



Advocacy - Governance - Renewal

Shri Devendra Fadnavis
Hon'ble Chief Minister, Maharashtra
Mantralaya,
Mumbai - 400032

मुख्यमंत्री सचिवालय
महाराष्ट्र शासन
मंत्रालय - ४०० ०३२
दिनांक २७/२/१८

February 27, 2018

Dear Shri Fadnavis,

Sub: Your Directive of January 2016 to the MCGM regarding recovery of all adopted Reserved Public Open Spaces in Greater Mumbai

We are constrained to bring to your attention that your above mentioned Directive to the MCGM has not been complied with in its entirety. Of the total listed public open spaces in the Directive twenty odd are still in the possession of private parties many of who, we understand, are not willing to hand them over despite notices to do so having been issued by MCGM. We believe implementation of such Directives should be time bound in order to be effective. It is now two years and there is no closure.

These twenty odd public open spaces, that have not been recovered by the MCGM yet, are being commercially exploited by the private entities (mainly politicians and celebrities) who are still holding on to them totally against the terms under which they were given for adoption. (supporting news reports attached). In the light of such breaches MCGM should have terminated their agreements immediately.

The new public open spaces policy was to have been framed immediately after your Directive was issued. We were heartened by this decision and wrote to you then with a proposal from our side suggesting a draft policy (enclosed for ready reference). This was to expedite the process of framing a new public open spaces policy. Regrettably, it seems the MCGM wishes to find a way to allow these defaulters to continue in possession of the open spaces and have surprisingly framed a completely faulty eleven month Interim Policy. This is unjustified and not in keeping with the letter and spirit of your Directive.

NAGAR urges you to kindly direct the MCGM that these attempts to legitimize the activities of the violators must be stopped at once. We have not only raised our voice against such violators consistently but have also extended our help with constructive policy suggestions.



Because of NAGAR's wide experience in the field of protection and conservation of public open spaces, NAGAR was appointed on the Expert Committee, constituted by a G.R. No BMC/2512/CR No 953/ Ud-21, dated 3rd November, 2012 to formulate a Uniform Policy regarding proper Planning & Development of open spaces in Mumbai Municipal Corporation's limits under the Chairmanship of the Municipal Commissioner, MCGM. The Draft Report was completed and handed over in August 2014 to the then Municipal Commissioner. However, it's been in cold storage since then. We request you to get this Draft Report revived and re-examined at the earliest and used as the basis for formulating a Uniform Policy for Greater Mumbai.

We urge you to act immediately in the interest of the city and her future generations.

Thanking you

Yours sincerely,


Nayana Kathpalia


Meher Razaat

Trustees

On behalf of Trustees

Anand Akerkar	Atul Kumar	D M Sukthankar	Gerson da Cunha
Dinesh Ahir	Kunti Oza	Meher Razaat	Nayana Kathpalia
	Neera Punj	Parul Kumtha	

Encl.

1. Letter addressed to you dated January 29, 2016
2. News report
 - a. "SoBo trust accused of charging school Rs. 80k for use of BMC park", The Times of India dated February 22, 2018
 - b. "1 of 29 open spaces reclaimed by BMC in past three months", The Hindustan Times dated February 20, 2018
 - c. "BMC for open spaces policy in place before taking back all plots", The Indian Express dated April 26, 2017

CC: Mr. Ajoy Mehta, Municipal Commissioner

Mr. Ashish Shelar, MLA

27-2-18
आमदार
अ. आशिष शेळार
यांचे कार्यालय





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Shri. Devendra Fadnavis
Hon'ble Chief Minister, Maharashtra
Mantralaya,
Mumbai - 400032

मुख्यमंत्री कार्यालय
महाराष्ट्र शासन
मंत्रालय, मुंबई ४०० ०३२
दिनांक २९/१/२०१६

January 29, 2016

Dear Shri. Fadnavis,

We are heartened by your directions to MCGM to recover all Reserved Public Open Spaces (RPOS) that have, over the years, been given out to various parties, under the Caretaker and Adoption policies. The Policy itself is now under review, a much needed move initiated at your behest. For both these citizen and city friendly acts, we are truly grateful.

Our organisation, NAGAR, has several years of research and ground level experience in the field of open spaces. We have a city-wide base of associates, comprising individuals and organisations, with whom we are in constant touch, imparting information and addressing their concerns. We have interacted closely with various governmental agencies, particularly the MCGM, and NAGAR (under the name of an erstwhile constituent CitiSpace) was a member of the Expert Committee on "Uniform Policy for proper planning & development of open spaces in Mumbai Municipal Corporation's limits" chaired by the Municipal Commissioner, MCGM.

The organisation has done a survey of over 1400 RPOS, which are available in soft copy and has published a book Breathing Spaces, which covers 600 of such spaces. This information is available to all citizens to aid them in their efforts to preserve RPOS in their neighbourhoods. We have also taken legal recourse, where necessary, and are being heard in the matters of slum rehabilitation (SRA) and 4G towers on RPOS. In both cases, we are challenging bad policy and have obtained a stay from the Mumbai High Court.

We have taken the liberty of putting down a proposal for your consideration, regards RPOS, with an emphasis on the intent that they be maintained in a manner that ensures their integrity as Non-buildable Spaces meant for the General Public. (attached)

They must remain easily accessible to the citizens at large for their recreational benefit, be open to the sky and have a permeable surface, to aid in mitigating the catastrophic effects of excessive rainfall in an era of climate change.

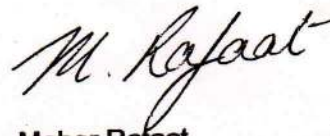
The abysmal lack of Non-buildable RPOS in Greater Mumbai, demands that these tenets be sacrosanct and not compromised to accommodate any other requirement of the city.

The Supreme Court of India expressed this principle clearly when it held that "....the public interest in the reservation and preservation of open spaces for parks and playgrounds cannot be sacrificed by leasing or selling such sites to private persons for conversion to some other user. Any such act would be contrary to the legislative intent and inconsistent with the statutory requirements. Furthermore it would be in direct conflict with the constitutional mandate to ensure that any State action is inspired by the basic values of individual freedom and dignity and addressed to the attainment of a quality of life which makes the guaranteed rights a reality for all citizens."

We request you for a meeting on this issue and offer our assistance in evolving a Policy which has the interest of Mumbai and her citizens at heart.

Thanking you,
Yours sincerely


Nayana Kathpalia
Trustee


Meher Rafaat
Trustee

Anand Akerkar
Meher Rafaat

On behalf of Trustees
D M Sukthankar
Nayana Kathpalia

Gerson Da Cunha
Kunti Oza

Dinesh Ahir
Neera Punj

Encl: as above

CC: Mr. Ajoy Mehta, Municipal Commissioner, MCGM





Advocacy - Governance - Renewal

NAGAR's Proposed Policy for Preservation, Conservation, Security and Maintenance of Public Open Spaces Belonging to MCGM Reserved in the DP for RG/ PG / P / G (non-buildable) and the Plan of Action for Executing the Policy

Introduction

Mumbai aspires to be a world-class financial capital and to that end the State is enhancing and increasing public amenities to service the city. Public Open Spaces stand at the very apex of such amenities and are crucial for providing physical, mental and social well-being for the citizens.

The Hon'ble Supreme Court recognising the importance of green spaces has said "One of the main objectives of public parks or playgrounds is the promotion of the health of the community by means of 'ventilation' and recreation. It is the preservation of the quality of life of the community that is sought to be protected...." It further held that "the public interest in the reservation and preservation of open spaces for parks and playgrounds cannot be sacrificed..."

Keeping this in mind any Open Space Policy for Greater Mumbai must ensure the following aspects:

- protection and creation of a network of high-quality open spaces that can reinforce local identity and civic pride
- enhancement of the physical character of an area, shaping existing and future development
- improvement of physical and social inclusion, including accessibility,
- protection, enhancement and integration of biodiversity and ecological habitats
- provision of infrastructure and ecosystem services
- provision of children and young people's play and recreation
- help in mitigation of and adaptation to climate change
- help in checking and controlling pollution

The above points are essential when dealing with non-buildable Reserved Public Open Spaces, which are the subject matter of this policy and include Recreation Grounds, Playgrounds, Parks and Gardens.

It bears noting at this point that other necessary public amenities such as clubs, stadiums, gyms, swimming pools, etc. which require buildable public open spaces have already been allocated separate plots designated for these very purposes in the current and proposed DPs.

The proposed draft policy for Reserved Non-Buildable Public Open Spaces must be applicable to all present and future plots of land which were allotted / designated / reserved as such in the existing DP 1991 and the proposed DP 2034. This would include all plots which have been given on lease basis, caretaker / adoption basis, vacant land tenancy basis by MCGM to private individuals, organisations and so on.

The Chief Minister has directed the MCGM to take back all 235 plots given under various policies, thereby ensuring that the civic body has complete control over them and no third party private interest and/or rights are created.

NAGAR proposes the following plan of action for restoring, managing and maintaining all RG/PG/P/G reserved in the DP in a manner that **maintains the integrity of their use by ensuring that they are open to sky, permeable and accessible with absolutely no construction on them.**

The Cost of Restoring and Maintaining Reserved Public Open Spaces

The figures given below are arrived at based on the costs incurred by the organisations which restored and maintain the Oval Maidan at Churchgate and Dhote Udyan in Mahim, both organisations are associates of NAGAR.

- **1st year: Capital Cost for preservation, conservation and security of the current designated 1068 plots (1200acres) RG/PG/Parks/Gardens identified in the 'Policy' should be secured (spatial fencing), landscaped (plain green lawn, indigenous trees & shrubs on the periphery), walking track, lights (solar) & water, round the clock security and a 10x10foot shed for electric meter & garden equipment.**

The capital cost of this will be approximately Rs. 7.5 lakhs per acre X 1200 acres
= Rs. 90 crores

- **2nd year: Maintenance cost** of the said open spaces: gardening, security & maintenance. Plus wages of the gardeners and security guards, water and electricity bills. The maintenance cost of this will be approximately Rs. 9 lakhs for one year X 1200 acres = Rs. 108 crores
- **3rd year onwards:** Regular maintenance and minor repairs.

In addition, budgetary allocation must be made to install rainwater harvesting systems, solar lighting where possible and composting (of garden waste only) systems. Provisions for waterless urinals and drinking water via companies that manufacture water purifying equipment (no construction of water fountains) and children's play equipment should be examined as amenities for the public.

Management of Public Open Spaces

- All public open spaces should be open from 6am to 9pm and entry should be free with no entrance fee levied.
- No Street Vendors should be permitted.
- No Religious Structures should be permitted.
- No weddings, religious and political functions should be permitted on RG / P / G
- Functions on PGs should be as permitted under Sec. 37 A of MRTP Act for 45 days in a calendar year.
- Cultural Programmes should be permitted only on RGs and these would include theatre, dance, music, literary programmes, lectures and visual arts. Such programmes should be free with complete public access. They should be permitted for 30 days in a calendar year with no single programme lasting more than ten days including set up and dismantling time.

Citizen Participation in the Management

- Formation of a Municipal Ward level committee comprising MCGM officials, the local Corporator and neighbourhood Resident Associations/ALMs, should be the supervisory group which would monitor the work being undertaken in a specific open space.
- Residents and Associations should be encouraged to be the eyes on the open space and give both positive and negative feedback to the Ward office. For this a

formal system should be set up to facilitate citizen participation and make it meaningful.

- A general helpline number should be designated for any citizen to be able to call in and give their feedback. The feedback should be reported to the Ward Committee for further action.

Amendment to the DCRs

- Definitions are necessary for all RG/PG/P/G and must include what is permitted and what is not permitted on them.
- An amendment to clause (iv) of the "Explanation" below Regulation 9 of the Development Control Regulations for Greater Mumbai, 1991 must be made to permit only a shed of 10'x10' for electric meter and garden equipment to be constructed. No other construction must be permitted.

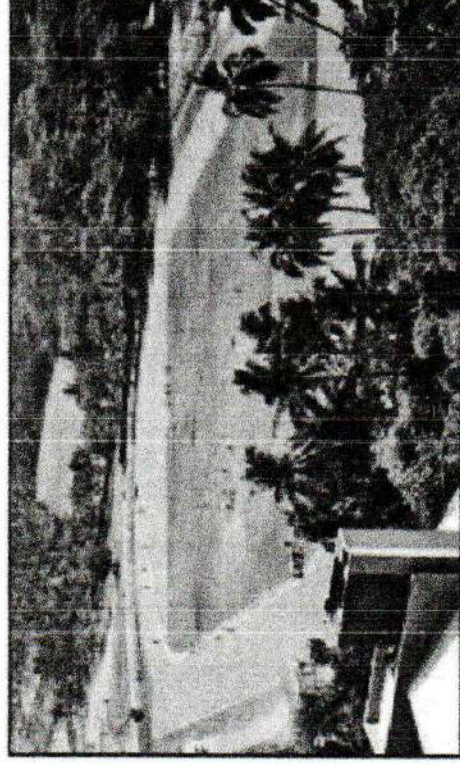
January 29, 2016

SoBo trust accused of charging school ₹80k for use of BMC park

Richa Pinto@timesgroup.com

Mumbai: The Malabar Hills Citizens' Forum, which maintains Priyadarshani Park at Nepean Sea Road, has been accused of charging an exorbitant Rs 80,000 for use of the open space in the prime locality in south Mumbai. The trust admitted that they do charge for the use of the 65,000 sqm Priyadarshani Park, which has been set upon reclaimed land, but only after getting an all-clear from the BMC.

At the civic standing committee meeting on Wednesday, Samajwadi Party leader Rals Shaikh raised a point of order stating that a pre-primary school in his ward at Nagpada had complained to him that they had to pay Rs 30,000 to use the open ground for their annual sports day. "Priyadarshani Park is a public space, on what basis are they charging so steeply? This is...loot...and another example of public space being exploited. The BMC needs to look into it immediately," claimed



The Malabar Hills Citizens' Forum, which maintains Priyadarshani Park, said they give out the ground for events only after BMC nod

Why hasn't BMC taken back 20 plots: Netas

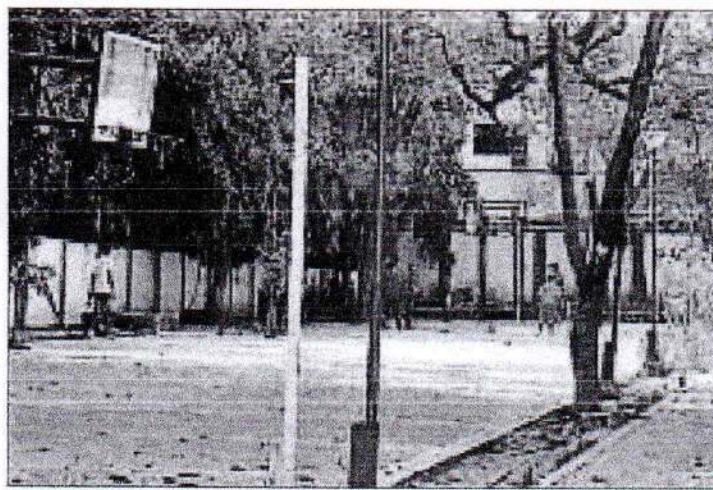
On Wednesday, corporators in the civic standing committee demanded to know why the BMC has not yet taken over 25 of the 200 open spaces that were given to various organizations under the adoption policy. They claimed that most of these open spaces included those with political patronage, like St Xavier's ground at Parel maintained by the Mumbai District Football Association headed by Yuva Sena chief Aaditya Thackeray, and Swatantra Veer Savarkar Udyan in Borivli and Netaji Subhash Chandra Bose Kridangan in Kandivli that are under the aegis of BJP MP Gopal Shetty. "The BMC needs to take back the plots that violate maintenance conditions. Also, a list of the status of these plots must be provided to the civic standing committee first," said Bandra corporator Asif Zakeria.

med Shaikh, adding that the many donors, so why was it collecting such hefty charges

from the public. "The school showed me two receipts of Rs 40,000 each for using the park for a day to host its sports day. This is unacceptable," said Shaikh.

Susieben Shah, general secretary of the Malabar Hill Citizens' Forum, said they charge for use of the ground, but after keeping the BMC in the loop. "In fact, those wanting to use the space have to first approach the BMC and only after it gives a nod, do we grant permission. We charge Rs 30,000 plus taxes per day, which includes cost of mandap, chairs, use of toilets, electricity and security. In case of extra arrangements, like a bigger mandap, additional charges are levied," said Shah. "We strictly adhere to the norms and only allow sporting events on the ground; we do not give out the open space for commercial activities," she clarified.

Justifying the high charges, Shah said they are a charitable trust and most of the funds are utilized for maintaining the park.



■ The basketball court at South Indian Education Society in Sion that was reclaimed by the BMC.
PRAMOD THAKUR/HT

1 of 29 open spaces reclaimed by BMC in past three months

Geetanjali Gurihosur
■ geetanjali.gurihosur@hltv.com

MUMBAI: Almost three months since the civic body passed its interim policy on open spaces, it has been able to reclaim possession of only one plot.

After approving the interim policy on November 24, the Brihanmumbai Municipal Corporation (BMC) is yet to take back 28 recreational grounds, playgrounds and parks from private bodies. In December, the BMC took back a 3,000-sqm playground in Sion (East) which was being maintained by the South Indian Education Society (SIES) for over a decade. Civic officials of the garden department said that the plot was handed over without any resistance. "The playground is located behind the SIES College and it was difficult for the public to access. It has been turned into a concrete basketball court. We will be converting it into a proper playground now," said an official.

A trustee of SIES said on the condition of anonymity that the society has already re-applied as a caretaker under the new interim policy. He said, "Entry to the playground was never restricted. We maintained it well, even better than the BMC would have. Bodies that have maintained the plots well and not violated any norms should get preference during re-allotment."

Following chief minister Devendra Fadnavis' order in January 2016, the BMC had to take back 216 open spaces given to NGOs, citizens' groups and private entities for maintenance. Now, under the interim policy, private organisations will again get a chance to maintain the open spaces in the city for 11 months or for the period of time the main policy is approved. The ones who were earlier in charge of those spaces, too, can apply for adoption. According to BMC's superintendent of gardens Jitendra Pardeshi, repossession of the plots is being done in stages. "We will soon send notices to take back the remaining open spaces. If the caretakers do not hand over the spaces within 7 days of receiving notice, we still have the right to reclaim possession. As per procedure, we also file caveats in Bombay High Court in case they resist the re-possession," said Pardeshi.

The caveat is a pre-emptive measure in case organisations who have received the notice create problems in handing over the plots.

However, of the 28 private bodies that are yet to hand over plots, five to six have moved the high court to issue stay orders.

Notices shall be sent to take back the remaining 22 spaces next month, confirmed an official who did not wish to be named.

BMC for open spaces policy in place before taking back all plots

ARITA SARKAR

MUMBAI, APRIL 25

AFTER GETTING the nod from the improvements committee in December last year, the Brihanmumbai Municipal Corporation has placed its proposal on an interim open spaces policy in front of the recently-elected general body. The BMC has now decided to implement the interim policy and lease out open spaces that have been taken back even though the gardens department is yet to take back 60 plots that include those given out on adoption basis to politicians across party lines.

Since early last year, when Chief Minister Devendra Fadnis ordered the BMC to take back all 216 plots which had been given out on adoption basis, only 156 have been taken over by the garden department. The process of taking them back came to a temporary halt before the BMC polls. Civic officials said they are now ready to resume the process. "We are yet to take back around 60 plots, of which five are under litigation. We have finalised a list of 30 plots that will be taken out first and we will send out the notices next week," an official said.

Another official said that once the general body approves the interim policy, the civic administration will begin the process of giving them out on lease for maintenance. "We will start as soon as the policy is approved and it will also be implemented for the remaining plots yet to be taken back. If any organisation is willing to abide by the norms, we can give them out on a 11-month lease," the official said.

City-based activists cried foul over the BMC's decision to implement the policy before all plots have been taken back. Shailesh Gandhi, who has been protesting against the interim policy, said: "The BMC has committed a fraud and its intention is to give away open spaces to private entities. They should instead main-

tain these plots departmentally or allow citizen groups to audit the plots," he said.

Another activist, Nayana Kathe, trustee of NAGAR said the BMC seems to be favouring some people. "The civic chief had clearly said that all plots would be taken back before the interim policy is implemented. However, only those under celebrities and politicians have not been touched," she said. "The BMC was very quick to take away plots from NGOs who were doing a good job. I'm horrified that even after taking back so many of them, there is no firm policy and we have this charade of this interim policy that is neither here nor there."

Of the plots yet to be taken back, more than 25 are controlled by politicians. Apart from Swatantra Veer Sawarkar Udyan in Borivli west and Netaji Subhash Chandra Bose Kridangan in Kandivli west which are maintained by the Poisar Gymkhana led by BJP MP Gopal Shetty, the known names include the St Xavier grounds in Parel that is being maintained by Mumbai District Football Association chaired by Yuva Sena chief Aditya Thackeray. As per the proposal, the plots will be given out to NGOs or organisations for maintenance on certain conditions. The norms dictate that the lessee will have no right and the BMC can take it back any time. The plots cannot be put to commercial use or used for political activities, and cannot be transferred to a third party. The policy also says the organisation will have to allot different time slots for school children and adults. It makes special mention about plots not reserved as open spaces but can be put up for maintenance.

"There are 10-12 plots that are not reserved as recreation ground or gardens but have been levelled using debris or developed as gardens by NGOs or residential associations to prevent illegal work. The policy will apply to them also," an official said.

arita.sarkar@expressindia.com

