before the Court. The Petitioner understands that, while hearing this Petition, the Hon'ble Court may require security to be furnished towards costs or other charges, and the Petitioner shall comply with such requirements.

4. Mumbai periodically records air quality that breaches national safety standards, with construction and demolition (C&D) dust repeatedly identified by regulatory bodies, including the BMC and MPCB, as a major contributing source. Since November 2024, the BMC's special enforcement squad has inspected 877 construction sites across Mumbai. Of these, 286 were issued stop-work notices for failing to comply with dust-control guidelines and regulations, representing a non-compliance rate of close to one-third of all inspected sites. Govandi-Shivaji Nagar has emerged as a specific high-risk locality, where, in January 2025, the BMC issued 63 notices to construction sites and factories for non-compliance with dust-control regulations (Mumbai air pollution: BMC issues notices to 63 construction sites and factories in Govandi-Shivaji Nagar for non-compliance, 2025). In December 2024, the MMRDA issued a dust-control directive applicable to all construction sites within its jurisdiction. The directive mandates installation of water sprinklers and fogging machines at construction sites and establishes a penalty structure ranging from Rs. 5 lakh to Rs. 20 lakh depending on the severity and/or repetition of the violation, in addition to empowering the MMRDA to suspend construction work for repeat violators (MMRDA, 2024). In December 2025, MPCB ordered the shutdown of 19 ready-mix concrete plants in the Mumbai Metropolitan Region for operating without adequate dust-control systems, emission-management mechanisms, and mandatory statutory permissions. Four named units in Deonar and Govandi (Mumbai) were specifically ordered to shut: Om Global Operation, SSG Ltd, Rambha Infrastructure Pvt Ltd, and Unity Construction Pvt Ltd. Three other plants reportedly deposited a bank guarantee of Rs. 5 lakh each instead of shutting immediately. This action illustrates that the MPCB has both the capacity and power to enforce

regulations and penalise offenders (MPCB shuts 19 RMC plants in Mumbai region amid pollution violations, 2025). This regulatory gap carries a measurable public health dimension. In February 2023, all 20 active air quality monitoring stations in Mumbai reported data, yet only three recorded PM_{2.5} levels within the permissible daily limit of 60 µg/m³. The average PM_{2.5} level across these stations stood at 83.41 µg/m³, considerably higher than the preceding year (Bose, 2023).

5. Under Section 2(a) of the Air (Prevention and Control of Pollution) Act, 1981, "air pollutant" is defined broadly as any solid, liquid, or gaseous substance. This definition is broad and therefore includes construction dust, even though the Act was not framed with construction dust specifically in mind. Section 22 of the Act prohibits any person or organisation from emitting air pollutants beyond the standards laid down by the MPCB; construction sites are therefore legally bound by this prohibition, however, as has been made evident, not all follow this requirement. Furthermore, Section 22A gives MPCB the power to approach a court for an injunction against polluters, meaning MPCB already possesses the tools to remedy this problem (Air (Prevention and Control of Pollution) Act, 1981). The Construction and Demolition Waste Management Rules, 2016, were notified by the Central Government (G.S.R. 317(E), dated March 29, 2016) in order to regulate construction and demolition waste. These Rules clearly state that dust must be contained at the source of generation through barricades, netting, covering, and similar measures; covered vehicles are to be used for the transport of construction debris; and proper segregation and processing of C&D waste is required. Furthermore, the Rules cast a supervisory and enforcement role onto local authorities such as the BMC to ensure compliance. These are the rules construction sites in Mumbai are meant to be obeying; however, it is clear that several are not (Construction and Demolition Waste Management Rules, 2016). MMRDA's December 2024 directive operationalises this general legal standard into more measurable and enforceable requirements. This demonstrates that such standards and enforcement mechanisms work in reality and can be effective; the problem does not stem from any impossibility of defining compliance, but from the failure to apply it uniformly and consistently throughout Mumbai (MMRDA, 2024). This Petition does not arise in a vacuum. The Bombay High Court has, since October 31, 2023, been exercising suo motu jurisdiction over Mumbai's deteriorating air quality. In November 2024, the Court laid down twenty-seven mandatory mitigation guidelines specifically directed at construction sites, ranging from CCTV surveillance to sensor-based air-pollution monitoring and regular water sprinkling — translating the general obligations under the Air Act and the C&D Waste Rules into a detailed, site-level compliance checklist. However, the violations catalogued in Paragraph 4 above suggest that these guidelines remain poorly enforced in practice. This was confirmed before the Court itself: at a hearing on November 28, 2025, the amicus curiae informed the bench that only around 400 of Mumbai's roughly 1,000 active construction sites had installed the mandated sensors, prompting the Court to constitute an independent committee to conduct physical site visits. This committee inspected 36 sites across Mumbai and Navi Mumbai between December 6

and 13, 2025, and produced a report documenting widespread non-compliance, including sites with no monitoring devices installed at all. This Petition does not seek to duplicate these ongoing proceedings, but to supplement them; the enforcement data compiled in Paragraph 4 above offers focused, site- and agency-specific evidence that may assist the Court, or any committee constituted pursuant to these proceedings, in fashioning targeted, time-bound directions (Mahajani, 2025; Bar and Bench, 2025).

6. Despite the existing legal frameworks and a proven capability for enforcement of rules and regulations, non-compliance remains prevalent. This reveals that the problem is not the absence of laws or standards, but rather inconsistent and reactive enforcement. However, a gap that should be highlighted is that there is no public mechanism by which a regular citizen can check whether a construction site near them is currently compliant. A mechanism of this kind would help increase compliance and enable ordinary citizens to assist regulatory bodies by issuing complaints. Furthermore, as stated above, four different authorities are each working on this key issue; however, there is no visible cross-agency coordination or shared public dashboard. This would help create more efficient and consistent compliance and regulation. The effects of this problem do not stop at inconvenience — they result in residents of Mumbai being exposed to unsafe air, which is especially harmful for children, senior citizens, and citizens diagnosed with respiratory conditions. In *Subhash Kumar v. State of Bihar*, the Supreme Court held that the right to live under Article 21 includes the right to enjoyment of pollution-free air. The legal principle established by the case makes clear that this continued exposure to construction dust violates residents' right to a clean environment under Article 21 of the Indian Constitution (*Subhash Kumar v. State of Bihar*, AIR 1991 SC 420).

7. The Petitioner has no alternate remedy, much less an efficacious one, available to him. This is because the grievance concerns a pattern of non-enforcement across multiple authorities, namely the State, MPCB, BMC, and MMRDA, rather than a single decision by one authority that could be challenged through an ordinary departmental appeal. Therefore, invoking this Hon'ble Court's writ jurisdiction under Article 226 of the Constitution of India is the only appropriate and necessary course of action.

8. This Petition does not seek to duplicate the pending suo motu proceedings before the Bombay High Court (see Paragraph 5 above). Its intent is instead to supplement those proceedings with the specific, documented enforcement data compiled in Paragraph 4 above. Accordingly, any relief granted in this Petition should be read as consistent with, and not in conflict with, directions already passed or yet to be passed in those suo motu proceedings.

Hence, this Petition.

PRAYER

It is therefore humbly prayed that this Hon'ble Court may kindly be pleased to:

- (a) By way of appropriate writ, order or direction, direct Respondent Nos. 2 and 3 to conduct targeted, time-bound inspections of construction sites in high-risk localities, and to publish the compliance status of all inspected sites on a publicly accessible platform;
- (b) By way of appropriate writ, order or direction, direct that the penalty framework instituted by Respondent No. 4 be applied uniformly by all relevant authorities across all construction sites in Mumbai, and not be confined only to sites under Respondent No. 4's own jurisdiction;
- (c) By way of appropriate writ, order or direction, direct that construction sites above a size threshold, to be determined by the relevant authorities, be required to install dust-monitoring sensors and CCTV, with data feeding into a public dashboard, particularly in light of the Bombay High Court's own 27-point guideline and the finding that only 400 of 1,000 sites had installed the mandated sensors;
- (d) By way of appropriate writ, order or direction, direct Respondent Nos. 1 to 4 to file monthly joint compliance reports, either before this Hon'ble Court or before the committee already constituted in the pending suo motu proceedings;
- (e) Pass any other order(s) as this Hon'ble Court deems fit in the interest of justice.

VERIFICATION

I, Kabir Shah, 18 years, Indian Inhabitant, being the Petitioner above named, do hereby solemnly declare that what is stated in Paragraphs 1 and 3 is based on my own knowledge, and what is stated in Paragraphs 2, 4, 5, 6, 7 and 8 is based on information and belief, and I believe the same to be true.

Solemnly declared at Mumbai

On this day of 4th august 2026.

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