

**PRESIDENT**  
Nayan A. Shah

**IMMEDIATE PAST PRESIDENT**  
Mayur Shah

**VICE PRESIDENTS**  
Deepak Goradia  
Boman Irani  
Harish Patel  
Nainesh Shah  
Domnic Romell

**ADDL. VICE PRESIDENT**  
Sukhraj Nahar

**HON. SECRETARY**  
Bandish Ajmera

**TREASURER**  
Mukesh Patel

**SPECIAL PROJECTS**  
Parag Munot  
Sandeep Raheja  
Jayesh Shah  
Sanjay Chhabria  
Rasesh Kanakia

**HON. JOINT SECRETARIES**  
Navin Makhija  
Sandeep Runwal  
Shailesh G. Puranik  
Dhaval Ajmera  
Pratik Patel

**JOINT TREASURER**  
Nayan Bheda  
Munish Doshi

**CO-ORDINATORS**  
Sandeep Shah  
Tejas Vyas  
Shailesh Sanghvi  
Pritam Chivukula

**COMMITTEE MEMBERS**  
Jagdish Ahuja  
Jitendra Jain  
Deepak Gundecha

**INVITEE MEMBERS**  
Praful Shah  
Rajesh Prajapati  
Sachin Mirani  
Nikunj Sanghavi  
Rajeev Jain  
Shyamal Mody  
Digant Parekh  
Rushank Shah  
Samyag Shah  
Jayesh C. Shah  
Sunny Bijlani  
Sahil Parikh  
Naman Shah  
Suhail Khandwani  
Ricardo Romell

**PAST PRESIDENTS**  
Dharmesh Jain  
Vyomesh Shah  
Paras Gundecha  
Pravin Doshi  
Mohan Deshmukh  
Mofatraj Munot  
Rajnikant Ajmera  
Late G. L. Raheja  
Late Lalit Gandhi  
Late Babubhai Majethia

**CREDAI-MCHI UNITS**  
**PRESIDENT, THANE**  
Ajay Ashar

**PRESIDENT, KALYAN-DOMBIVLI**  
Ravi Patil

**PRESIDENT, MIRA VIRAR CITY**  
Ashit Shah

**PRESIDENT, RAIGAD**  
Ateeque Khot

**PRESIDENT, NAVI MUMBAI**  
Prakash Baviskar

Ref. No. MCHI/PRES/18-19/377

July 20, 2019

To,  
**Shri Praveen Pardeshi (I.A.S.)**  
Municipal Commissioner,  
Municipal Corporation of Greater Mumbai  
Mumbai - 400 001



Sub: Suggestion for Corporation Litigation Policy

Respected Sir,

"Corporation Litigation Policy" is required to be formulated by the Legal Department of MCGM to bring down the litigation by making them more responsible in filing cases.

The Corporation Litigation Policy aim is to transform judiciary into an efficient and responsible litigant. This policy is also based on the recognition that it is the responsibility of the corporation to protect the rights of citizens, to respect the fundamental rights and those in charge of the conduct of litigation should never forget this basic principle.

We have one of the best legal departments of the corporation, all of them are very intelligent people, but what is happening is because of the way of working, every case goes up to the Supreme Court.

The purpose underlying this policy is also to reduce the corporation as well as the individual's litigation in courts so that valuable court time would be spent in resolving other pending cases. The Hon'ble Supreme Court of India has rightly pointed out that the, the Government itself is the biggest litigant in the judicial system.

In USA it is said that "when in a writ petition, if the citizen wins they say the constitution is upheld one more time, there losing a writ petition in fact a state of Happiness in the legal department" because in writ you challenge the constitution, that I have right under constitution which is been denied to me and when the citizen win they feel the constitution has won that is the approach fundamentally they take

Our suggestions divided majorly 3 part

- 1) Over a period of time no of cases corporation files in Magistrate court, city civil court, small causes court, High Court and Supreme Court plus additionally in NGT, MoEF and subsidiary tribunals where the Corporation needs be present. Now, where ever the law has been settle. For E.g Mayfair Housing has won a writ petition against the corporation estate department where certain levy put to me and the levy was declined as unconstitutional and set aside. Let us bunch everything that is come like that into one. Also, there very wonderful lawyer in the High court and supreme court who's

integrity cannot be challenged. We can bunch them and take them into opinion and take opinion and start clearing such cases.

- 2) The biggest litigation in the corporation happening in MRTP Act / BMC Act / service matter (promotion related to staff matter).

As a developer we are concern only with MRTP, Development regulation are framed under MRTP which entitle me for certain benefits and that benefit is not being given to me. So either I pay money to corporation staff for get things done and when things are extremely difficult I file a writ. Now the corporation is very well aware that I suppose to win. But they say No, if they give you benefit today, tomorrow he will be suspended from the service that he favored the party. Now such cases we need to bunch together, that what was eligibility under MRTP act. Because in today's scenario 100 crores development that can happen, doesn't happen because the benefit which needs to be given is denied. Whole system of doing business is punctured when such a litigation happens.

- 3) Let us say corporation decides as per government Gr to convert all roads should be made into 9:15 mtrs. this can be done in two ways i.e under MMC act 297 (1A) and and 297(1B). 297(1B) is done when the second setback is done earlier the road was 6.0 mtr then it was converted into 7:0 mtrs and now making 9.0 mtrs. under 297(1A) that every case after it is approved by Commissioner needs to have ICCR and it needs to go general body for sanctioned of that setback. Now as this has already state policy then all roads need to be 9.15 mtr. imagine in next 3 years almost 10k to 12k types of resolution will go general body. I suggestion why not have unified resolution passed by general body, where in every that comes under 297(1A) every road that comes for increase in minim road with 0f 9.15 mtrs will not come to us. In next 2 year entire Mumbai road will be converted with this master resolution.

Now next step when the acquiring starts for such road many people will file writ that please don't acquire their land. Some will get stay some will not get stay. In city civil court every day 10 matter will come up. Instead of that corporation can bunch all such into one matter as it is a same thing.

Forgery in India, I myself had filed a forgery case against Chief Eng DP and two other officer as I lost in one of the case in high court as the facts of case were misrepresented in the court. Just because Chief eng DP at that time wanted some money which I denied and High court dismissed our petition. We should even bunch such cases where facts of the case were misrepresented justice should be given. We need to bring a culture and this will bring long term benefit. Where ever the judgment is already given we should dismiss all such pending which relates to same order as they will not get any different order.

Today the Government Department consider that order in that particular case and does not consider that as a general order and they do not

implement this in all the cases, these acts and conducts of the concerned Government Authorities are the nature of just discriminating to the individual.

My considerable view is that, we should formulate the "Corporation Litigation Policy" within the shortest period to time and the same should be circulated to all so, it can transform into "State Litigation Policy". If we form the said policy the number of the disposal of the legal cases will be automatically come down by 90% and on the other hand, the Government will save huge finance by formulating such Policy and the said finance may be utilised by the Government in any other prominent projects like coastal road, more green spaces etc.

#### **CREDAI-MCHI's PRAYER**

- After considering the above aspect as mentioned, the Legal Department of Corporation be directed to frame "*Corporation Litigation Policy*" directing its respective department to act promptly and prospectively on the same so that the 90% of the litigation will come down because of this National Litigation Policy.
- "Corporation Litigation Policy" the copy of the same be forwarded to the State government to form the "State Litigation Policy"

Thanking you,

Your sincerely,  
**For CREDAI-MCHI**



**Nayan A. Shah**  
President



**Bandish Ajmera**  
Hon. Secretary



**Sanjiv S. Chaudhary MRICS**  
Chief Operating Officer