

महाराष्ट्र राज्य मानवी हक्क आयोग



Maharashtra State Human Rights Commission  
(MSHRC)  
Mumbai

Allotted to Court No. : 1/ 2/ 3  
DOCKET SHEET

SVO MOTU CASE NO: 4398/13/37/2022

News item appeared in English Newspaper (The Times of India) on

8<sup>TH</sup> November, 2022 "68 yr old falls in manhole at Virar, body found

12 hrs later", Palghar.

Case to :- Hon'ble, Justice K.K. Tated, (Retd.).  
Date of allotment :- 09.11.2022

SUMMARY

23/11/23  
Complaint  
Virar, Virar Municipality

date - 23/11/23  
Report by 15/1/23

4398/13/37/2022

8-11-2022 Page 2  
THE TIMES OF INDIA

## 68-yr-old falls in manhole at Virar, body found 12 hrs later

Sandhya.Nair@timesgroup.com

**Mumbai:** More than 12 hours after a 68-year-old woman had gone missing since visiting a temple on Monday morning, her body was found in an open manhole in Virar.

Kamlaben Shah, a resident of M B Estate, Doghar Pada, Virar (West), had left home to visit the nearby Vimalnath Jain temple around 5.30am. When she did not return by 9am, her family launched a search. Temple authorities told the family that she had attended prayers in the morning and left by around 8am. As efforts to find her failed, messages along with photographs of Kamlaben were circulated by the family on social media platforms.

Around 12 hours later, the family was informed about a body found in an open manho-

le near Swami Narayan temple in Virar (West). Fire brigade personnel reached the spot and retrieved the body around 6.30pm. It was handed over to the family after autopsy.

Family members said though Kamlaben was a regular at the temple and knew the route, she had been advised bed

Fazle Haq Qureshi



rest for two weeks due to a back ailment. On Monday, she insisted on visiting the temple as it was an auspicious day.

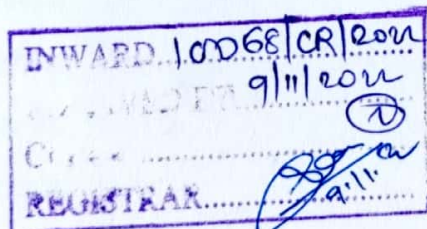
There was no eyewitness who saw her fall into the manhole. Virar police suspect while walking on the cemented gutter, she may have tripped and fallen into the manhole.

Locals said in the past stray animals have fallen into the same manhole. "We have helped rescue at least two to three that had fallen into the manhole. At least now the municipality should wake up and

cover it," said animal activist Mitesh Jain. He said several manholes in Vasai region have missing lids and there have been cases of animals and people falling into these. Locals said the road on which the manhole is located does not have street lights making it dangerous before sunrise and after sunset.

Police said a case of accidental death has been registered. Residents from the locality said civic officials need to be booked for negligence. Locals said the manhole has been lying open for several months.

Shah's son Jiten told **TOI** she would regularly visit the temple. He said as there are no CCTVs around the locality and no eyewitness either, it is not known how she fell into the manhole. He said civic authorities should be held accountable. The final rites were performed on Monday night.





# MAHARASHTRA STATE HUMAN RIGHTS COMM

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Maharaj Terminus, Mumbai – 400

Tel : 22092857 Email:- court1-mshrc@mah.gov.in

## DIVISION BENCH

### KKT/Suo Moto Case No.– 4398/13/37/2022

Name of Respondent

: The Commissioner of Police  
Mira Bhayendar Vasai Virar  
Commissionerate  
Mira Road, Thane

The Municipal Commissioner  
Vasai Virar Municipal Corporation  
Virar

The Collector  
Palghar

Date

: 25<sup>th</sup> November 2022

Coram

: Justice K.K. Tated, Chairperson  
M.A.Sayeed, Member

## PROCEEDING

(Per: Shri. M. A. Sayeed, Hon'ble Member)

Mr. Mahesh Tanaji Sable, Police Sub Inspector, Virar Police Station is present.

2. In the present suo moto petition, an unfortunate death of 68 year old, due to fall in manhole at Virar, reported in English Newspaper Times of India dated 08.11.2022. Notices to the Municipal Commissioner, Vasai Virar Municipal Corporation, Virar, Collector, Palghar and Commissioner of Police, Mira Bhayendar Vasai Virar Commissionerate issued. Spl. Inspector General of Police, Investigation Wing of this Commission was also called upon to conduct inquiry in respect of incident in question. Report dated 24.11.2022 placed on record and

4

marked as Ex. 'B' while reports submitted by PSI Sable, Virar Police Station is marked Ex. A.

3. It would not be out of place to mention here that subsequent to this unfortunate mishap, same kind of reporting came to be made in Marathi local news of Pudhari and English news paper Times of India dated 23.11.2022, reporting about intervention by the High Court in the above noted mishap and direction to the civic authorities to submit compliance report on open manholes.

4. Pertinent to note that Spl. Inspector General of Police on the strength of its inquiry came to a very adverse and alarming conclusion which reads thus:

“C) निष्कर्षः

- दिनांक 07 / 11 / 2022 रोजी एक महीला श्रीमती कमला गुलाबचंद शहा यांचा पहाटे 05.00 ते 05.30 वाजताच्या सुमारास त्या नेहमीप्रमाणे स्वामीनारायण मंदीर, सरस्वातीबाग विरार येथे दर्शनासाठी गेल्या असताना परत आल्या नाहीत, म्हणून त्यांचा शोध घेत असताना त्या रोडचे किनारी लगत असलेले उघडे गटारात पडून मृत्यु झाला असल्याचे समोर आलेले आहे.

- सदरबाबत विरार पोलीस ठाणे दिनांक 07/11/2022 रोजी अकस्मात मृत्यु रजि क्रमांक 243 / 2022, सीआरपीसी कलम 174 प्रमाणे प्रकरण दाखल करण्यात आलेले आहे. चौकशी दरम्यान मयताच्या मृत्यूबाबत त्याचा मुलगा व इतर रक्ताचे नातेवाईक यांनी त्यांना कळवुनही त्यांनी कोणतीही तक्रार केलेली नाही अगर कोणताही संशय व्यक्त केलेला नाही.

- सदर प्रकरणी विरार पोलीस ठाणेकडून वसई-विरार शहर महानगरपालिकेशी पत्रव्यवहार करण्यात येवून नेमका निष्काळजीपणा कोणकडून झाला याबाबत सविस्तर चौकशी अहवाल मागविण्यात आला होता. परंतु महानगरपालिकेने सदर

घटनेबाबत चौकशी केलेली असून, पालिकेच्या कोणत्याही विभागाला दोषी मानता येणार नाही, असा अभिप्राय दिलेला आहे. तसेच घटनास्थळावर झाकण नेमके कोणत्या तारखेस काढले आहे. कोणी काढले आहे याबाबत महानगरपालिकेस कोणतेही तक्रार प्राप्त न झाल्यामुळे त्या ठिकाणी पुन्हा झाकण लावण्यात आले नसल्याचे दिसून आले आहे. त्यामुळे सदर प्रकरणात निष्काळजीपणा नेमका कोणाचा आहे? याबाबत पुरेसा पुरावा आजपावेतो उपलब्ध झालेला नाही. सदरबाबत अपमृत्यु प्रकरणाची सखोल चौकशी चालू असून, महानगरपालिकेशी पुन्हा पत्रव्यवहार करून काही निश्चित माहिती समोर आल्यास किंवा पोलीस तपासात काही निश्चित माहिती समोर आल्यास त्यानुसार पुढील कारवाई करित आहोत असे तपासी अधिवानी सांगितले आहे.

• एकंदरीत केलेल्या चौकशी / पाहणी मध्ये,

1. घटनास्थळी ज्या गटारात महिला पडून त्यांचा मृत्यु झाला आहे. त्या गटारावर झाकण नव्हते ही बाब सत्य आहे.
2. महानगरपालिकेकडून कोणताही विभागाला दोषी मानता येणार नाही असा अहवाल प्राप्त झाला आहे.
3. विरार पोलीस ठाणे येथे महिलेच्या मृत्युबाबत अकस्मात मृत्यु प्रकरण दाखल असून त्यांची चौकशी अद्याप चालू आहे.
4. चौकशीअंती समोर आलेल्या तथ्यानुसार पुढील योग्य ती कारवाई करण्यात येईल असे विरार पोलीस ठाणेकडून सांगण्यात आलेले आहे. याबाबत माहिती प्राप्त होताच मा. आयोगास कळविण्याची तजवीज ठेवण्यात आलेली आहे. तसेच घटनास्थळावरील नागरिकांकडे केलेल्या चौकशीत त्यांनी सांगितले की, भविष्यात अशाप्रकारच्या दुर्दैवी जीवित हानीच्या घटना टाळण्यासाठी गटारावरील झाकण कोणीतरी काढून घेवून जातात/ तुटतात / गटारे उघडे पडतात किंवा तत्सम प्रकारच्या तक्रारी महानगरपालिकेस कळविणेकरीता, प्रत्येक विभागात ठळक / स्पष्टपणे दिसेल अशा ठिकाणी देखभाल दुरुस्ती करणारे विभागाचे दुरुध्वनी क्रमांक व आवश्यक

4

माहिती दर्शविणारे फलक लावावेत, अशा सुचना / निर्देश महानगरपालिकेस द्यावेत अशी विनंती केलेली आहे.

परामर्ष

1. झालेला प्रकार हा अत्यंत गंभीर असून एका 68 वर्षाच्या महिलेचा गटारात पडून मृत्यु झालेला आहे. सद्यस्थितीत पोलीस विभागाकडून अपमृत्यु प्रकरण दाखल केले आहे व तपासावर आहे. प्रथमदर्शनी पोलीस विभागाकडून कायदेशीर कार्यवाहीची प्रक्रिया योग्य प्रकारे झालेली आहे.

2. परंतु महानगरपालिका तसेच इतर स्थानिक स्वराज्य संस्था या ठिकाणी बांधकामे, रस्ते, गटारे, शौचालये इत्यादींचे कामकाज करताना, नागरिकांची सुरक्षितता पाहण्यासाठी त्यांच्याकडे गांधीर्याचा अभाव दिसून येतो, हो बाब सत्य आहे. अशा अपघातांसंदर्भात एकूणच कातडीबचावू धोरण दिसून येते.

3. नागरिक हे शासनाला कर भरत असून त्यांच्यावर स्थानिक स्वराज संस्था विविध अधिकार गाजवत असतात. त्याचवेळी सदर अधिकार वापरताना नागरिकांप्रती स्थानिक स्वराज्य संस्था प्रशासनाची देखील काही जबाबदारी आहे. याबाबतची जाणीव त्यांना असणे आवश्यक आहे. या घटनेच्या अनुषंगाने भविष्यात अशा घटना होवू नयेत यासाठी कोणत्या उपाययोजना केलेल्या आहेत. धोकादायक ठिकाणी काय सुरक्षा उपाययोजना करणे आवश्यक आहे या विषयी महानगर पालिका प्रशासनाने उत्तर देणे अपेक्षित आहे. सद्यस्थितीत याबाबत महानगरपालिका आयुक्तांकडून अहवाल मागवत असून, तो प्राप्त झाल्यानंतर मा. आयोगास सादर करीत आहोत.

तरी उपरोक्त बाबी मा. आयोगाच्या अवलोकनार्थ व योग्य त्या आदेशार्थ सविनय सादर."

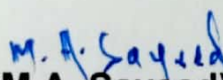
5. Bare reading of these conclusions indicate that mishap occurred on account of causal and lethargic approach on the part of the civic authorities and maintenance of the man holes

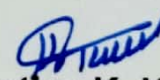
and a proper clarification in that regard needs to be placed on record by the concerned civic authority.

6. Despite issuance of summons to the Municipal Commissioner, Vasai Virar Municipal Corporation, Collector, Palghar none appeared on its behalf nor any report is submitted.

7. Hence, following order is passed:

- a) Investigation Wing of this Commission is directed to call upon explanation from Respondent No. 2 and 3 why action should not be taken against them under Section 166A of Indian Penal Code for blatant disobedience to the direction of the Commission.
- b) Fresh notice be issued to these two Authorities with specific direction to the Municipal Commissioner, Vasai Virar Municipal Corporation to place on record copy of the Writ Petition pending before the High Court of Judicature at Bombay and copy of the interim orders if any passed in that petition on next date.
- c) **Matter to appear on board before Court No.1 on 23<sup>rd</sup> January 2023 at 11.00 a.m.**

  
(M.A. Sayeed)  
Member

  
(Justice K. K. Tated)  
Chairperson



## MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Maharaj Terminus, Mumbai - 400 001

Tel : 22092857 Email: court1-mshrc@mah.gov.in

### DIVISION BENCH

### Suo Motu Case No.- 4398/13/37/2022

Name of Respondent : Municipal Commissioner,  
Vasai Virar Municipal Corporation

Collector,  
Palghar

Commissioner of Police,  
Mira Bhayandar Vasai Virar Police  
Commissionerate, Mira Road

Date : 06<sup>th</sup> April 2023

Coram : Justice K.K. Tated, Chairperson  
M.A.Sayeed, Member

### ORDER

(Per: M. A. Sayeed, Hon'ble Member)

A news appeared in English newspaper 'Times of India' of 08.11.2022 about an unfortunate mishap of a senior lady citizen falling down in the manhole at Virar and of her body being traced almost after 12 hours. Entire blame for the incident came to be fastened on Vasai Virar Municipal Corporation for having failed to maintain and supervise the safety of the manhole and of having failed to respond to the summons issued by this Commission.

2. From the police report Ex. 'A' submitted by ACP, Virar, Mira Bhayandar Vasai Virar Police Commissionerate,

it can be seen that the lady lost her life under unfortunate circumstances, and infact, it was an accidental death.

3. Reports were called from the police as well as Spl. IGP, Investigation Wing, pursuant to which reports came to be placed on record from time to time. Eventually, on the strength of the materials tendered on record, following directions came to be passed by the Commission on 27.03.2023

**“Adv. Swati Sagvekar, Adv. Priyanka More and Shri Junaid Shaikh, Jr. Engineer, for Vasai Virar City Municipal Corporation present.**

**2. Adv. Swati Sagvekar has made a statement at Bar that pursuant to the directions issued by us on the previous date, on the Municipal Commissioner on humanitarian grounds decided to issue a cheque of Rs.2,00,000/- (Rupees Two Lacs Only) to the legal heirs of deceased victim and its officer Shri Junaid Shaikh, Junior Engineer had gone to the house of the legal heirs to deliver the cheque but, they refused to accept it saying that the monetary compensation would not bring back the deceased to them. Ld. Adv. Sagvekar has undertaken to submit affidavit to that effect by next date.**

**Matter stand over to 06.04.2023.”**

4. In compliance of the above noted directions, affidavit Ex. 'E' duly affirmed by the Dy. Municipal Commissioner, Vasai Virar City Municipal Corporation came to be placed on record contending interalia in para 2 & 3 as under:

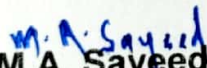
**“2. I say that as required by this Hon'ble Commission, the Respondent Corporation, on humanitarian grounds, has agreed to give a compensation of Rs.2,00,000/- (Rupees Two Lakhs only) to the victims family.**

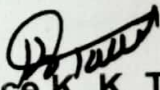
3. I say that this Corporation's officials had visited the victim's family on March 8, 2023, March 17, 2023 and March 25, 2023 alongwith the cheque as directed by this Hon'ble Commission. However the family of the victim refused to accept the cheque. I say that the Corporation had put its best efforts to handover the cheque to the victim's family."

5. Thus, with the legal heirs refusing to accept any monetary compensation and also showing reluctance to initiate any criminal action, we don't think the present suo motu case calls for any further intervention or enquiry, hence following order:

**"ORDER"**

- a) The present suo motu case stands closed and disposed off with no order as to cost.

  
(M.A. Sayeed)  
Member

  
(Justice K. K. Tated)  
Chairperson