

Vanashakti vs Thane Municipal Corporation on 7 August, 2023

Item No.2

(Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE
THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.26/2023(WZ)

Vanashakti & Anr.

.....Applicant(s)

Versus

Thane Municipal Corporation & Ors.

.....Respondent(s)

Date of hearing: 07.08.2023

CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER

Applicant : Mr. Zaman Ali, Advocate
Respondent(s) : Mr. N. R. Babna, Advocate for R-1/TMC
Mr. Aniruddha S. Kulkarni, Advocate for R-4/MCZMA
Ms. Manasi Joshi, Advocate along-with Ms. Pooja Natu,
Advocate R-5/MPCB
Mr. Rahul Garg, Advocate for R-6/CPCB
Mr. Saurabh Kulkarni, Advocate for R-7/UDD

ORDER

1. From the side of applicants, learned Counsel Mr. Zaman Ali has appeared.
2. From the side of respondent No.1/Thane Municipal Corporation (TMC), learned Counsel Mr. N. R. Babna has appeared. At the very outset, he submits that a matter with identical relief was filed in the form of letter petition before the Principal Bench of this Tribunal being Original Application No.320/2022(PB), which has been transferred to this Bench and re-numbered as Original Application No.66/2023(WZ). Therefore, the same should be clubbed with the present matter.
3. We have perused the prayers made by applicant-Mr. Arif Nawaz M.M. Iraqi, who had filed the letter petition, which has been registered as Original Application No.66/2023(WZ), where-in he has alleged that the "destruction of natural flows of water arising from the hills of Shiphata and Mhape to Desai Khadi (creek) by reclamation by Murrum and Rabbit in Diva Prabhag Samiti" while in the present case, matter raised, is related to stop dumping of solid waste at Diva by the respondent No.1. Therefore, we do not find any relevance of clubbing of Original Application No.66/2023(WZ) with the present matter.

4. From the side of respondent No.5/MPCB, learned Counsel Ms. Manasi Joshi has appeared, who has filed reply affidavit dated 04.05.2023 and in compliance with our previous order dated 08.05.2023, she has filed additional reply affidavit dated 03.07.2023, where-in it is clarified that the MPCB has directed vide letter dated 07.12.2020 to the respondent No.1/TMC to pay final compensation for the period from 01.04.2020 till 31.11.2020, details of which are as follows:-

" (i). To deposit Environment compensation of Rs. 80 Lakh towards non-compliances of SWM Rules 2016, for untreated solid waste to the tune of 634 MT/day from 1/4/2020 to 30/11/2020 to comply with the Solid Waste Management Rules, 2016 time to time.

(ii). Final Environment compensation of Rs. 80 Lakh from 1/4/2020 to 30/11/2020 towards not commencing the work of Legacy waste site remediation.

(iii). Rs. 20 Lakh per month for the non-compliance of solid waste management & Legacy waste management from December 2020 onwards till compliance."

5. Further, it is submitted in this affidavit by the respondent No.5 that MPCB passed direction dated 07.12.2020 to the respondent No.1/TMC, in pursuance of order dated 02.07.2020 in Original Application No.606/2018 passed by the Principal Bench of this Tribunal, on the basis of which the MPCB has assessed the Environment Compensation @Rs.10 lakh per month from December 2020 till compliances towards the Solid Waste Management Rules, 2016 and environment compensation @Rs.10 lakhs per month from December 2020 till compliance towards non-compliance of legacy waste.

6. The above reply would indicate that further calculation of the environmental compensation is to be made by the answering respondent w.e.f. 01.12.2020 till the legacy waste is taken care of, in compliance with the Solid Waste Management Rules- 2016.

7. Since the learned Counsel for applicants submits he has not received a copy of the addl. affidavit filed by the respondent No.5/MPCB, we direct the learned Counsel for respondent No.5 to provide a copy of the same to the said learned Counsel today itself through e-mail.

8. Since the learned Counsel for respondent No.1/TMC has appeared before us but he has not e-filed the copy of reply affidavit, which appears to have been sent through e-mail because a copy of the same is said to have been served upon the respondent No.7/UDD, which is being represented by learned Counsel Mr. Saurabh Kulkarni, who is present before us.

9. We direct the respondent No.1 to e-file the reply affidavit within a week, subject to a cost of Rs.5,000/- (Rs. Five Thousand) to be deposited with the Western Zone Bench Bar Association of NGT at Pune, within a period of seven days. He is also given liberty to file rejoinder, if any, against the additional reply affidavit filed by the MPCB dated 03.07.2023.

10. None has appeared from the side of respondent No.2/Chief Conservator of Forests and respondent No.3/District Collector, Thane despite sufficient service.

11. From the side of respondent No.4/Maharashtra Coastal Zone Management Authority (MCZMA), learned Counsel Mr. Aniruddha S. Kulkarni has appeared, who prays that two weeks' time may be allowed to file reply affidavit, the same is allowed.

12. From the side of respondent No.6/CPCB, learned Counsel Mr. Rahul Garg has appeared, who prays that two weeks' time may be allowed to file reply affidavit, the same is allowed.

13. From the side of respondent No.7/Urban Development Department, learned Counsel Mr. Saurabh Kulkarni has appeared, who submits that he does not want to file reply affidavit as no relief is prayed against it.

14. We direct that the copies of the reply affidavits shall be shared among the parties before the next date so that no adjournment would be required.

Put up this matter final hearing on 25.09.2023

15. Dinesh Kumar Singh, JM Dr. Vijay Kulkarni, EM August 07, 2023 Original Application No.26/2023(WZ) P.Kr