Date: 15.8.23

375/ DMC zone1/ illegal installation of stall at Love Lane footpath / Vaishali Love lane folder and file

To,

1. Addl MC city
2. Addl MC WS ( I/C of city)
3. DMC zone 1
4. Asst Comm E ward
5. Mr. Raut (E ward Licence Inspector )
6. Supt of licence dept
7. **Vigilance dept (you cannot off shoulder your responsibility on wrongful grounds that you act selectively only on the directions of Addl MC who mostly fail to discharge their duty by protecting the corrupt and non performing officers). If that is case, please close down the vigilance department and save tax payer money as you are not paid salary by MC and / or Addl MC. Unfortunate in one of the Most corrupt / non performing institutions, where citizens have to move the Courts, this vigilance department could not find a single corrupt & non performing BMC staff in last 5 years.) Shame on vigilance department.**
8. CFO Fire brigade (**your firemen have experienced that your vehicle does not pass through when there is BEST bus or even a tempo coming from opposite side and thereafter both drivers have to take lots of pain to pass through. However, BMC is out destroying the ward by allowing illegal obstruction and encroachment on road and footpath**

**Cc to take action against these officers who promote illegal encroachment on road**

Hon. Speaker Mr. Rahul Narvekar

Hon. Minister Mangal Prabaht Lodha

Hon. Minister D V Kesarkar

Hon. MLA Rais Shaikh

Hon. MLA Yamini Jadhav

Mr. Jamsutkar ( Ex- Councillor)

Jt. CP Traffic

Addl CP traffic

DCP traffic

**Sub: letter dt. 2.8.23 from License dept E ward (copy attached) Promoting illegal encroachment on footpaths at LOVE LANE MAZGAON E WARD by wrongfully/ willfully / deliberately with dishonest intentions declaring the as hawkers.**

**Reg: meeting schedule on 17.8.23 at 11 am, with License Inspector Mr. Raut on directions of Asst Comm (E ward) regarding blatant violation of BMC, MRTP act and Hon. Bombay High Court and Hon. Supreme Court directions and guidelines by E ward department.**

We citizens of Sheth Motishal Lane ( LOVE LANE) at E ward, Mumbai, have come across a letter dt. 2.8.23 addressed to Manav Sevak Foundation that you are rehabilitating stalls ( hawkers ) between pole no. 10 to 38 at Sheth Motisha lane ( Love lane) , Mazgaon, near Vaishali apartment opp. MTNL exchange. We citizens strongly oppose the illegal and wrongful acts of the BMC to create illegal wrongful encroachment, obstructions on footpath violation the

1. Fundamental rights of citizens to have encroachment free and obstruction free smooth surface road and footpath.
2. The roads and footpath have been reserved only for free movement of motorist and Pedestrians. Hence, no Addl MC can pass illegal orders which is contradictory to law and by encroaching upon the rights of pedestrians.
3. The MRTP act does not empower any Commissioner and / or Addl MC, DMC zone -1, Asst Comm E ward, along with officers of E ward to misuse his power and issue wrongful orders which amount to making of false documents without having lawful authority I.e. forgery and using the forged documents for the purpose of cheating, causing nuisance, and endangering life and limbs of the citizens using road and footpath and criminal breach of trust. (166, 167, 268, 269, 270, 409, 431, 465, 468, 471, R/w 120 B, IPC)
4. The said orders are violating the mandatory circular dated 14.12.99 which clearly states that **(copy attached)**

**“ in view of MC’s above order all Zonal Joint M.C./ DMC/ A.C. are requested not to grant ant stall/ centers/ temporary structures on Municipal roads and footpath.”**

In the above circumstances, we submit as under

**Addl MC permission dt. 21.6.23 is illegal, void and bad in law. ( ADDL MC HAS MISUSED HIS POWER AGAINST THE LARGER PUBLIC INTEREST TO APPEASE CERTAIN SECTIONS AND POLITICIANS )**

1. Please provide us the section and provision of law relied upon by Addl MC city to issue permission for creating encroachment and obstruction on footpath vide Addl MC / City? D/ 152/ dt. 21.6.23, in violation of
2. the fundamental rights of the citizens to have encroachment free, obstruction free / smooth – even surface roads and footpath.
3. To change the user of road and footpath to erecting illegal obstruction and encroachment.
4. To violate / disobey the circular dt. 14.12.99 issued under direction of MC that no permissions shall be granted. (Addl MC is lower rank officer)
5. The Hon Court directions that the pedestrians cannot be deprived of their rights to have safe use of footpath.
6. Report of study carried out and relied upon to take the decision in accordance with Hon. SC direction in matter of Maharashtra Ekta hawker’s union v/s MCGM para 79. **(copy attached)**
7. Whether the illegal stall (permanent obstructing structure) owners come within the definition of hawkers?
8. Whether any stall i.e. structure which encroaches the footpath / road be given official licenses in violation to fundamental rights and by denying the rights of citizens to use the road and footpath.
9. All provision of law sections and materials relied upon to prove that those stalls (obstructing structures) which are to be shifted are legal hawkers.

**Letter dt. 2.8.23 addressed to Manav Sevak foundation is illegal void and bad in law**

1. Please provide the section and provision of law relied upon to issue notice dt. 2.6.23 to Manv Sevak Foundation only
2. when the encroachment adversely and wrongfully affects ALL the residents and occupants / pedestrians / motorists / of Sheth Motisha lane.
3. Not to intimate all the citizens / CHC / business establishment staying at and operating from Sheth Motisha Lane.
4. Not to make public announcements on loud speakers for one week intimating at different hours of the day about the illegal encroachment of stalls / hawkers to create public awareness and public opinion.
5. Not to hold public meeting and seeking the public opinion of the residents in Sheth Motisha lane who are directly affected by such encroachment on footpath in violation of all provisions of law.

**Procedure followed in decision making to encroach upon the footpath at Sheth Motisha lane**

1. Whenever a public authority takes a decision it has to make public the procedure followed which is relied upon:
2. WHETHER THESE HAWKERS ARE FRUIT/ VEGETABLE / FLOWERS WHICH ARE MEANT TO BE PURCHASED WHILE RETURNING HOME FROM WORK. ( PARA 3 OF CALCUTTA HC , **COPY ATTACHED** )
3. Whether the Addl MC (city) is empowered with lawful authority to pass such order / permission dt. 21.6.23. Provide the sections and provision of law relied upon.
4. Present status of the road and footpath whether encroached or not.
5. Action taken to remove the present illegal encroachment / stalls / structures on road and footpath which obstructs free movement of motorist and pedestrians.
6. Name of the officers / Asst Comm / DMC who are responsible to maintain encroachment and obstruction free road and footpath
7. Regulation, section, and provision of law relied upon to take such decision to shift the illegal stalls / hawkers and encroach upon the footpath which shall prevent pedestrians from using it.
8. Whether such decision of in violation with any provision of law, directions of Hon. Bombay High Court and Hon. Supreme Court of India
9. Whether presently the pedestrians have sufficient space to move on road and footpath
10. Study carried out of how do the pedestrians / citizens of Sheth Motisha lane move across the lane? i.e. on road or footpath.
11. Whether the lives and limbs of the pedestrians / residents of Sheth Motisha Lane are put to danger presently as the roads and footpath have been fully encroached upon.
12. Whether with installing more illegal stalls / hawkers, in violation to each and every law and Court directions (when there is no space on footpath) the life of pedestrians and citizens shall be put to more danger.
13. Whether the business carried out by the existing / new hawker’s / stall owner’s fits within the definition of hawkers as explained by Hon. Supreme Court and other Courts.
14. Size of the footpath and road at Sheth Motisha lane
15. Whether two BEST buses and / or two Fire brigade engines can pass through smoothly on the already encroached road/ footpath at Sheth Motisha Lane.
16. What arrangements have been done to get the two BEST buses and two fire brigade engine pass each other smoothly.
17. **Photos and videos of the present status of Sheth Motisha lane and disclosing how the pedestrian’s are moving on road instead of footpath which is totally encroached upon**
18. **Photos and videos of two buses and two fire brigade engines passing smoothly on this road**
19. **Sketch of the road and footpath along with pedestrian movement after installation of the hawkers/ illegal stalls/ obstructions / encroachment.**
20. **Study carried out showing the implications of the encroachment on this road and footpath along with names and designation of persons who carried out the study.**

**Violation of the Hon. Supreme court order**

1. Please provide the following details of compliance of the Hon. Supreme Court orders / directions while permitting any stalls / hawkers on Sheth Motisha lane
2. TYPES OF BUSINESS PERMITTED BY SURPREME COURT AS HAWKERS.
3. Size of the footpath and road
4. Whether two BEST buses and / or two Fire brigade engines can pass through smoothly on the already encroached road/ footpath at Sheth Motisha Lane.
5. What arrangements have been done to get the two buses and two fire brigade engine pass each other smoothly.
6. Whether installation of permanent structure (stalls) fits in within the definition of hawkers?
7. Whether any stall is permitted under law on road and footpath
8. can be permitted on footpath which is less than 25 feet and / or appox 8 meters.
9. Can be permitted on both sides of footpath across any road?
10. Whether the business carried out by the stall owner’s fits within the definition of hawkers as explained by Hon. Supreme Court.
11. Whether any structure/ stalls / hawkers / goods are permitted to occupy the public road and footpath between 9 pm to 7 am. **( HON. SC DIRECTION DT. 11.4.22 COPY ATTACHED**
12. Whether any hawker can use table or roof above his head?
13. Whether hawker can claim a right under law to do business at the same place and not allow anyone else to use / occupy the public space.
14. Whether a legal right can be permitted to use same and / or particular place permanently by allowing stalls on footpath.
15. Whether the rights of the pedestrians are adversely affected by BMC permitting illegal construction/ obstruction/ hawkers / stalls
16. WHETHER THE LIFE AND LIMBS OF THE CITIZENS / PEDESTRAINS / USERS OF FOOTPATH ARE ENADNGERED PRESENTLY DUE TO BLALATNT FAILURE OF E WARD TO REMOVE ENCROACHMENT AND OBSTRUCTION. **( PARA 21 OF MADRAS HC) COPY ATTACHED**
17. Details of all permanent actions such
18. Filing complaints with local police station to initiate MRTP cases/ Tadipar proceedings / FIR u/s **268, 269, 270, 429, 431, 441 IPC section 102 and 115 C Bombay Police Act.** initiated against the illegal stalls on footpath. (you conduct raids one in blue moon just to create records without permanent solution)
19. **Strict compliance of circular dt. 14.12.99 that no temporary and permanent structure shall be permitted on road and footpath as well traffic islands.**
20. **If the offenders commit offence for third time BMC shall act as per provisions of section 516 AAA, MMC act**
21. **MRTP section 52 & 53 after 2nd action to remove the encroachment / obstruction/ illegal change of user.**
22. **Habitual offenders: Night raids to demolish the illegal structures / crush the goods kept on road footpath and traffic islands as per SC direction that no goods / obstruction shall be allowed between 9 pm to 7 am.**
23. **61 (O) MMC act:** the removal of obstructions and projections in or upon streets, bridges and other public spaces**.**
24. **83(1) of MMC act:** every Municipal officer or servant may be reduced, removed, or dismissed for any breach of departmental rules or discipline of for carelessness, unfitness, neglect of duty and other misconduct, by the authority by whom such officer is appointed.
25. **64-C of MMC act**: to dispose the complaint / grievances within 45 days.
26. **BMC Circular dt. 20.11.2003:** to remove / dismiss the BMC staff
27. Details of daily fines and prosecution against the illegal encroachers and obstructionist on footpath.
28. Details of action taken against habitual offenders who encroach upon public property.
29. All correspondence and recommendations / objections received from elected representatives.
30. Rules, regulations, to be followed by BMC and hawkers while using of public road / footpath.
31. Norms set for BMC officers to deal with encroachment on road, footpath and traffic island.
32. All relevant facts published in public domain while executing this shifting of illegal stalls under the misrepresentation and false submission that they are hawkers, when they are not.
33. Reasons for this decision to call illegal stall owner encroachers as hawkers.
34. Number of Municipal markets or otherwise redeveloped in each ward and number of shops not occupied in such redeveloped market.

Please educate me if my submission is incorrect. My submission is in larger public interest and to stop misuse of power by bureaucrats and public servants causing wrongful loss, injury, hurt, nuisance, theft of public property and endangering life and limbs of the citizens / pedestrians / motorist.

By the above objections we call upon you to stop issuing any such licenses and cancel all the licenses such issued.

Jai Hind