**BEFORE THE NATIONAL GREEN TRIBUNAL**
**WESTERN ZONE BENCH, PUNE**

**Original Application No. 186 of 2023 (WZ)**

News Item appearing in Pune Pulse Dated 11.10.2023
Titled "Pune Residents Condemn tree felling for Urban Development Projects"

..... Applicant

Vs.

Maharashtra Forest Department & Ors.

..... Respondent(s)

**INDEX**

| Sr. No. | Particular | Page No. |
|---|---|---|
| 1 | Affidavit in Reply on behalf PMC | 249-270 |
| 2 | **Annexure A**<br>Copy of Judgment (2022) 13 SCC 401 Municipal Corporation of Greater Mumbai Vs. Ankita Sinha & Ors. | 271-332 |
| 3 | **Annexure B**<br>(2019) 19 SCC 479 Tamil Nadu Pollution Control Board Vs. Sterlite Industries (India) Limited and Others. | 333-373 |
| 4 | **Annexure C**<br>Copy of Judgment passed in PIL No. 93 of 2009 by the Hon'ble Bombay High Court. | 374-407 |
| 5 | **Annexure D**<br>Copy of PIL No. 161 of 2023 Shalvi Pawar & Ors. Vs. Pune Municipal Corporation & Ors. | 408-866 |

| | | |
|---|---|---|
| 6 | **Annexure E**<br>Copy of Judgment passed in PIL No. 161 of 2023 by Hon'ble Bombay High Court. | 867-879 |
| 7 | **Annexure F**<br>Copy of Judgment passed in PIL No. 163 of 2023 by the Hon'ble Bombay High Court. | 880-891 |
| 8 | **Annexure G**<br>Copy of Notice dated 03/11/2023. | 892- |

Pune

Date: 05/12/2023

Advocate for Respondent No. 2

**BEFORE THE NATIONAL GREEN TRIBUNAL**
**WESTERN ZONE BENCH, PUNE**

**Original Application No. 186 of 2023 (WZ)**

News Item appearing in Pune Pulse Dated 11.10.2023
Titled "Pune Residents Condemn tree felling for Urban Development Projects"

……. Applicant

Vs.

Maharashtra Forest Department & Ors.

…….. Respondent(s)

**AFFFIDAVIT-IN-REPLY ON BEHALF OF THE PUNE MUNICIPAL CORPORATION (PMC)**

I, Ashok Digambar Ghorpade, Member Secretary, Tree Authority of the Respondent Corporation having my office at Sambhaji Garden, Shivajinagar, Pune do hereby state on solemn affirmation as under:

1. I am working in the capacity of the Member Secretary, Tree Authority in the Pune Municipal Corporation. I am filing this Affidavit-in-Reply to oppose the contents of the Application

NOTARY Mrs.Krupa S. Patil B.A.LL.B. PUNE DISTRICT Reg.No.4327 Exp.Dt-19/07/2027 GOVT. OF INDIA

preferred and reliefs sought by the Applicant in the above captioned matter.

2. I am authorized by the Respondents to file this present Affidavit-in-Reply in my official capacity and as such I disassociate myself from any personal assertions made against me by the Applicant in the present Application. I have perused the documents brought on record by the Applicant and have understood the contents of the Application and on the basis of the documents and information available in relation to the said issue, I am filing this present Affidavit-in-Reply to oppose the grant of any interim reliefs to the Applicant as prayed for in the present Application. I crave leave to file a further and detailed Affidavit-in-Reply as and when sought necessary.

3. At the outset, I deny each and every averment and allegation made in the present Application, which is contrary to and/or inconsistent with what has been stated in the present

Affidavit-in-Reply and nothing stated therein shall be construed as an admission for the want of any specific and para-wise denial or non-traverse unless and until the same is specifically admitted hereinafter.

4. At the further outset, I say and submit that the Original Application has preferred the Interim Application in Original Application seeking the following reliefs:

a. Pass an order of temporary injunction against all tree felling proposals, and in particular, against operation of all the tree-felling notices and tree-felling orders passed by respondent No. 4 in respect of felling of trees across the city of Pune and against issuance of any such tree-felling notices or pass orders; pending hearing of this application;

b. Pending order as (a) above, an interim relief in the nature of status-quo order be passed for respondent to maintain status quo in respect of all tree-felling activities across the city;

5. I say and submit that the said relief as prayed for by the Applicants ought not to be granted for the following preliminary reasons and objections which are raised by the Respondent Corporation:

a. I say and submit that the Application preferred by the Applicant are beyond the scope of Adjudication and jurisdiction of this Hon'ble Tribunal as the Application pertains to The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 which does not fall within the enactment mentioned in schedule I of the National Green Tribunal Act, 2010.



i. I say and submit that the Hon'ble NGT, Principal Bench, New Delhi has taken Suo moto cognizance of News Item appearing in Pune Pulse dated 11/10/2023 titled "Pune Residents Condemn tree felling for Urban Development Projects". The Hon'ble Principal Bench transferred the matter to Western Bench.

ii. I say and submit that the issue involve in the present matter relates to cutting of trees under The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975.

iii. I say and submit that Hon'ble Supreme Court in (2022) 13 SCC 401 Municipal Corporation of Greater Mumbai Vs. Ankita Sinha & Ors. while deciding the issue of suo moto powers of the Hon'ble National Green Tribunal has laid down that:

*"Suo moto powers of NGT are somewhat distinct from those exercised by constitutional courts – Constitutional Courts can foray into any issues under their Constitutional Mandate but NGT cannot naturally travel beyond its environmental domain in reference to the schedule enactments"*

Hereto marked and annexed as **Annexure A** is the copy of Judgment (2022) 13 SCC 401 Municipal Corporation of Greater Mumbai Vs. Ankita Sinha & Ors.

*iv.* I say and submit that therefore in view of the aforementioned Judgment passed by the Hon'ble Supreme Court Suo moto powers of NGT are limited to the scheduled enactments. The present matter pertains to The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 is not a scheduled act under the NGT Act, 2010. Therefore, in our humble submissions present Application lacks jurisdiction before the Hon'ble Tribunal.



*v.* I say and submit that Hon'ble Supreme Court in (2019) 19 SCC 479 Tamil Nadu Pollution Control

Board Vs. Sterlite Industries (India) Limited and Others has laid down that :

*"NGT has no general powers of judicial review akin to that vested in High Court under Art. 226 of the Constitution of India possessed by the High Courts of this Country – NGT is not a Tribunal setup either under Art. 323-A or Art. 323-B of the Constitution".*

Hereto marked as **Annexure B** Hon'ble Supreme Court in (2019) 19 SCC 479 Tamil Nadu Pollution Control Board Vs. Sterlite Industries (India) Limited and Others.

vi. I say and submit that the issue raised by the Applicant in the present Application has been dealt by Hon'ble Bombay High Court. Hon'ble Bombay High Court in PIL No. 93 of 2009 with the provisions of The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 in detail. Procedure has been laid down by the Hon'ble

High Court in the said PIL for cutting of trees in the Pune Municipal Corporation limits.

Hereto marked and annexed as **Annexure C** is the copy of Judgment passed in PIL No. 93 of 2009 by the Hon'ble Bombay High Court.

vii. I say and submit that the grounds taken by the Applicants in their Application are similar/identical to the grounds of the PIL No. 161 of 2023 Shalvi Pawar & Ors. Vs. Pune Municipal Corporation & Ors.

Hereto marked and annexed as **Annexure D** is the copy of PIL No. 161 of 2023 Shalvi Pawar & Ors. Vs. Pune Municipal Corporation & Ors.




viii. I say and submit that Ground No. TT raised by the Petitioner before the Hon'ble High Court was that the Petition pertains to The Maharashtra (Urban Areas) Protection and Preservation of Trees Act,

1975, which does not fall within the enactment mentioned in Schedule I of the National Green Tribunal Act, 2010, hence this Hon'ble Court is the appropriate forum to hear the Petition and adjudicate the issues raised therein.

ix. I say and submit that Hon'ble Bombay High Court was convinced with the argument that The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975, which does not fall within the enactment mentioned in Schedule I of the National Green Tribunal Act, 2010 and therefore decided to take up the matter.

ARY
Krupa
Patil
LL.B.
DISTRICT
No.4327
13/07/2027
OF INDIA

x. I say and submit that the Hon'ble High Court dealt with the Grounds raised by the Petitioner in relation to The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 particularly in relation to Section 2, 3, 6, 8, Heritage Trees, State

Tree Authority, Amending Act of 2021 and Amending Act of 2023.

xi. I say and submit that relevant findings of the Hon'ble Bombay High Court are reproduced below:

*We are afraid, we cannot agree with the said submission made by the learned counsel for the petitioners. What all has been done by the Amending Act 2023 is that the power to decide applications regarding felling of more than two hundred trees of age five years or more and the applications regarding felling of heritage trees has been divested from the State Authority, however, as a result of the said enactment now such functions shall be exercised by the Local Tree Authority in terms of the provisions contained in Section 8 of the Principal Act. Section 8 of the Principal Act is extracted herein below: -*

*"**8.** (1) On and after the date on which this Act is brought into force in any urban area, notwithstanding any custom, usage, contract or law for the time being in force, no person shall fell any tree or cause any tree to be felled in any land, whether of his ownership or otherwise, situated within that urban area, except with the previous permission of the Tree Officer.*

*(2) If any person, including an officer of the urban local authority or an officer of the State Government or the Central Government, proposes to fell a tree, he shall apply in writing to the Tree Authority for permission in that behalf. The application shall be accompanied by the description of the tree and a site plan, indicating the position of the tree required to be felled and the reasons therefor.*

*(3) (a) On receipt of such application, the Tree Authority shall cause the Tree Officer to personally inspect the tree and hold enquiry and submit a report to the Tree Authority within a period of thirty days from the date of receipt of such application. Adequate public notice shall be given by the Tree Officer by advertising in local newspapers as well as by affixing a notice on a conspicuous part of the tree that is required to be fell.*

*Thereafter, the Tree Authority may give permission with or without conditions or refuse it, within a period of sixty days from the date of receipt of the application. However, no tree shall be fell until fifteen days after such permission is given :*

*Provided that, no such permission shall be refused if, in the opinion of the Tree Authority, the tree is dead, or diseased or wind-fallen, or it constitutes a danger to life or property, or obstructs traffic; and*

*if any objection is received against such permission, the matter shall be placed before the Tree Authority for reconsideration, and a decision shall be taken within two weeks after giving a hearing to the person who has raised the objection.*

*(b) A report of permissions granted by the Tree Authority for felling trees shall be submitted at least once in six months to the concerned urban local authority in whose jurisdiction the Tree Authority is functioning.*

ARY
Krupa
Patil
LL.B.
DISTRICT
No.4327
18/07/2027
OF INDIA

*(4) If the Tree Authority fails to inform the applicant of its decision within sixty days, from the date of receipt of the application by it, or if the receipt of the application has been acknowledged by it within this period, from the date of acknowledgement of the receipt of the application, the permission applied for shall be deemed to have been granted.*

*(5) Where permission to fell a tree is granted Tree Authority may grant it subject to the condition that the applicant shall plant another tree of the same or other suitable local species on the same site or other suitable place within thirty days from the date the tree is felled, or such extended time as the Tree Officer may allow in this behalf."*

*11. From a perusal of the scheme as contained in Section 8 of the Principal Act, it is clear that no one can fell trees unless he applies in writing to the Tree Authority for permission in that behalf. 'Tree Authority' in the Principal Act has been established by virtue of Section 3, according to which every urban local body is under a mandate to constitute a Tree Authority, consisting of the Chairman and other not less than five and not more than fifteen persons from amongst the members of the local*

*authority, to be appointed in such manner and for such period as that authority may determine.*

*12. Thus, what was done by enacting the Amending Act 2021 was that certain functions which under the Principal Act were assigned to be performed by the Local Tree Authority were entrusted to the State level Tree Authority. As a result of the impugned provisions contained in Amending Act 2023, nothing substantial has changed except that the power to grant permission to fell trees has been re-conferred on the Local Tree Authority divesting the State Tree Authority of such powers. Accordingly, so far as the regulation of felling the tree is concerned, even after Amending Act 2023 the same remains intact.*

*13. For the aforesaid reasons, the apprehension in the mind of the petitioners that there is no*

*regulatory mechanism to check cutting of trees, is unfounded. It is only that earlier this power was vested in the State Tree Authority, which is now vested in the Local Tree Authority.*

xii. I say and submit that the abovesaid order passed in PIL No. 161 of 2023 by Hon'ble Bombay High Court on 12th October, 2023 has already dealt with the issue in relation to cutting of trees in Pune Municipal Corporation limits. Therefore, in our humble submission as the matter has been dealt by the Hon'ble High Court jurisdiction in relation to matters / issues pertaining to The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 lies exclusively with Hon'ble High Court. Hereto marked as **Annexure E** is the copy of Judgment passed in PIL No. 161 of 2023 by Hon'ble Bombay High Court.

b. I say and submit that the present Application preferred by the Applicants is barred by limitation and therefore it ought to be dismissed.

i. I say and submit that on perusal of the Memorandum of Application filed by the Applicants it appears that Application is filed u/s. 14, 18 and 19 of National Green Tribunal Act, 2010.

ARY
Mrs.Krupa
B. Patil
B.A.LL.B.
NE DISTRICT
Reg.No.4327
Exp.Dt-10/07/2027
OF INDIA

ii. *Section 14 Tribunal to settle disputes. – (1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.*

*(2)……*

*(3) No application for adjudication of dispute under this section shall be entertained b the Tribunal unless it is made within a period of six months from*

*the date on which the cause of action for such dispute first arose.*

iii. I say and submit that Applicant themselves in their Application has mentioned that cause of action first arose in 2015. Therefore, in our humble submission this Application is barred by limitation.

iv. The second provision which is sought to be invoked is Section 18 of the NGT Act. A perusal of Section 18 of the NGT Act would clearly reveal that without first making out a case of maintainability as per Section 14(1)(3) of the NGT Act, the Original Applicant cannot make out a case under Section 18 of the NGT Act, 2010.

v. I say and submit that The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 was enacted in the year 1975 the legislature

was conscious in excluding the purview of the Act from the purport of Schedule I of the NGT Act, 2010. Thus, any violations which is stated to be violation of The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 can be independently pursued by the Applicants before the Hon'ble Bombay High Court but not before this Hon'ble Tribunal for this reason itself the present Application ought to be dismissed.

RY
rupa
Patil
LL.B.
DISTRICT
No.4327
18/07/2027
OF INDIA

6. I say and submit that PIL No. 163 of 2023 Parisar Sanrakshan Sanwardhan Sanstha Vs. PMC was filed regarding the procedure adopted by the Pune Municipal Corporation and its authorities in granting permission to the proposed felling of trees, so as to facilitate the road widening of Ganeshkhind Road. Wherein Hon'ble Bombay High Court directed PMC not to fell further trees pursuant to the permission dated 18th September, 2023. Hon'ble High Court directed PMC to undertake and complete the procedure for felling the trees under the act afresh.

Hereto marked as **Annexure F** is the copy of Judgment passed in PIL No. 163 of 2023 by the Hon'ble Bombay High Court.

7. I say and submit that Applicant has mentioned about the public notice dated 3rd November, 2023 issued by PMC in their Application. I say and submit that this notice is issued as per the directions of Hon'ble Bombay High Court in PIL No. 93 of 2009 and PIL No. 163 of 2023 calling for objections to remove the obstructing trees. This procedure is in process following all the directions of the Hon'ble Bombay High Court. Only after the completion of the process and obtaining permission trees shall be removed.

   Hereto marked as **Annexure G** is the copy of Notice dated 03/11/2023.

8. I say and submit that Respondent Corporation is committed towards sustainable development. Respondent Corporation is following all the directions issued by Hon'ble Bombay High Court. Therefore, in case Applicants feels there are violation

of the directions of the Hon'ble Bombay High Court, they are always at liberty to approach Hon'ble Bombay High Court.

9. Therefore, in view of the facts and reasons stated herein above we request this Hon'ble Tribunal to dismiss the present Application.

Pune

Date: 05/12/2023

Respondent No. 2

Member Secretary, Tree Authority

Pune Municipal Corporation

Advocate for Respondent No. 2

NOTARY
Mrs.Krupa
B. Patil
B.A.LL.B.
PUNE DISTRICT
Reg.No.4327
Exp.Dt-16/07/2027
GOVT. OF INDIA

## VERIFICATION

I, Ashok Digambar Ghorpade, Age: 53 years, Office At: Sambhaji Garden, Shivajinagar, Pune, do hereby verify that the contents of para 1 to 9 are true to my personal knowledge and believe to be true on legal advice.

Pune

Date: 5/12/2023

Respondent No. 2

Member Secretary, Tree Authority

Pune Municipal Corporation

Advocate for Respondent No. 2

NOTARY Mrs. Krupa B. Patil B.A.L.L.B. PUNE DISTRICT Reg.No.4327 GOVT. OF INDIA

BEFORE ME

MRS. KRUPA B. PATIL
ADVOCATE & NOTARY
GOVT. OF INDIA
PUNE DISTRICT

NOTED & REGD.
Sr.No. A 191/23

5 DEC 2023

NOTARIAL NOTARIAL NOTARIAL NOTARIAL NOTARIAL

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 1 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


# (2022) 13 Supreme Court Cases 401 : 2021 SCC OnLine SC 897

## In the Supreme Court of India

(BEFORE A.M. KHANWILKAR, HRISHIKESH ROY AND C.T. RAVIKUMAR, JJ.)

MUNICIPAL CORPORATION OF GREATER MUMBAI . .
Appellant;

*Versus*

ANKITA SINHA AND OTHERS . . Respondents.

Civil Appeals Nos. 12122-123 of 2018† with Nos. 86 of 2019‡, 5902 of 2019††, 6273, 6274, 6275, 6276, 6279 of 2021†‡, 6277-78, 6280-81 of 2021‡†, 2897 of 2021‡‡, 6282, 6283, 6284, 6285, 6286 of 2021†††† and 6262 of 2021‡‡‡, decided on October 7, 2021

Page: 402

A. **Environment Law — National Green Tribunal — Forum complementary to constitutional courts to provide an alternative efficacious remedy for redressal of environmental exigencies in public interest concerning environmental justice, environmental equity and for protection of rights under Art. 21 of the Constitution**

**— NGT whether can suo motu initiate action for discharging functions under National Green Tribunal Act, 2010 (NGT Act) — Nature and scope of such suo motu power, procedural safeguards and rationale for — Law clarified — Held, NGT is vested with suo motu power to discharge its functions under the NGT Act — Such suo motu action can be initiated on basis of a letter or communication or even on basis of matters published in media (as in present case)**

**— Suo motu powers of NGT are somewhat distinct from those exercised by constitutional courts — Constitutional courts can foray into any issues under their constitutional mandate but NGT cannot naturally travel beyond its environmental domain in reference to the Scheduled enactments**

**— Exercise of suo motu jurisdiction does not mean eschewing the principles of natural justice and fair play — When such suo motu action is initiated, Registry of NGT should make an office report and send a notice to sender of such communication or author of news item to assist NGT in the course of hearing and to substantiate the factual matters — Party likely to be affected should be afforded due opportunity to present their side, before**

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 2 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


**suffering adverse orders**

**— The rationale behind such an interpretation is in public interest to protect rights under Art. 21 of the Constitution and is evident from the legislative intent and provisions of NGT Act, the role and functions NGT, its sui generis characteristics and the visible impacts of climate change resulting in climatic emergencies**

**— (a) An affirmative role for NGT, beyond mere adjudication is certainly required for *serving the ends of environmental justice* — When adverse impact on environment is shocking, but community affected is unable to effectively get the machinery into action, a forum created specifically to address such concerns should surely be expected to move with expediency, and of its own accord — Potentiality of disproportionate harm imposes a higher obligation on authorities to preserve rights which may be waylaid due to such restrictive access**

**— (b) *Applying purposive interpretation,* NGT Act should be construed as giving authority to NGT to take suo motu cognizance of matters, for effective discharge of its mandate — S. 14(1) of the NGT Act conspicuously omits to specify that an application is necessary to trigger NGT into action — Provisions of NGT Act relating to jurisdiction, interim orders and payment of compensation and review do not require any application or appeal, for NGT to pass necessary orders**

**— (c) If NGT Act is not interpreted as giving NGT suo motu powers to initiate action, its functions might be hindered by illiteracy, lack of mobility, poverty or even the lack of technical knowledge on the part of citizens — Another deterrence is the likelihood of polluters/violators being powerful entities**

**— (d) Court cannot validate an argument, which furthers uncertainty and would most assuredly result in injustice — While interpreting the NGT Act, the Court should not endorse an approach which would render NGT procedurally**

Page: 403

shackled or incapacitated — Court must adopt an interpretation which sustains the spirit of public good and not render the environmental watchdog of our country toothless and ineffective — As NGT Act addresses wide ranging societal concerns, a holistic and purposive interpretation must be applied to declare that NGT has suo motu powers — NGT Act must be read in its entirety giving due meaning to each provision by comprehending the mischief it intends to remedy — Interpretation should eschew procedural impediment and accentuate the provisions dealing with rights under Art. 21 and regulations under environmental policy

**— (e) The role of an institution like NGT cannot be mechanical or**

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 3 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


**ornamental — Environmental justice and environmental equity are the pivotal threads of NGT's fabric — Hands-off mode for NGT, when faced with exigencies requiring an immediate and effective response, would debilitate the forum from discharging its responsibility and this must be ruled out in the interest of justice**

**— (f) Jurisdictional jurisprudence should be moulded in favour of larger societal interest, whether that be in the form of "public interest litigation" or widening the scope of locus standi — When substantive justice is elusive, for a perceived procedural lacuna, it furthers inequality, both economic and social**

**— (g) As many of the cases transferred to NGT emanated in the superior courts it would be appropriate to assume that similar power to initiate suo motu proceedings should also be available with NGT — NGT is the institutionalisation of the developments made by the Court in the field of Environment Law — When many of the sensitive environmental matters were transferred to NGT, it was expected to be as proactive as superior courts in dealing with such matters**

**— (h) There is a need for collective stratagem for addressing environmental concerns — Such a society-centric approach must be allowed to work within the established safety valves of the principles of natural justice and appeal to the Supreme Court**

**— Relief and directions — Having answered the common legal questions, cases directed to be delinked to be heard separately — However, if the cases(s) emanate from same/common order of NGT, such case(s) should be heard together**

— National Green Tribunal Act, 2010, Ss. 14 to 21

**(Paras 22 to 101)**

B. **Environment Law — Sustainable development — "Seventh Generation" sustainability principle, or the "Great Law of the Iroquois" — What is — Applicability of — Explained — Approach to be followed by courts and NGT — Clarifications issued by taking judicial notice of climate change, ecological imbalance and climate emergencies**

**— Judicial notice taken of visible impacts such as uncertain rains, species extinction, loss of natural habitat, flooding and erosion and so on — Climate change also has the propensity to diminish freshwater resources, reduce agricultural yields and impact public health — Governmental assessment of India's increased vulnerability to such changes in the near future**

**— Present standards may not be able to handle unforeseen injustice of the future and long term irreparable environmental damage which are expected to be arrested by NGT — Thus there is a need to advert to "Seventh Generation"**

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 4 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


sustainability principle, or the "Great Law of the Iroquois", which requires all decision -making to withstand for the benefit of seven generations down the line

— National Green Tribunal Act, 2010, Ss. 14 to 21

**(Paras 90 to 101)**

C. **Environment Law — National Green Tribunal — Alternative efficacious remedy through NGT — Backdrop of NGT and rationale behind its formation, stated**

**— NGT was necessary as there was a growing tide of environmental cases and it was inconvenient for High Courts and Supreme Court to make local inquiries or receive evidence and take assistance of expert environmental scientists on permanent basis — NGT was permitted to lay down its own procedure to entertain oral and documentary evidence, consult experts, etc. — However, observance of natural justice was mandated**

**— NGT was conceived as a complimentary specialised forum to deal with all environmental multi-disciplinary issues both as original and appellate authority — High Court's midway scrutiny by way of judicial review was omitted — NGT's orders can be directly challenged in the Supreme Court**

**(Paras 22 to 24)**

**— Preamble & Statement of Objects and Reasons of NGT Act makes it clear that limited mandate conferred on the earlier forum i.e. the NET and the narrow scope of jurisdiction of the National Environment Appellate Authority along with the involvement of multi-disciplinary issues arising in environmental cases, were intended to be addressed through the constitution of NGT**

**— NGT is a sui generis forum with jurisdiction of widest amplitude — Preamble of NGT Act construes the right to healthy environment as a part of the right to life under Art. 21 — Constitution of India — Arts. 21, 47, 48-A, 51-A(g), 323-A and 232-B — Environment Law — Regulatory Framework, Bodies and Judicial Intervention — National Green Tribunal — Statement of Objects and Reasons Paras 2, 3, 4, 5 and 6 and Preamble — International Conferences, Conventions, Summits, Etc. — Convention on Human Environment, 1972 — Required to provide protective, preventive and remedial laws for protection of environment — International Conferences, Conventions, Summits, Etc. — Rio Declaration of the UN Conference on Environment and Development, 1992 — Required effective laws regarding liability and compensation for the victims of pollution and other environmental damage**

**(Paras 22 to 30)**

**— National Green Tribunal Act, 2010, Ss. 14 to 21**

D. **Environment Law — National Green Tribunal Act, 2010 — Ss. 2(1)(c),**

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 5 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


**(m), 14 to 20, 25, 29 and 33 and Ch. III — Jurisdiction, powers, functions of NGT, its non-adjudicatory role, its *sui generis role, its uniqueness vis-à-vis other tribunals and its self-activating capability* — Explicated — Wide discretion and locus standi to preserve and protect the environment, clarified**

**(Paras 22 to 101)**

**— Unlike civil courts, NGT is conferred with wide powers to mould any appropriate relief that may be justified on facts, though not specifically prayed for by the parties**

**— Locus standi to approach NGT is very wide like that of High Courts and Supreme Court — Any interested person or organisation can approach it**

**— NGT is not just an adjudicatory body — Functions of NGT are in the nature of prevention, remedy and amelioration — NGT is required to perform restitutive and compensatory functions related to distributive and corrective justice — Many of the functions of NGT do not require an active "dispute", but the formulation of decisions**

**— With its sui generis role, NGT acts as both an adjudicatory body as well as a supervisory body — Its powers are both reflexive and preventive — NGT is recognised as one of the most progressive tribunals in the world — This jurisprudential leap places our country in an exclusive group of nations — Courts, Tribunals and Judiciary — Courts, Tribunals and Special Courts — Tribunals — National Green Tribunal (NGT) distinguished from other Tribunals — Environment Law — Regulatory Framework, Bodies and Judicial Intervention — Regulatory Statutes, Rules, Regulations and Norms — National Green Tribunal (Practice and Procedure) Rules, 2011 — R. 24 — Words "secure the ends of justice" — Interpretation — Kinds of relief envisioned under**

**(Paras 37 to 69)**

E. **Environment Law — National Green Tribunal Act, 2010 — Ss. 2(1)(c), (m), 14 to 20, 25, 29 and 33 and Ch. III — Interpretation of term "*decision*", in addition to "*order*" and "*award*" in S. 20 of the NGT Act makes it clear that NGT has to apply the "*precautionary principle*" along with the principles of sustainable development and the polluter pays principle — Onus is cast upon the Tribunal to act with promptitude to deal with environmental exigencies — Pre-emptive functions of NGT as a sui generis body may be noted**

**(Paras 71 to 74)**

F. **Environment Law — General Principles of Environmental Law — Environmental justice and equity, explained — Approach required by court, stated**

**(Paras 75 to 80)**

G. **Environment Law — General Principles of Environmental Law — Environmental jurisprudence in India — Effect on the manner of**

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 6 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


**interpretation of functions of NGT**

**— National Green Tribunal Act, 2010, Ss. 14 to 21**

**(Paras 81 to 90)**

**— Environmental jurisprudence in India has been intrinsic to advancing a democratic, welfare-oriented legal regime — Issues affecting the ecology and the environment must have a broad perspective and should have a society-centric approach — Functions of NGT, therefore, must not be viewed in a cribbed manner, which detracts from the progress already made in the Indian environmental jurisprudence (Paras 81 to 89)**

**(Paras 75 to 89)**

Declaring that NGT is vested with suo motu power in discharge of its functions under the NGT Act, the Supreme Court

*Held* :

***I. The backdrop of the National Green Tribunal***

The Law Commission of India in its 186th Report dated 23-9-2003 was of the opinion that it is not convenient for the High Courts and the Supreme Court to make local inquiries or receive evidence. Moreover, the superior courts will not have access to expert environmental scientists on a permanent basis to assist them. Therefore, NGT was conceived as a complementary specialised forum to deal with all environmental multi-disciplinary issues both as original and also as an appellate authority, which complex issues were hitherto dealt with by the High Courts and the Supreme Court under their writ jurisdiction.

(Paras 22 and 43)

Law Commission of India, 186th Report on Proposal to Constitute Environment Courts, *referred to*

It was explicitly noted that the creation of NGT would allow for the Supreme Court and High Court to avoid intervening under their inherent jurisdiction when an alternative efficacious remedy would become available before the specialised forum.

(Para 23)



Thus, the power of judicial review was omitted to ensure avoidance of High Courts' interference with the Tribunal's orders by way of mid-way scrutiny by the High Court, before the matter travels to the Supreme Court where NGT's orders can be challenged. The streamlining of the mechanism was to arrest the growing tide of litigation before the High Courts and the Supreme Court and shift such issues to the domain of NGT. This is how the proposed forum was made free from the rules of evidence and NGT was permitted to lay down its own procedure to

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 7 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


entertain oral and documentary evidence, consult experts, etc. The observance of the principles of natural justice was however mandated.

(Para 24)

*L. Chandra Kumar* v. *Union of India*, (1997) 3 SCC 261 : 1997 SCC (L&S) 577, *cited*

Chapter IX, 186th Law Commission Report, *referred to*

***II. The Preamble & Statement of Objects and Reasons***

The National Environment Tribunal Act, 1995 ("NET") provided for strict liability and damages arising out of accidents occurring while handling hazardous substances. The NET had a very limited and narrow mandate and jurisdiction. The Supreme Court had requested the Law Commission of India to consider the need for the constitution of specialised environmental courts.

(Para 26)

The right to a healthy environment is a part of the right to life under Article 21 of the Constitution. NGT was expected *to achieve the objectives of Articles 21, 47, 48-A, 51-A(g) of the Constitution by means of a fair, fast and satisfactory judicial procedure*. An institution concerned with a significant aspect of right to life necessarily should be given the most liberal construction.

(Para 27)

The mandate and jurisdiction of NGT is, therefore, conceived to be of the widest amplitude and it is in the nature of a sui generis forum.

(Para 28)

The Preamble to the Act significantly emphasised on construing the right to healthy environment as a part of the right to life under Article 21 of the Constitution which was accepted by various judicial pronouncements in India.

(Para 29)

The limited mandate conferred on the earlier forum i.e. the NET and the narrow scope of jurisdiction of the National Environment Appellate Authority along with the involvement of multi-disciplinary issues arising in environmental cases, were intended to be addressed through the constitution of NGT.

(Para 30)

***III. The need for purposive interpretation***

Adequate clarity is discernible in the phraseology and provisions of the NGT Act. NGT is intended to address wide-ranging societal concerns and these have prompted the Court to opt for purposive interpretation. The statute will have to be read in its entirety and each provision of the Act must be given its due meaning by comprehending the mischief it intends to remedy.

(Para 31)

The mischief that the NGT Act attempted to remedy were underscored in the legislative history, and the pronouncements of the constitutional courts flagging their environmental concerns.

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 8 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


(Para 32)

Courts should interpret the NGT Act in such a way as to achieve the legislative purpose and intention. The interpretation should be forward looking and eschew procedural impediment. The provisions must be read with the intention to accentuate them, especially as they concern protections of rights under Article 21 and also deal with vital environmental policy and its regulatory aspects.

(Para 36)

Page: 406

*Bengal Immunity Co. Ltd.* v. *State of Bihar*, 1955 SCC OnLine SC 2; *Heydon Case*, (1584) 3 Co Rep 7a : 76 ER 637; *Panama Refining Co.* v. *Ryan*, 1935 SCC OnLine US SC 3 (dissenting view of Justice Benjamin Cardozo, J.), *followed*

*Sarah Mathew* v. *Institute of Cardio Vascular Diseases*, (2014) 2 SCC 62 : (2014) 1 SCC (Cri) 721; *New India Assurance Co. Ltd.* v. *Nusli Neville Wadia*, (2008) 3 SCC 279 : (2008) 1 SCC (Civ) 850, *referred to*

Justice G.P. Singh : *Interpretation of Statutes*; Francis Bennion : *Statutory Interpretation*; Justice Frankfurter of the US Supreme Court:"Some Reflections on the Reading of Statutes", (1947) 47 Columbia Law Review 527, *referred to*

***IV. Salient statutory features of the NGT Act***

Applying the purposive interpretation to the statutory layout of the NGT Act, Sections 2(1)(c), (m), 14 to 20, 25, 29 and 33 and Chapter III will require the Court's attention.

(Para 37)

Rule 24 of the National Green Tribunal (Practice and Procedure) Rules, 2011 makes it clear that NGT has been given wide discretionary powers to *secure the ends of justice*. This power is coupled with the duty to be exercised for achieving the objectives. The intention understandably being to preserve and protect the environment and the matters connected thereto.

(Para 38)

By choosing to employ a phrase of wide import i.e. *secure the ends of justice*, the legislature has nudged towards a liberal interpretation. Securing justice is a term of wide amplitude and does not simply mean adjudicating disputes between two rival entities. It also encompasses, inter alia, advancing causes of environmental rights, granting compensation to victims of calamities, creating schemes for giving effect to the environmental principles and even hauling up authorities for inaction, when need be.

(Para 39)

Moreover, unlike the civil courts which cannot travel beyond the relief sought by

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 9 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


the parties, NGT is conferred with the power of moulding any relief. The provisions show that NGT is vested with the widest power to appropriate relief as may be justified in the facts and circumstances of the case, even though such relief may not be specifically prayed for by the parties.

(Para 40)

Another distinguishing feature of the environmental forum is on the aspect of locus standi which was made as wide as is available to the High Courts and the Supreme Court. Thus, any person or organisation who may be interested in the subject-matter is permitted to approach NGT.

(Paras 41 and 43)

The provisions of the NGT Act and the NGT Rules demonstrate that myriad roles are to be discharged by NGT, as was encapsulated in the 186th Law Commission Report, the Preamble and the Statement of Objects and Reasons. This is also forthcoming from the international obligation and commitment by India to implement the decision taken at the Stockholm and the Rio de Janeiro Conventions towards the protection of the environmental rights under Article 21 of the Constitution.

(Paras 42, 28 and 29)

***V. Non-adjudicatory roles of NGT***

Schedule I to the NGT Act is concerned with the implementation of few environmental related enactments such as the Water (Prevention and Control of Pollution) Act, 1974 ("the Water Act"), the Air (Prevention and Control of Pollution) Act, 1981 ("the Air Act"), the Environment (Protection) Act, 1986 ("the Environment Act"), the Forest (Conservation) Act, 1980 etc. As one looks at these enactments, an expanded role for NGT is clearly discernible. The activities of NGT are not only geared towards the protection of the environment but also to ensure



that the developments do not cause serious and irreparable damage to the ecology and the environment. These would suggest a broad canvas for the NGT Act as also its creation.

(Paras 44 and 43)

*Vellore Citizens' Welfare Forum* v. *Union of India*, (1996) 5 SCC 647; *M.C. Mehta (Taj Trapezium Matter)* v. *Union of India*, (1997) 2 SCC 353, *referred to*

For the environmental forum, tasked with the implementation of the statutes mentioned in Schedule I to the NGT Act, the concept of lis, would obviously be beyond the usual understanding in civil cases where there is a party (whether private or Government) disturbing the environment and the other one (could be an individual, a body or the Government itself), who has concern for the protection of the environment. Therefore, NGT is primarily concerned with the protection of the

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 10 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


environment and also the preservation of natural resources. As the specialised forum, NGT would be expected to take preventive action, besides settling and adjudicating disputes and passing orders on all environment related questions.

(Para 45)

NGT is not just an adjudicatory body but has to perform wider functions in the nature of prevention, remedy and amelioration. This aspect was specifically flagged in the 186th Law Commission Report.

(Para 46)

NGT is empowered to carry out restitutive exercises for compensating persons adversely affected by environmental events. The larger discourse which informs such functions is related to distributive and corrective justice. Even in the absence of harm inflicted by human agency, in a situation of a natural calamity, the Tribunal will be required to devise a plan for alleviating damage. An inquisitorial function is also available for the Tribunal, within and without adversarial significance. Importantly, many of these functions do not require an active "*dispute*", but the formulation of *decisions*.

(Para 47)

With the constitution of NGT, many cases pending before the High Courts were transferred to NGT. Apprehending the possibility of conflict between the High Courts and NGT (in matters concerning the environment and the statutes mentioned in Schedule I to the NGT Act), the Court highlighted NGT's role in said context. The Court mandated the transfer of all cases concerning the statutes mentioned in Schedule I to the NGT Act to the specialised forum as otherwise there can be conflicts with the High Courts. Notably, some of those cases were originally registered suo motu by the courts.

(Para 48)

*Bhopal Gas Peedith Mahila Udyog Sangathan* v. *Union of India*, (2012) 8 SCC 326, *relied on*

***VI. Exercise of suo motu power by NGT***

The suo motu powers of NGT is somewhat distinct from those exercised by the constitutional courts. The constitutional courts can foray into any issues under their constitutional mandate but NGT cannot naturally travel beyond its environmental domain in reference to the Scheduled enactments. However, as long as the sphere of action is not breached, NGT's powers must be understood to be of the widest amplitude. The interpretation that is in favour of conferring jurisdiction should be preferred rather than one taking away jurisdiction.

(Paras 49 to 52)

*Mantri Techzone (P) Ltd.* v. *Forward Foundation*, (2019) 18 SCC 494, *followed*

*Rajeev Suri* v. *DDA*, (2022) 11 SCC 1, *clarified* and *distinguished*

There is a need for an expert body with extensive functions and the sources of inspiration behind it. From the very inception, the role of NGT was not simply

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 11 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


adjudicatory in the nature of a lis but to perform equally vital roles which are



preventative, ameliorative or remedial in nature. The functional capacity of NGT was intended to leverage wide powers to do full justice in its environmental mandate.

(Para 53)

*A.P. Pollution Control Board* v. *M.V. Nayudu*, (1999) 2 SCC 718, *referred to*

***VII. Uniqueness of NGT vis-à-vis other tribunals***

While many tribunals are functioning within their specified domains, variances do exist in the manner in which they are designed to function. The statutory tribunals were categorised to fall under four sub-heads : Administrative Tribunals under Article 323-A of the Constitution; Tribunals under Article 323-B; specialised sector tribunals and most prominently; tribunals to safeguard rights under Article 21. The duties of NGT bring it within the ambit of the fourth category, creating a compelling proposition for wielding much broader powers as delineated by the statute.

(Para 54)

The idea was to create a fairly proactive and responsive institution which could step into varying roles, as the situation demanded.

(Para 55)

NGT, unlike other tribunals, has a duty to do justice while exercising a "*wide range of jurisdiction*" and the "*wide range of powers*", given to it by the statute.

(Para 56)

NGT has been recognised as one of the most progressive tribunals in the world. This jurisprudential leap has allowed our country to enter a rather exclusive group of nations which have set up such institutions with broad powers.

(Para 57)

*State of Meghalaya* v. *All Dimasa Students Union*, (2019) 8 SCC 177, *affirmed*

*L. Hirday Narain* v. *ITO*, (1970) 2 SCC 355, *cited*

Gill, G.:"Mapping the Power Struggles of the National Green Tribunal of India : The Rise and Fall?", Asian Journal of Law and Society, 7(1), 85-126 (2020), *referred to*

***VIII. The sui generis role of NGT***

The powers conferred on NGT are both reflexive and preventive. It is *an expert regulatory body* which can also issue general directions within the statutory framework.

(Para 59)

As many of the cases transferred to NGT emanated in the superior courts it would be appropriate to assume that similar power to initiate suo motu proceedings

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 12 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


should also be available with NGT.

(Para 60)

NGT is a Tribunal with sui generis characteristic, with the special and all-encompassing jurisdiction to protect the environment. Besides its adjudicatory role as an appellate authority, it is also conferred with the responsibility to discharge the role of the supervisory body and to decide substantial questions relating to the environment. The necessity of having a specialised body, with the expertise to handle multi-dimensional environmental issues allows for an all-encompassing framework for environmental justice. The technical expertise that may be required to address evolving environmental concerns would definitely require a flexible institutional mechanism for its effective exercise.

(Paras 58 to 61)

*NHAI* v. *Aam Aadmi Lokmanch*, (2021) 11 SCC 566, *followed*

*Paramjit Kaur* v. *State of Punjab*, (1999) 2 SCC 131 : 1999 SCC (Cri) 109, *affirmed*

***IX. Authority with self-activating capability***

Given the multifarious role envisaged for NGT and the purposive interpretation which ought to be given to the statutory provisions, it would be fitting to regard NGT as having the mechanism to set in motion all necessary functions within its



domain and this should necessarily clothe it with the authority to take suo motu cognizance of matters, for effective discharge of its mandate.

(Para 62)

Section 14 of the NGT Act is of great relevance.

(Para 63)

The exercise of power by NGT is not circumscribed by receipt of the application by an aggrieved or interested party alone. Section 14(1) of the NGT Act, which deals with jurisdiction conspicuously omits to specify that an application is necessary to trigger NGT into action. In situations where the three prerequisites of Section 14(1) i.e. civil cases; involvement of substantial question of the environment; and implementation of the enactments in Schedule I are satisfied, the jurisdiction and power of NGT gets activated. Thus, even in the absence of an application, NGT can self-ignite action either towards amelioration or towards prevention of harm.

(Para 64)

Section 14(1) exists as a stand-alone feature, not constricted by the operational mechanism of the subsequent sub-sections. Section 14(2) functions as a corollary and comes into play when a dispute arises from the questions referred to in Section

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 13 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


14(1). Likewise, Section 14(3) of the NGT Act refers to the period of limitation concerning applications, when they are addressed to NGT. Where adjudication is involved, the adjudicatory function under Section 14(2) comes into play. When it is a case warranting NGT's intervention or maybe a situation calling for decisions to meet certain exigencies, the functions under Section 14(1) can be undertaken and those may not involve any formal application or an adjudicatory process. However, the later provisions may not work in a similar fashion. Therefore, care must be taken to ensure unrestricted discharge of the responsibilities under Section 14(1) and that wide arena of NGT's functioning.

(Para 65)

Provisions of the NGT Act relating to jurisdiction, interim orders, payment of compensation and review, do not require any application or appeal, for NGT to pass necessary orders. To hold otherwise would not only reduce its effectiveness but would also defeat the legal mandate given to the forum.

(Para 66)

While dealing with contested cases, NGT is required to pass "*award*" and "*order*" and the statute repeatedly uses the word "*decision*". Therefore, it is appropriate to correlate the word "*decision*" to NGT, in its non-adversarial or inquisitorial role, as was suggested by the Law Commission and recognised in *Aam Aadmi Lokmanch*, (2021) 11 SCC 566.

(Para 67)

The duty to safeguard rights under Article 21 cannot stand on a narrow compass of interpretation. Procedural provisions must be allowed to fall in step with the substantive rights that are invoked in the environmental domain, in the larger public interest. The specialised forum is bestowed with the responsibility to ensure the protection of the environment. To be effective in its domain, the Court needs to ascribe to NGT a public responsibility to initiate action when required, to protect the substantive right of a clean environment and the procedural law should not be obstructive in its application.

(Para 68)

*State of Punjab* v. *Shamlal Murari*, (1976) 1 SCC 719 : 1976 SCC (L&S) 118, *affirmed*

While discussing NGT's power and responsibility, it is essential to keep in mind Principle 10 of the Rio Declaration which speaks of three fundamental rights i.e. access to information, access to public participation and access to justice, as key pillars of environmental governance. Access to justice may however be curtailed by illiteracy, lack of mobility, poverty or even the lack of technical knowledge on the part of citizens. Another deterrence is the likelihood of polluters/violators being



powerful entities with adequate wherewithal to skirt regulations. Thus, it may not

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 14 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


always be feasible for individuals to knock on the doors of the Tribunal, and NGT in such exigencies must not be made dysfunctional.

(Para 69)

***X. The Precautionary Principle***

The origin of the *precautionary principle* itself is rooted as an institutional obligation, by holding them primarily responsible for the environmental concerns and remedies.

(Para 71)

Section 20 of the NGT Act which includes the term "*decision*", in addition to "*order*" and "*award*", also require the Tribunal to apply the "*precautionary principle*" along with the principles of sustainable development and the polluter pays principle.

(Para 72)

The principle set out above must apply in the widest amplitude to ensure that it is not only resorted to for adjudicatory purposes but also for other "*decisions*" or "*orders*" to governmental authorities or polluters when they fail to "*anticipate, prevent and attack the causes of environmental degradation*". Two aspects must therefore be emphasised i.e. that the Tribunal is itself required to carry out preventive and protective measures, as well as hold governmental and private authorities accountable for failing to uphold environmental interests. Thus, a narrow interpretation for NGT's powers should be eschewed to adopt one which allows for a full flow of the forum's power within the environmental domain.

(Para 73)

It is not only a matter of rhetoric that the Tribunal is to remain ever vigilant, but an important legal onus is cast upon it to act with promptitude to deal with environmental exigencies. The responsibility is not just to resolve legal ambiguities but to arrive at a reasoned and fair result for environmental problems which are adversarial as well as nonadversarial. The pre-emptive functions of NGT as a sui generis body can be noted.

(Para 74)

*Vellore Citizens' Welfare Forum* v. *Union of India*, (1996) 5 SCC 647, *followed*

*S. Jagannath* v. *Union of India*, (1997) 2 SCC 87; *Karnataka Industrial Areas Development Board* v. *C. Kenchappa*, (2006) 6 SCC 371, *affirmed*

Scott LaFranchi:"Surveying the Precautionary Principle's Ongoing Global Development : The Evolution of an Emergent Environmental Management Tool", 32 BC Envtl Aff L Rev 679 (2005); Ronnie Harding & Elizabeth Fisher:"Introducing the Precautionary Principle" in *Perspectives on the Precautionary Principle* (1999) at p. 4; Benjamin Cardozo : *The Nature of the Judicial Process*, *referred to*

***XI. Environmental Justice and Environmental Equity***

The conceptual frameworks of environmental justice and equity should merit consideration vis-à-vis NGT's domain and how its functioning and decisions can have wide implications in socio-economic dimensions of people at large. The

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 15 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


concept of environmental justice is a trifecta of distributive justice, procedural justice and justice as recognition. Environmental equity as a developing concept has focused on the disproportionate implications of environmental harms on the economically or socially marginalised groups. The concerns of human rights and environmental degradation overlap under this umbrella term, to highlight the human element, apart from economic and environmental ramifications. Environmental equity thus stands to ensure a balanced distribution of environmental risks as well as protections, including the application of sustainable development principles.

(Para 75)

Page: 411

There is also a need to focus on the interconnection between principles of procedural justice and distributive justice. The concern is to create a system which is affirmative enough to balance the disproportionate wielding of power between polluters and affected people.

(Para 77)

When substantive justice is elusive for a large segment, disengaging with substantive rights at the very altar, for a perceived procedural lacuna, would surely bring in a process, which furthers inequality, both economic and social. An "*equal footing*" conception may not, therefore, be feasible to adequately address the asymmetrical relationship between the polluters and those affected by their actions. Instead, a recognition of the historical experience of marginalised classes of persons while accessing and effectively using the legal system, will allow for necessary appreciation of social realities and balancing the arm of justice.

(Para 78)

The law must be interpreted in such a manner as to foster further development of existing legal concepts by incorporating this sense of equity. The issues which the Court has had the occasion to examine have highlighted the limitations of the mechanisms to reach the heart of environmental concerns. Jurisdictional jurisprudence should be moulded in favour of larger societal interest, whether that be in the form of "public interest litigation" or widening the scope of locus standi.

(Para 79)

In the backdrop of the above weighty concerns, the Court should advert to *the ideal of administering equal justice to everyone who comes to the courts, regardless of race, creed, or economic class.* The relevance of this concept is particularly apposite in the context of the inability of marginalised communities to access the legal machinery.

(Para 80)

Schlosberg D. : *Defining Environmental Justice : Theories, Movements, and Nature*

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 16 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


(Oxford University Press 2009); Jeff Todd:"A 'Sense of Equity' in Environmental Justice Litigation", 44 Harv Envtl L Rev 169, 193 (2020); Schiffer, L.J. & Dowling, T.J. (1997):"Reflections on the Role of the Courts in Environmental Law", 27(2) Environmental Law 327-42, *referred to*

***XII. Environmental Jurisprudence in India***

NGT can be comfortably placed within the rubric of the larger environmental jurisprudence which has been informing this unique institution. The role of the Court in establishing the legal connection between matters of environmental concern and fundamental rights of citizens has produced much academic literature. The field of laws pertaining to environmental concerns has been a fairly fertile ground for judicial innovations by the Court; moving the concept of Environment Law from the realm of torts to interlink it with fundamental rights, liberalising the concept of locus standi in environmental matters, exercising suo motu powers to reign in polluters, using expert committees to monitor implementation of court orders, etc.

(Para 81)

By expanding the scope of Articles 21, 32, 48-A, 51-A(g) of the Constitution, the Court has guaranteed the right to a pollution-free environment for a holistic existence. Most crucially, the expansion of the right to life under Article 21 by the Court has become a touchstone to determine many environmental concerns.

(Para 82)

Adopting international principles and moulding them to Indian realities also became a focal concern, given the lacunae in regimes which may be exploited



by those who may not have much concern for environmental degradation. The creation of the "*Absolute Liability Principle*" by the Court is a well-recognised testament for this. It would thus be appropriate to state that much of the principles, institutions and mechanisms in this sphere have been created, on account of the Court's initiative.

(Para 83)

It has been noted that the Supreme Court adopted the role of an "amicus environment" by threading together human rights and environmental concerns, resultingly in developing a sui generis environmental discourse. There were both procedural and substantive innovations made, by entertaining PIL petitions, seeking remedies, including guidelines and directions in the absence of legislation. Many of the landmark cases which hold the fort to this day, were in recognition of the "*at risk*" nature of some populations. The creation of NGT itself was due in large part to the need expressed by the Supreme Court for such a forum.

(Para 84)

The Court deliberated upon the larger societal concerns when dealing with

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 17 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


environmental matters.

(Para 85)

Environmental jurisprudence in India has therefore been intrinsic to advancing a democratic, welfare-oriented legal regime. Issues affecting the ecology and the environment must have a broad perspective and should have a society-centric approach. Furthermore, the very nature of ecological and environmental issues has the propensity for rapid deterioration. Many such sensitive matters stood transferred to NGT, with the aim that those would be dealt with expediently with the required technical expertise and legal sophistication. The proactiveness of the superior court was surely expected to be seen in the Tribunal's approach.

(Para 86)

It is this environmental rule of law that has been encapsulated with NGT's creation at the Supreme Court's behest.

(Para 88)

NGT is the institutionalisation of the developments made by the Court in the field of Environment Law. These progressive steps have allowed it to inherit a very broad conception of environmental concerns. Its functions, therefore, must not be viewed in a cribbed manner, which detracts from the progress already made in the Indian environmental jurisprudence.

(Para 89)

*H.P. Bus-Stand Management & Development Authority* v. *Central Empowered Committee*, (2021) 4 SCC 309, *followed*

*M.C. Mehta* v. *Union of India*, (1987) 1 SCC 395, *relied on*

*Subhash Kumar* v. *State of Bihar*, (1991) 1 SCC 598, *affirmed*

*M.C. Mehta* v. *Union of India*, (1986) 2 SCC 176 : 1986 SCC (Cri) 122; *Indian Council For Enviro-Legal Action* v. *Union of India*, (1996) 3 SCC 212; *A.P. Pollution Control Board* v. *M.V. Nayudu*, (1999) 2 SCC 718; *A.P. Pollution Control Board (2)* v. *M.V. Nayudu*, (2001) 2 SCC 62; *Rural Litigation & Entitlement Kendra* v. *State of U.P.*, (1985) 2 SCC 431; *Charan Lal Sahu* v. *Union of India*, (1990) 1 SCC 613; *Virender Gaur* v. *State of Haryana*, (1995) 2 SCC 577, *referred to*

Armin Rosencranz & Shyam Divan : Environmental Law and Policy in India; M.A.A. Baig : *Environmental Law and Justice* (1996); Domenico Amirante:"Environmental Courts in Comparative Perspective : Preliminary Reflections on the National Green Tribunal of India", 29 : 2 Pace Envtl L Rev 440 at p. 447 (2012); M.K. Ramesh:"Environmental Justice : Courts and Beyond", Indian Journal of Envtl Law 20 (2002); Maheshwara Swamy, N. : *Law Relating to Environmental Pollution and Protection*, India; *Thompson Reuters*, Vol. 1, Edn. 5; Justice T.S. Doabia : *Environmental & Pollution Laws in India*, 3rd Edn., Vol. 2 (2017); Domenico Amirante:"Environmental Courts in Comparative Perspective : Preliminary Reflections on the National Green Tribunal of India", 29 Pace Envtl L Rev 441 (2012); Rajamani, Lavanya:"Public Interest Environmental Litigation in

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 18 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


India :



Exploring Issues of Access, Participation, Equity, Effectiveness and Sustainability", Journal of Environmental Law (2007), *referred to*

***XIII. Conclusion***

The NGT Act, when read as a whole, gives much leeway to NGT to go beyond a mere adjudicatory role. Parliament's intention is clearly discernible to create a multifunctional body, with the capacity to provide redressal for environmental exigencies. Accordingly, the principles of environmental justice and environmental equity must be explicitly acknowledged as pivotal threads of NGT's fabric. NGT must be seen as a sui generis institution and not *unus multorum*, and its special and exclusive role to foster public interest in the area of environmental domain delineated in the enactment of 2010 must necessarily receive legal recognition of the Court.

(Para 91)

The environmental impacts on climate change are gaining increasing visibility in the shape of uncertain rains, species extinction, loss of natural habitat and so on. These also have the propensity to diminish freshwater resources, reduce agricultural yields and impact public health, particularly in the cities. The flooding and erosion in the riverine and coastal areas are matters of serious concern. Governmental assessment of India's increased vulnerability to such changes in the near future also exists with many countries declaring climate emergencies and many others being urged to follow suit.

(Para 92)

Indian Network for Climate Change Assessment, Climate Change and India : A 4×4 Assessment — A sectoral and regional analysis for 2030s, Ministry of Environment and Forests, Government of India, 16-11-2010; Secretary General's remarks at the Climate Ambition Summit, United Nations. United Nations, 12-12-2020, *referred to*

Therefore, the nature of ecological imbalance which is visible even in our own times may cascade, and the unforeseen injustice of the future may not be capable of being handled within the frontiers set forth today. The long-term and very often irreparable environmental damage which are expected to be arrested by NGT, urge the Court to advert to what is termed as *the "Seventh Generation" sustainability principle*, or the "*Great Law of the Iroquois*" (as it originates from the Iroquois Tribe) which requires all decision-making to withstand for the benefit of seven generations down the line.

(Para 93)

It is vital for the well-being of the nation and its people, to have a flexible

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 19 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


mechanism to address all issues pertaining to environmental damage and resultant climate change so that we can leave behind a better environmental legacy, for our children, and the generations thereafter.

(Para 94)

In circumstances where the adverse environmental impact may be egregious, but the community affected is unable to effectively get the machinery into action, a forum created specifically to address such concerns should surely be expected to move with expediency, and of its own accord. The potentiality of disproportionate harm imposes a higher obligation on authorities to preserve rights which may be waylaid due to such restrictive access. It is also noteworthy that the "*global impacts of climate change will fall disproportionately on minority and low-income communities*". Thus, an affirmative role, beyond mere adjudication at the instance of the applicant, is certainly required for *serving the ends of environmental justice*, as the statute itself requires of NGT. The Court cannot validate an argument which furthers uncertainty to justify the role of a spectator, if not inaction, and would most assuredly result in injustice.

(Para 95)

Page: 414

NGT, with the distinct role envisaged for it, can hardly afford to remain a mute spectator when no one knocks on its door. The forum itself has correctly identified the need for a collective stratagem for addressing environmental concerns. Such a society-centric approach must be allowed to work within the established safety valves of the principles of natural justice and appeal to the Supreme Court. The hands-off mode for NGT, when faced with exigencies requiring an immediate and effective response, would debilitate the forum from discharging its responsibility and this must be ruled out in the interest of justice.

(Para 96)

It would be procedural hair-splitting to argue (as it has been) that NGT could act upon a letter being written to it, but learning about an environmental exigency through any other means cannot trigger NGT into action. To endorse such an approach would surely be rendering the forum procedurally shackled or incapacitated.

(Para 97)

When the Registry of NGT does indeed receive communication or letter, including matters published in media, it may cause to initiate suo motu action by inviting the attention of NGT to such matters in the form of office report. Such circumstances would however require a notice to be given to the sender of the communication or author of the news item, as the case may be, to assist NGT in the course of the hearing and to substantiate the factual matters. It must also be said that the

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 20 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


exercise of suo motu jurisdiction does not mean eschewing the principles of natural justice and fair play. In other words, the party likely to be affected should be afforded due opportunity to present their side, before suffering adverse orders.

(Para 98)

One could admit to the argument of the danger of suo motu jurisdiction if NGT was acting outside its domain. But when it is legitimately working within the contours of its statutory mandate and with procedural safeguards clarified herein, the nature of the trigger itself viz. a letter or a "suo motu" initiation, cannot be the basis to curtail the role and responsibility of the specialised forum.

(Para 99)

Institutions which are often addressing urgent concerns gain little from procedural nit-picking, which are unwarranted in the face of both the statutory spirit and the evolving nature of environmental degradation. Not merely should a procedure exist but it must be meaningfully effective to address such concerns. The role of such an institution cannot be mechanical or ornamental. The Court must therefore adopt an interpretation which sustains the spirit of public good and not render the environmental watchdog of our country toothless and ineffective.

(Para 100)

The National Green Tribunal must act, if the exigencies so demand, without indefinitely waiting for the metaphorical *Godot* to knock on its portal. Thus it is declared that NGT is vested with suo motu power in the discharge of its functions under the NGT Act.

(Para 101)

Having answered the common legal issue involved in all these cases regarding the suo motu jurisdiction of NGT, the Court directs delinking of these cases for now being heard separately on merits. Indeed, if the cases(s) emanate from the same/common order of NGT, such case(s) be heard together. The Registry may do the needful and post the matters on 25-10-2021 for direction and fixing date of hearing, before the Bench presided over by one of us (A.M. Khanwilkar, J.). For the purpose



of further hearing, the respective cases shall not be treated as part-heard before this Bench.

(Para 102)

*Standard Chartered Bank* v. *Dharminder Bhohi*, (2013) 15 SCC 341 : (2014) 5 SCC (Civ) 243; *Transcore* v. *Union of India*, (2008) 1 SCC 125 : (2008) 1 SCC (Civ) 116; *Rajeev Hitendra Pathak* v. *Achyut Kashinath Karekar*, (2011) 9 SCC 541 : (2011) 4 SCC (Civ) 781, *impliedly distinguished*

*T.N. Pollution Control Board* v. *Sterlite Industries (I) Ltd.*, (2019) 19 SCC 479;

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 21 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


*BSNL* v. *TRAI*, (2014) 3 SCC 222, *held, impliedly distinguished*

*Techi Tagi Tara* v. *Rajendra Singh Bhandari*, (2018) 11 SCC 734, *impliedly overruled*

*Ankita Sinha* v. *State of Maharashtra*, 2018 SCC OnLine NGT 2937; *Ankita Sinha* v. *State of Maharashtra*, 2018 SCC OnLine NGT 2936; *Municipal Corpn. of Greater Mumbai* v. *Ankita Sinha*, 2019 SCC OnLine SC 2093; *Municipal Corpn. of Greater Mumbai* v. *Ankita Sinha*, 2019 SCC OnLine SC 2094, *referred to*

*Prabhakar* v. *Sericulture Deptt.*, (2015) 15 SCC 1 : (2016) 2 SCC (L&S) 149; *Powers, Privileges & Immunities of State Legislatures, In re, Special Reference No. 1 of 1964*, 1964 SCC OnLine SC 21; *Wilfred J.* v. *Ministry of Environment & Forests*, 2014 SCC OnLine NGT 6860, *cited*

Samuel Beckett : *Waiting for Godot* : *A Tragicomedy in Two Acts* (Grove Press Inc., New York 1954); *Halsbury's Law of England*, 3rd Edn., Vol. 9 at p. 349; *Black's Law Dictionary*, 5th Edn., p. 424, *referred to*

SS-D/68416/S

Advocates who appeared in this case:

V. Giri, Krishnan Venugopal, Sajan Poovayya, Mukul Rohatgi, Dushyant Dave, Jaideep Gupta, Dhruv Mehta, Atmaram Nadkarni and Sidhartha Dave, Senior Advocates [Ms Amrita Sharma, E.M.S. Anam (Advocate-on-Record), Abhilash M.R., Sayooj Mohandas M., Amith Krishnan, M. Thangathuraj, Sandeep Singh (Advocate-on-Record), Ashish Wad, Ms Tamali Wad, Pimple Sharad, Ms Sukriti Jaggi, Sidharth Mahajan, M/s J.S. Wad and Co. (Advocate-on-Record), A. Karthik (Advocate-on-Record), Enoch David Simon Joel, Ms Smrithi Suresh, Saaketh Kasibhatla, Arsh Khan, Mahesh Agarwal, Rohan Talwar, Shivendra Singh, E.C. Agrawala (Advocate-on-Record), Ms Usha Nandini V. (Advocate-on-Record), S. Thananjayan (Advocate-on-Record), K. Sakthivel, Ms Promila, Ms Aaina Verma, Ms Jaswanti, Ms Rashi Bansal (Advocate-on-Record), Seshatalpa Sai Bandaru (Advocate-on-Record), Anand Kr. Shrivastava, Shivam Sinha, Ms Priyansha Indra Sharma, Chetan Saxena, Sharan Balakrishnan, Pratibhanu Singh, Rahul Jajoo, Arpit Shukla (Advocate-on-Record), Advocates], for the Appellant;

Sanjay Parikh, Nidhesh Gupta, Anand Grover and Gopal Sankaranarayanan, Senior Advocates [Gurmeet Singh Makker (Advocate-on-Record), Md. Shahid Anwar (Advocate-on-Record), C.K. Sasi (Advocate-on-Record), Mukesh Verma, Yash Pal Dhingra (Advocate-on-Record), S.J. Amith, Purushottam Sharma Tripathi (Advocate-on-Record), Mukesh Kr. Singh, Tahir Ashraf Siddiqui (Advocate-on-Record), Jogy Scaria (Advocate-on-Record), Ms Beena Victor, Ms M. Priya, Ravi Lomod, K. Parameshwar (Advocate-on-Record), Jobi Jose Kondody, Aex M. Scaria, Ms Usha Nandini V. (Advocate-on-Record),

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 22 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


Biju P. Raman, Ms Saritha Thomas, James P. Thomas (Advocate-on-Record), Boby Thomas, Abhimanue Shrestha (Advocate-on-Record), Satwik Parikh, Divyansh Khurana, Zulfiker Ali P.S. (Advocate-on-Record), Faisal M. Aboobacker, Ms Lakshmi Sree P, Ms Sadiya Shakeel, Vanshdeep Dalmia, Ms Nishtha Kumar (Advocate-on-Record), Harish Vasudevan, Ms Japneet Kaur, Ms Vriti Gujral, Ms Pallavi Singh, Ms Astha Sharma (Advocate-on-Record), Ms Mantika Haryani, Simranjeet Singh Rekhi, Suvidutt M.S. (Advocate-on-Record), Ms Anu B., Ms Dhanya C., Ms Vijayalakshmi Raju, Advocates], for the Respondents.

Page: 416

***Chronological list of cases cited*** ***on page(s)***

1. (2022) 11 SCC 1, *Rajeev Suri* v. *DDA* 432*e-f*, 433*a*

2. (2021) 11 SCC 566, *NHAI* v. *Aam Aadmi Lokmanch* 435*b*, 437*e-f*

3. (2021) 4 SCC 309, *H.P. Bus-Stand Management & Development Authority* v. *Central Empowered Committee* 443*c*

4. (2019) 19 SCC 479, *T.N. Pollution Control Board* v. *Sterlite Industries (I) Ltd.* 421*a-b*

5. (2019) 18 SCC 494, *Mantri Techzone (P) Ltd.* v. *Forward Foundation* 431*g*, 432*c-d*

6. (2019) 8 SCC 177, *State of Meghalaya* v. *All Dimasa Students Union* 433*f-g*, 434*d*

7. 2019 SCC OnLine SC 2094, *Municipal Corpn. of Greater Mumbai* v. *Ankita Sinha* 418*e-f*

8. 2019 SCC OnLine SC 2093, *Municipal Corpn. of Greater Mumbai* v. *Ankita Sinha* 418*a*

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 23 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


9. (2018) 11 SCC 734, *Techi Tagi Tara* v. *Rajendra Singh Bhandari* **(impliedly overruled)** 420*a-b*, 420*b-c*

10. 2018 SCC OnLine NGT 2937, *Ankita Sinha* v. *State of Maharashtra* 417*e-f*

11. 2018 SCC OnLine NGT 2936, *Ankita Sinha* v. *State of Maharashtra* 417*g*, 418*a*

12. (2015) 15 SCC 1 : (2016) 2 SCC (L&S) 149, *Prabhakar* v. *Sericulture Deptt.* 420*d*

13. (2014) 3 SCC 222, *BSNL* v. *TRAI* 422*a*

14. (2014) 2 SCC 62 : (2014) 1 SCC (Cri) 721, *Sarah Mathew* v. *Institute of Cardio Vascular Diseases* 427*f-g*

15. 2014 SCC OnLine NGT 6860, *Wilfred J.* v. *Ministry of Environment & Forests* 422*b*

16. (2013) 15 SCC 341 : (2014) 5 SCC (Civ) 243, *Standard Chartered Bank* v. *Dharminder Bhohi* 419*d*

17. (2012) 8 SCC 326, *Bhopal Gas Peedith Mahila Udyog Sangathan* v. *Union of India* 431*a*

18. (2011) 9 SCC 541 : (2011) 4 SCC (Civ) 781, *Rajeev Hitendra Pathak* v. *Achyut Kashinath Karekar* 419*g*

19. (2008) 3 SCC 279 : (2008) 1 SCC (Civ) 850, *New India Assurance Co. Ltd.* v. *Nusli Neville Wadia* 427*f-g*

20. (2008) 1 SCC 125 : (2008) 1 SCC (Civ) 116, *Transcore* v. *Union of India* 419*e-f*

21. (2006) 6 SCC 371, *Karnataka Industrial Areas*

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 24 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


*Development Board* v. *C. Kenchappa* 439*a-b*

22. (2001) 2 SCC 62, *A.P. Pollution Control Board (2)* v. *M.V. Nayudu* 442*d*

23. (1999) 2 SCC 718, *A.P. Pollution Control Board* v. *M.V. Nayudu* 433*b*, 442*d*

24. (1999) 2 SCC 131 : 1999 SCC (Cri) 109, *Paramjit Kaur* v. *State of Punjab* 434*g*

25. (1997) 3 SCC 261 : 1997 SCC (L&S) 577, *L. Chandra Kumar* v. *Union of India* 423*g*

26. (1997) 2 SCC 353, *M.C. Mehta (Taj Trapezium Matter)* v. *Union of India* 429*g*

27. (1997) 2 SCC 87, *S. Jagannath* v. *Union of India* 439*a-b*

28. (1996) 5 SCC 647, *Vellore Citizens' Welfare Forum* v. *Union of India* 429*f-g*, 439*a-b*

29. (1996) 3 SCC 212, *Indian Council For Enviro-Legal Action* v. *Union of India* 442*d*

30. (1995) 2 SCC 577, *Virender Gaur* v. *State of Haryana* 441*d*

31. (1991) 1 SCC 598, *Subhash Kumar* v. *State of Bihar* 441*e-f*

32. (1990) 1 SCC 613, *Charan Lal Sahu* v. *Union of India* 441*d*

33. (1987) 1 SCC 395, *M.C. Mehta* v. *Union of India* 442*a*

34. (1986) 2 SCC 176 : 1986 SCC (Cri) 122, *M.C.*

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 25 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


*Mehta* v. *Union of India* 442*d*

Page: 417

35. (1985) 2 SCC 431, *Rural Litigation & Entitlement Kendra* v. *State of U.P.* 441*d*

36. (1976) 1 SCC 719 : 1976 SCC (L&S) 118, *State of Punjab* v. *Shamlal Murari* 437*g-h*

37. (1970) 2 SCC 355, *L. Hirday Narain* v. *ITO* 434*a*

38. 1964 SCC OnLine SC 21, *Powers, Privileges & Immunities of State Legislatures, In re, Special Reference No. 1 of 1964* 421*e-f*

39. 1955 SCC OnLine SC 2, *Bengal Immunity Co. Ltd.* v. *State of Bihar* 426*g-h*

40. 1935 SCC OnLine US SC 3 (dissenting), *Panama Refining Co.* v. *Ryan* 427*e*

41. (1584) 3 Co Rep 7a : 76 ER 637, *Heydon Case* 426*g*, 427*a-b*

The Judgment of the Court was delivered by

**HRISHIKESH ROY, J.**—

"*Estragon : Let's go.*
*Vladimir : We can't.*
*Estragon : Why not?*
*Vladimir : We're waiting for Godot.*"[1]

**2.** Leave granted in the special leave petitions. The consideration to be made in these matters is whether the National Green Tribunal (for short "NGT") has the power to exercise suo motu jurisdiction in discharge of its functions under the National Green Tribunal Act, 2010 (for short "the NGT Act, 2010").

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 26 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


**3.** In the lead case in this group i.e. Civil Appeal No. 86 of 2019, NGT noticed an article titled "Garbage Gangs of Deonar : The Kingpins and Their Multi-Crore Trade" in the online news portal, *The Quint*. The article spoke of how mismanagement of solid waste had an adverse impact on the environment, public health and lives of individuals living in the vicinity of the dumping ground in Mumbai City.

**4.** NGT took suo motu cognizance of the above article vide order dated 7-8-2018[2] and directed that the article writer Ankita Sinha be the applicant in the case OA No. 510 of 2018, registered at NGT's instance. Thereafter, steps were taken for inspection of the Deonar dumping site by the representative of the Central Pollution Control Board, Maharashtra Pollution Control Board, the District Collector of the area and also the representative of the Municipal Corporation of Greater Mumbai (for short "the MCGM"). Pursuant to the report of the inspecting team which highlighted that the landfill site failed to comply with the provisions of the Solid Waste Management Rules, 2016, NGT vide order dated 30-10-2018[3] noted that "*damage to the environment and public health is self-evident*" and ordered MCGM to pay compensation to the tune of Rs 5 crores.



**5.** This Court while entertaining Civil Appeal No. 86 of 2019 of MCGM, ordered[4] stay on the operation of the order[3] passed by NGT and thereafter arranged for analogous consideration of the related cases where the common threshold jurisdictional issue arises on whether NGT has the power to exercise suo motu jurisdiction.

**6.** Mr Mukul Rohatgi, Mr Dushyant Dave, Mr Jaideep Gupta, Mr Dhruv Mehta, Mr Atmaram Nadkarni, Mr Krishnan Venugopal, Mr V. Giri, Mr Sajan Poovayya and Mr Sidhartha Dave, the learned Senior Counsel together with Mr E.M.S Anam, Ms Amrita Sharma, Mr S. Thananjayan have taken a common stand. They have argued that NGT is a tribunal and a creature of statute and as such, it cannot act on its own motion or exercise the power of judicial review or act suo motu, in discharge of its function. Being a creature of the statute, the forum cannot assume inherent powers as under Article 32 and Article 226 and its domain is circumscribed by the limitations so imposed.

**7.** The learned counsel also argue that NGT has an adjudicatory role to decide disputes which necessarily mean involvement of two or more contesting parties. Therefore, NGT by acting suo motu cannot transpose itself to the shoes of one such party. The absence of general power of

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 27 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


judicial review with NGT (which is available with superior courts) is highlighted to keep away suo motu power from NGT. Various judgments relating to the Tribunal's power and role are cited by the counsel and those would be discussed in the latter part of this order.

**8.** Projecting the contrary view, Mr Nidhesh Gupta, the learned Senior Counsel appearing for the aggrieved party in SLP (C) No. 6732 of 2021, Mr Sanjay Parikh, learned Senior Counsel for the intervener in CA No. 86 of 2019 and Mr Gopal Sankaranarayanan, learned Senior Counsel appearing for the impleader in IA No. 71482 of 2021 in SLP (C) No. 6732 of 2021, by referring to the special role envisaged for NGT and the history of its incorporation, make equally powerful submission in support of exercise of suo motu jurisdiction, by NGT.

**9.** Mr Anand Grover, the learned Senior Counsel was appointed[5] as the Amicus Curiae to assist the Court and he was heard at length. The counsel acknowledges NGT's role and position under the Act and its wide jurisdiction over environmental matters but Mr Grover is of the view that NGT is incapable of triggering action on its own. In other words, NGT cannot act suo motu without someone moving the forum as otherwise the forum then would be perceived to be judging its own cause. Since suo motu power is not conferred under the NGT Act, the specialised tribunal has to be moved by an outside party. But the format of the application is not important and even a letter addressed by an interested party, will clothe NGT with power to take action is the concessional submission of Mr Grover.



**10.** Representing the Central Government, Ms Aishwarya Bhati, the learned Additional Solicitor General of India submitted that suo motu power is not exercisable by NGT since the same has not been conferred on the forum under the NGT Act, unlike the situation in the now repealed *National Environment Tribunal Act, 1995* (hereinafter referred to as "the NET Act").

**11.** The counsel refers to the provisions of the NGT Act and submits that the concept of locus standi was expanded for NGT's intervention under Section 18(2)(e) but the tribunal is not vested with suo motu power to take action on its own unlike the High Courts and the Supreme Court. The learned ASG, however, submits that even on receipt of a letter, NGT can commence action on environmental matters. Thus, on exercise of epistolary jurisdiction by NGT, the ASG is on the same page as the Amicus Curiae but as earlier noted both the

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 28 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


counsel argue for keeping away the suo motu power from NGT.

**12.** Having summarised the positions taken by the respective counsel, we may now refer to the specific grounds of challenge to keep away suo motu power from NGT. The counsel concerned project that NGT is a creature of the statute and just like other such statutory tribunals, NGT is also bound within statutory confines. They have relied upon *Standard Chartered Bank* v. *Dharminder Bhohi*[6] wherein, the provisions of the *Recovery of the Debts Due to Banks and Financial Institutions Act, 1993* were analysed to note the limitations of the Debts Recovery Tribunal and Appellate Tribunal. From the analysis of Dipak Misra, J. (as his Lordship then was) for the Division Bench, it can be inferred that the Tribunal was given power under the statute to pass such other orders and give such directions to give effect to its orders or to prevent abuse of its process or to secure the ends of justice but in discharge of its functions the Tribunal was required to confine itself to within the statutory parameters. Thus, Section 19(25) conferred limited powers and the submission thus is that the Tribunal does not have any inherent powers.

**13.** Similarly, S.H. Kapadia, J. (as his Lordship then was) in *Transcore* v. *Union of India*[7], opined on behalf of a Division Bench that : (SCC p. 163, para 67)

> "*67*. … The DRT is a tribunal, it is the creature of the statute, it has no inherent power which exists in the civil courts."

**14.** The counsel also projects that in the context of Consumer Forums, Dalveer Bhandari, J. (as his Lordship then was) speaking for a three-Judge Bench in *Rajeev Hitendra Pathak* v. *Achyut Kashinath Karekar*[8], observed as under : (SCC p. 550, para 34)

> "*34*. On a careful analysis of the provisions of the Act, it is abundantly clear that the Tribunals are creatures of the statute and derive their power from the express provisions of the statute. The District Forums and the State



Commissions have not been given any power to set aside ex parte orders and the power of review and the powers which have not been expressly given by the statute cannot be exercised."

**15.** The second limb of contention is that the Act is applicable to "*disputes*" as, necessarily referring to a lis between two parties. The counsel has relied upon *Techi Tagi Tara* v. *Rajendra Singh Bhandari*[9] wherein the term "*substantial question relating to environment*" was interpreted in an attenuated fashion to mean a question arising as part

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 29 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


of a dispute. The submission therefore is that a dispute must necessitate a claimant or an applicant. Further, this dispute must also be capable of settlement by NGT.

**16.** In the cited case the proposition is articulated in the following fashion : (*Rajendra Singh Bhandari case*[9], SCC pp. 749-50, paras 19-20)

> "*19*. On a combined reading of all these provisions, it is clear to us that there must be a substantial question relating to the environment and that question must arise in a dispute — it should not be an academic question. There must also be a claimant raising that dispute which dispute is capable of settlement by NGT by the grant of some relief which could be in the nature of compensation or restitution of property damaged or restitution of the environment and any other incidental or ancillary relief connected therewith.
>
> *20*. … In *Prabhakar* v. *Sericulture Deptt.*[10] the following definition of "dispute" was noted in paras 34 and 35 of the Report : (SCC p. 21)
>
> > '*34*. To understand the meaning of the word "dispute", it would be appropriate to start with the grammatical or dictionary meaning of the term:
> >
> > ""*Dispute*".—to argue about, to contend for, to oppose by argument, to call in question — to argue or debate (with, about or over) — a contest with words; an argument; a debate; a quarrel;"
> >
> > *35*. *Black's Law Dictionary*, 5th Edn., p. 424 defines "dispute" as under:
> >
> > "*Dispute*.—A conflict or controversy; a conflict of claims or rights; an assertion of a right, claim, or demand on one side, met by contrary claims or allegations on the other. The subject of litigation; the matter for which a suit is brought and upon which issue is joined, and in relation to which jurors are called and witnesses examined." ' "

**17.** The Amicus Curiae has also addressed this issue, by defining a dispute as necessitating an assertion and a denial. By this reasoning, it is submitted that function of Section 14 of the NGT Act is available only to adjudicate upon disputes, as in an adversarial system but not for any other ameliorative, restorative or preventative functions.

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 30 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


**18.** Thirdly, the lack of general power of judicial review has been argued to show legislative intent to curb suo motu powers. The counsel have stated that NGT, as a tribunal with prescribed authority under a statute, does not have any general power of judicial review. Thus, it is not within the category of writ courts as under Article 226 and Article 32 of the Constitution of India.

**19.** In the relied upon judgment *T.N. Pollution Control Board* v. *Sterlite Industries (I) Ltd.*[11] R.F. Nariman, J. speaking about NGT for a Division Bench of this Court has observed the following : (SCC pp. 520 & 523-24, paras 41 & 43)

> "*41*. … Suffice it to say that NGT is not a tribunal set up either under Article 323-A or Article 323-B of the Constitution, but is a statutory tribunal set up under the NGT Act. That such a tribunal does not exercise the jurisdiction of all courts except the Supreme Court is clear from a reading of Section 29 of the NGT Act. …
>
> * * *
>
> *43*. … In the present case, it is clear that Section 16 of the NGT Act is cast in terms that are similar to Section 14(b) of the Telecom Regulatory Authority of India Act, 1997, in that appeals are against the orders, decisions, directions, or determinations made under the various Acts mentioned in Section 16. It is clear, therefore, that under the NGT Act, the Tribunal exercising appellate jurisdiction cannot strike down rules or regulations made under this Act. Therefore, it would be fallacious to state that the Tribunal has powers of judicial review akin to that of a High Court exercising constitutional powers under Article 226 of the Constitution of India. We must never forget the distinction between a superior court of record and courts of limited jurisdiction that was, in the felicitous language of Gajendragadkar, C.J., in *Powers, Privileges & Immunities of State Legislatures, In re, Special Reference No. 1 of 1964*[12], made in the following words : (SCR p. 499 : AIR p. 789, para 138)
>
> > '*138*. We ought to make it clear that we are dealing with the question of jurisdiction and are not concerned with the propriety or reasonableness of the exercise of such jurisdiction. Besides, in the case of a superior court of record, it is for the court to consider whether any matter falls within its jurisdiction or not. Unlike a court of limited jurisdiction, the superior court is entitled to determine for itself questions about its own jurisdiction.
> >
> > "Prima facie", says Halsbury, "no matter is deemed to be beyond the jurisdiction of a superior court unless it is expressly shown to be so, while nothing is within the jurisdiction of an inferior court unless it is expressly shown on the face of the proceedings that the particular matter is within the cognizance of the particular court[13]".'

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 31 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.




For this reason also, we are of the view that the State Government order made under Section 18 of the Water Act, not being the subject-matter of any appeal under Section 16 of the NGT Act, cannot be "judicially reviewed" by NGT. Following the judgment in *BSNL*[14], we are of the view that NGT has no general power of judicial review akin to that vested under Article 226 of the Constitution of India possessed by the High Courts of this country. Shri Sundaram's strong reliance on NGT judgment dated 17-7-2014 in *Wilfred J.* v. *Ministry of Environment & Forests*[15] must also be rejected as this NGT judgment does not state the law on this aspect correctly. This contention is also without merit, and therefore, rejected."

The argument has been that the superior courts exercising discretionary powers under Article 32 and Article 226, to safeguard fundamental rights, can venture into judicial review. But such a power not being expressly conferred on NGT would suggest the limited nature of the forum's powers, which would exclude any suo motu exercise.

**I. *The backdrop of the National Green Tribunal***

**20.** In order to understand the contours of jurisdiction of NGT, we have thought it necessary to refer to the history of the legislation and also the Preamble and the Statement of Objects and Reasons of the NGT Act. The parliamentary intent which shaped the creation of NGT and the broad issues that they sought to address through the specialised institution should now be brought to the fore.

**21.** The precursor to the NGT Act was the 186th Report[*] of the Law Commission of India dated 23-9-2003 where the Law Commission had made the following pertinent observation espousing the case for the creation of a specialised court to deal with environmental issues:

"It is true that the High Court and Supreme Court have been taking up these and other complex environmental issues and deciding them. But, though they are judicial bodies, they do not have an independent statutory panel of environmental scientists to help and advise them on a permanent basis. They are prone to apply principles like the Wednesbury Principle and refuse to go into the merits. They do not also make spot inspections or receive oral evidence to see for themselves the facts as they exist on ground. On the other hand, if Environmental Courts are established in each State, these Courts can make spot inspections and receive oral evidence. They can receive independent advice on scientific matters

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 32 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


by a panel of scientists.

These Environmental Courts need not be Courts of exclusive jurisdiction. However, the High Courts, even if they are approached under Article 226 either in individual cases or in PIL cases, where orders of environmental authorities could be questioned, may refuse to intervene

Page: 423

on the ground that there is an effective alternative remedy before the specialist Environmental Court. As of now, when we have consumer courts at the District and State level, the High Courts have consistently refused to entertain writ petitions under Article 226 because parties have a remedy before the fora established under the Consumer Protection Act, 1986. We have also the example of special environmental courts in Australia, New Zealand and in some other countries and these are manned by Judges and expert Commissioners. The Royal Commission in UK is also of the view that if environmental courts are established, the High Courts may refuse to entertain applications for judicial review on the ground that there is an effective alternative remedy before these Courts.

It is for the above reasons we are proposing the establishment of separate environmental courts in each State. In Chapter IX, we propose to give the details of the Constitution, power and jurisdiction of these Courts."

**22.** The above would suggest that the Law Commission was of the opinion that it is not convenient for the High Courts and the Supreme Court to make local inquiries or receive evidence. Moreover, the superior courts will not have access to expert environmental scientists on permanent basis to assist them. Therefore, NGT was conceived as a complimentary specialised forum to deal with all environmental multi-disciplinary issues both as original and also as an appellate authority, which complex issues were hitherto dealt with by the High Courts and the Supreme Court.

**23.** NGT, therefore, was intended to be the competent forum for dealing with environmental issues instead of those being canvassed under the writ jurisdiction of the courts. It was explicitly noted that the creation of NGT would allow for the Supreme Court and High Court to avoid intervening under their inherent jurisdiction when an alternative efficacious remedy would become available before the specialised forum. The 186th Law Commission Report provided the following reasoning:

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 33 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


"Likewise, we have not thought it fit to enable the Environmental Courts, to have judicial review powers exercised by the High Court under Article 226 of the Constitution of India. We have felt that it is sufficient to vest original civil jurisdiction as exercisable by a civil court, in the Environmental Courts. If we vest powers of judicial review as under Article 226, then there may be need to subject the orders to the writ jurisdiction of High Courts as held in *L. Chandra Kumar* v. *Union of India*[16].

No doubt, the Environment Court exercising powers of a civil court or as an appellate court in civil jurisdiction, may be technically amenable to writ jurisdiction of the High Court but inasmuch as we are providing an appeal to the Supreme Court, the High Courts may decline to interfere on

Page: 424

the ground that there is an effective alternative remedy of appeal on law and fact to the Supreme Court, as explained later in this Chapter."[17]

**24.** Thus, the power of judicial review was omitted to ensure avoidance of High Courts' interference with the Tribunal's orders by way of a mid-way scrutiny by the High Court, before the matter travels to the Supreme Court where NGT's orders can be challenged. The streamlining of the mechanism was to arrest the growing tide of litigation before High Courts and the Supreme Court and shift such issues to the domain of NGT. This is how the proposed forum was made free from the rules of evidence and NGT was permitted to lay down its own procedure to entertain oral and documentary evidence, consult experts, etc. The observance of the principles of natural justice was however mandated.

**II. *The Preamble & Statement of Objects and Reasons***

**25.** The Statement of Objects and Reasons of the NGT Act will now require attention. Paras 2, 3, 4, 5 and 6 of the Statement of Objects and Reasons being relevant are extracted hereinbelow:

"**2.** India is a party to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June 1972, in which India participated, calling upon the States to take appropriate steps for the protection and improvement of the human environment. The United Nations Conference on Environment and Development held at *Rio de Janeiro* in June 1992, in which India participated, has also called upon the States to provide effective access to judicial and administrative proceedings, including redress

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 34 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


and remedy, and to develop National laws regarding liability and compensation for the victims of pollution and other environmental damage.

**3.** The right to healthy environment has been construed as a part of the right to life under Article 21 of the Constitution in the judicial pronouncement in India.

**4.** The National Environment Tribunal Act, 1995 was enacted to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment. However, the National Environment Tribunal, which had a very limited mandate, was not established. The National Environment Appellate Authority Act, 1997 was enacted to establish the National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986. The National Environment Appellate Authority has a limited workload because of the narrow scope of its jurisdiction.

**5.** Taking into account the large number of environmental cases pending in higher courts and the involvement of multi-disciplinary issues in such cases, the Supreme Court requested the Law Commission of India to consider the



need for constitution of specialised environmental courts. Pursuant to the same, the Law Commission has recommended the setting up of environmental courts having both original and appellate jurisdiction relating to Environment Law.

**6.** In view of the foregoing paragraphs, a need has been felt to establish a specialised tribunal to handle the multi-disciplinary issues involved in environmental cases. Accordingly, it has been decided to enact a law to provide for the establishment of the National Green Tribunal for effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment."

**26.** A reading of the Statement of Objects and Reasons shows that

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 35 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


Para 4 thereof refers to the *National Environment Tribunal Act, 1995 ("NET")* which provided for strict liability and damages arising out of accidents occurring while handling hazardous substances. In the same context it was observed that the NET had a very limited and narrow mandate and jurisdiction. Thereafter, in Para 5 it has been recorded that a large number of environmental cases are pending in higher courts which involve multi-disciplinary issues and, in such cases, the Supreme Court had requested the Law Commission of India to consider the need for constitution of specialised environmental courts.

**27.** Significantly, the Statement of Objects and Reasons also refers to right to a healthy environment being a part of the right to life under Article 21 of the Constitution of India. This was consistent with the earlier mentioned 186th Law Commission Report highlighting that the body so created, would aim to "*achieve the objectives of Articles 21, 47, 48-A, 51-A(g) of the Constitution of India by means of a fair, fast and satisfactory judicial procedure*". An institution concerned with a significant aspect of right to life necessarily should be given the most liberal construction.

**28.** Para 2 of the Statement of Objects and Reasons refers to the United Nations Conference on the Human Environment held at Stockholm in June 1972 which called upon the Governments and peoples to exert common efforts for the preservation and improvement of the human environment when it involved people and for their posterity. Therefore, the municipal law enacted with such a laudatory objective of not only preventing damage to the environment but also to protect it, must be provided with the wherewithal to discharge its protective, preventive and remedial function towards protection of the environment. The mandate and jurisdiction of NGT is therefore conceived to be of the widest amplitude and it is in the nature of a sui generis forum.

**29.** The United Nations Conference on Environment and Development held at Rio de Janeiro in June 1992 where India participated, impressed upon the States to provide effective access to judicial and administrative proceedings, lay out redress and remedy and to develop national laws regarding liability and compensation for the victims of pollution and other environmental damage. The Preamble to the Act significantly emphasised on construing the right to healthy environment as a part of the right to life under Article 21 of the Constitution which was accepted by various judicial pronouncements in India. The National

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 36 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


Green Tribunal was born in our country with such lofty dreams to deal with multi-disciplinary issues, relating to the environment.

**30.** The limited mandate conferred on the earlier forum i.e. the NET and the narrow scope of jurisdiction of the National Environment Appellate Authority along with the involvement of multi-disciplinary issues arising in environmental cases, were intended to be addressed through the constitution of NGT.

**III. *The need for purposive interpretation***

**31.** While adequate clarity is discernible in the phraseology that is employed under Section 14 and other provisions of the NGT Act, as shall be discussed in the latter parts of the judgment, the intention behind the statute should receive our careful attention. Tracing the legislative history for creation of NGT it is seen that NGT is intended to address wide-ranging societal concerns and these have prompted us to opt for purposive interpretation. The statute will have to be read in its entirety and each provision of the Act must be given its due meaning by comprehending the mischief it intends to remedy. The chosen interpretive exercise is best understood from the treatise *Interpretation of Statutes*, authored by Justice G.P. Singh who explained thus:

> "When the question arises as to the meaning of a certain provision in a statute, it is not only legitimate but proper to read that provision in its context. The context here means, the statute as a whole, the previous state of the law, other statutes in pari materia, the general scope of the statute, and the mischief that it was intended to remedy. This statement of the rule was later fully adopted by the Supreme Court.
>
> It is a rule now firmly established that the intention of the legislature must be found by reading the statute as a whole. The rule is referred to as an "elementary rule" by Viscount Simonds : a "compelling rule" by Lord Somervell of Harrow; and a "settled rule" by B.K. Mukherjea, J. "I agree" said Lord Halsbury, "that you must look at the whole instrument inasmuch as there may be inaccuracy and inconsistency; you must, if you can, ascertain what is the meaning of the instrument taken as a whole in order to give effect, if it be possible to do so, to the intention of the framer of it"."

**32.** The mischief that the NGT Act attempted to remedy were underscored in the legislative history, and the pronouncements of the constitutional courts flagging their environmental concerns.

**33.** The application of *Heydon*[18] rule could adequately aid us here as the rule directs adoption of that construction which "*shall suppress the mischief and advance the remedy*" as was pertinently observed by S.R. Das, J. for a seven-Judge Bench in *Bengal Immunity Co. Ltd.* v. *State of Bihar*[19],

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 37 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.




"*22*. … '4th. … the office of all the Judges is to make such construction as shall suppress the mischief and advance the remedy, and to suppress subtle inventions and evasions for continuance of the mischief; and *pro privato commodo*, and to add force and life to the cure and remedy, according to the true intent of the makers of the Act, *pro bono publico*.'[*]"

**34.** Francis Bennion in his book *Statutory Interpretation* described "purposive interpretation" as under:

"A purposive construction of an enactment is one which gives effect to the legislative purpose by—

(*a*) following the literal meaning of the enactment where that meaning is in accordance with the legislative purpose, or

(*b*) applying a strained meaning where the literal meaning is not in accordance with the legislative purpose."

**35.** Justice Frankfurter of the US Supreme Court in "Some Reflections on the Reading of Statutes"[20], has elucidated on the principles to ascertain the contextual meaning of statutes in the following manner:

"The purpose of construction being the ascertainment of meaning, every consideration brought to bear for the solution of that problem must be devoted to that end alone.

* * *

Judge Learned Hand speaks of the art of interpretation as 'the proliferation of purpose'."

Eventually, Justice Frankfurter relied upon Benjamin Cardozo, J.'s phraseology in *Panama Refining Co.* v. *Ryan*[21], and the same is taken as a lodestar in our quest : (SCC OnLine US SC para 50)

"*50*. … the meaning of a statute is to be looked for, not in any single section, but in all the parts together and in their relation to the end in view".

**36.** The laudatory objectives for creation of NGT would implore us to adopt such an interpretive process which will achieve the legislative purpose and will eschew procedural impediment or so to say incapacity. The precedents of this Court, suggest a construction which fulfils the object of the Act.[22] The choice for this Court would be to lean towards the interpretation that would allow fructification of the legislative intention and is forward looking. The provisions must be read with the

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 38 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


intention to accentuate them, especially as they concern protections of rights under Article 21 and also deal with vital environmental policy and its regulatory aspects.



## IV. *Salient statutory features of the NGT Act*

**37.** Applying the chosen tool of interpretation to the statutory layout of the NGT Act, following provisions will require the Court's attention:

**37.1.** Section 2(1)(c) of the NGT Act defines the term "environment"; Section 2(1)(m) defines "substantial question relating to environment".

**37.2.** Chapter III relates to jurisdiction, power and proceedings of the Tribunal. Section 14 gives original jurisdiction to NGT to decide a substantial question relating to environment; Section 15 deals with relief, compensation and restitution whereby besides providing relief to the victims of pollution, NGT can direct restitution of property damage and restitution of environment for such area(s) "*as the Tribunal may think fit*". Section 16 gives appellate jurisdiction to the Tribunal against the orders passed under various enactments.

**37.3.** Section 17 provides for liability to pay relief or compensation in certain cases, Section 18 specifies who can move application/appeal before the Tribunal. It includes, among others, by Section 18(2)(e) "*any person aggrieved including any representative body/organisation*" and the locus standi is not limited only to the aggrieved party.

**37.4.** Section 19 provides for procedure and powers of the Tribunal. Section 19(1) significantly says that the Tribunal shall not be bound by procedures laid down in CPC and shall be bound by the principles of natural justice. Section 19(2) provides that subject to the provisions of the Act, the Tribunal shall have powers to regulate its own procedure. Section 19(3) mentions that the Tribunal shall not be bound by the rules of evidence contained in the Evidence Act, 1872. While discharging functions under Section 19(4), besides summoning, enforcing attendance, examining persons on oath, requiring discovery and production of documents, receiving evidence on oath, NGT also has powers to review its decision, to pass interim orders as well as pass cease and desist orders.

**37.5.** Section 20 says that while adjudicating issues, the Tribunal shall apply the environmental principles, namely, sustainable development principles, precautionary principles and polluter pays principle. Under Section 25, the Tribunal can execute its order/decision

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 39 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


as a decree of the civil court and for that purpose shall have all the powers of a civil court. Section 29 bars the jurisdiction of the civil court to entertain all environmental matters covered by the Tribunal. Under Section 33, the NGT Act has an overriding effect over other laws.

**38.** While on the statutory provisions, it is seen that the Central Government has framed the *National Green Tribunal (Practice and Procedure) Rules, 2011* (for short "the NGT Rules"). For our purpose, Rule 24 is important which reads thus:

> "**24. *Order and directions in certain cases***.—The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice."

Page: 429

The said Rules make it clear that NGT has been given wide discretionary powers to *secure the ends of justice*. This power is coupled with the duty to be exercised for achieving the objectives. The intention understandably being to preserve and protect the environment and the matters connected thereto.

**39.** By choosing to employ a phrase of wide import i.e. *secure the ends of justice*, the legislature has nudged towards a liberal interpretation. Securing justice is a term of wide amplitude and does not simply mean adjudicating disputes between two rival entities. It also encompasses inter alia, advancing causes of environmental rights, granting compensation to victims of calamities, creating schemes for giving effect to the environmental principles and even hauling up authorities for inaction, when need be.

**40.** Moreover, unlike the civil courts which cannot travel beyond the relief sought by the parties, NGT is conferred with power of moulding any relief. The provisions show that NGT is vested with the widest power to appropriate relief as may be justified in the facts and circumstances of the case, even though such relief may not be specifically prayed for by the parties.

**41.** Another distinguishing feature of the environmental forum is on the aspect of locus standi which was made as wide as is available to the High Courts and the Supreme Court. Thus, any person or organisation who may be interested in the subject-matter is permitted to approach NGT.

**42.** The provisions of the NGT Act and the NGT Rules demonstrate

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 40 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


that myriad roles are to be discharged by NGT, as was encapsulated in the Law Commission Report, the Preamble and the Statement of Objects and Reasons. This is also forthcoming from the international obligation and commitment by India to implement the decision taken at the Stockholm and the Rio de Janeiro Conventions towards protection of the environmental rights under Article 21 of the Constitution.

**V. *Non-adjudicatory roles of NGT***

**43.** As can be seen, Parliament intended to confer wide jurisdiction on NGT so that it can deal with the multitude of issues relating to the environment which were being dealt with by the High Courts under Article 226 of the Constitution or by the Supreme Court under Article 32 of the Constitution. The Tribunal is also expected to proceed with such matters with the understanding that environment and environmental principles are part of Article 21 of the Constitution. [See *Vellore Citizens' Welfare Forum* v. *Union of India*[23]; *M.C. Mehta (Taj Trapezium Matter)* v. *Union of India*[24], etc.]

**44.** Schedule I to the NGT Act is concerned with implementation of few environment related enactments such as the Water Act, the Air Act, the Environment Act, the Forest (Conservation) Act, etc. As one looks at these enactments, an expanded role for NGT is clearly discernible. The activities of NGT are not only geared towards the protection of the environment but also to



ensure that the developments do not cause serious and irreparable damage to the ecology and the environment. These would suggest a broad canvas for the NGT Act as also its creation.

**45.** For the environmental forum, tasked with implementation of the statutes mentioned in Schedule I to the NGT Act, the concept of lis, would obviously be beyond the usual understanding in civil cases where there is a party (whether private or Government) disturbing the environment and the other one (could be an individual, a body or the Government itself), who has concern for the protection of environment. Therefore, NGT is primarily concerned with protection of the environment and also preservation of the natural resources. As the specialised forum, NGT would be expected to take preventive action, besides settling and adjudicating disputes and pass orders on all environment related questions.

**46.** NGT is not just an adjudicatory body but has to perform wider functions in the nature of prevention, remedy and amelioration. This

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 41 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


aspect was specifically flagged in the 186th Law Commission Report:

> "The Environment Court, in our view, must have power to frame schemes and monitor them and also have power to modify the schemes from time to time. If one looks at the problems raised in several cases and the directions issued by the Supreme Court, it will be observed that such a power is necessary to be vested in these Courts. … The Environment Court must be able to provide an "environmental solution" to grave problems like the one mentioned above and unless it has power to frame comprehensive schemes which will involve issuing directions to various departments, the solution cannot be implemented. Such a comprehensive jurisdiction is now being exercised both by the Supreme Court and High Courts. In our view, the proposed Courts must have similar powers. They will also have to monitor the schemes till they are successfully implemented on ground and, if necessary, modify the schemes from time to time."

**47.** We have earlier discussed that NGT is empowered to carry out restitutive exercise for compensating persons adversely affected by environmental events. The larger discourse which informs such functions is related to distributive and corrective justice, as will be elaborated in later paragraphs. Even in the absence of harm inflicted by human agency, in a situation of a natural calamity, the Tribunal will be required to devise a plan for alleviating damage. An inquisitorial function is also available for the Tribunal, within and without adversarial significance. Importantly, many of these functions do not require an active "*dispute*", but the formulation of *decisions*.

**48.** With the constitution of NGT, many cases pending before the High Courts were transferred to NGT. Apprehending the possibility of conflict between the High Courts and NGT (in matters concerning environment and the statutes mentioned in Schedule I to "the NGT Act"), Swatanter Kumar, J. speaking for the three-Judge Bench in *Bhopal Gas Peedith Mahila Udyog*



*Sangathan* v. *Union of India*[25], highlighted NGT's role in the context, in the following words : (SCC p. 347, paras 40-41)

> "*40*. Keeping in view the provisions and scheme of the National Green Tribunal Act, 2010 (for short "the NGT Act") particularly Sections 14, 29, 30 and 38(5), it can safely be concluded that the environmental issues and matters covered under the NGT Act, Schedule I should be instituted and litigated before the National

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 42 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


Green Tribunal (for short "NGT"). Such approach may be necessary to avoid likelihood of conflict of orders between the High Courts and NGT. Thus, in unambiguous terms, we direct that all the matters instituted after coming into force of the NGT Act and which are covered under the provisions of the NGT Act and/or in Schedule I to the NGT Act shall stand transferred and can be instituted only before NGT. This will help in rendering expeditious and specialised justice in the field of environment to all concerned.

*41*. We find it imperative to place on record a caution for consideration of the courts of competent jurisdiction that the cases filed and pending prior to coming into force of the NGT Act, involving questions of Environment Law and/or relating to any of the seven statutes specified in Schedule I to the NGT Act, should also be dealt with by the specialised tribunal, that is, NGT, created under the provisions of the NGT Act. The courts may be well advised to direct transfer of such cases to NGT in its discretion, as it will be in the fitness of administration of justice."

In the above case, this Court mandated transfer of all cases concerning the statutes mentioned in Schedule I to the NGT Act to the specialised forum as otherwise there can be conflicts with the High Courts. Notably, some of those cases were originally registered suo motu by the courts.

**VI. *Exercise of suo motu power by NGT***

**49.** Let us now explore whether NGT in discharge of its functions, should also have suo motu power. The specialised tribunal's exercise of suo motu powers is somewhat distinct from those exercised by the constitutional courts. The Supreme Court and High Courts can foray into any issues under their constitutional mandate but NGT cannot naturally travel beyond its environmental domain in reference to the Scheduled enactments. However, as long as the sphere of action is not breached, NGT's powers must be understood to be of the widest amplitude.

**50.** Explaining the purpose for constituting the Special Court to deal with environmental issues, in *Mantri Techzone (P) Ltd.* v. *Forward Foundation*[26], S. Abdul Nazeer, J. writing for the three-Judge Bench, made the following pertinent observations on the status of NGT : (SCC p. 517, para 40)



"*40*. The Tribunal has been established under a constitutional mandate provided in Schedule VII List I Entry 13 of the Constitution

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 43 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


of India, to implement the decision taken at the United Nations Conference on Environment and Development. The Tribunal is a specialised judicial body for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to the environment. The right to healthy environment has been construed as a part of the right to life under Article 21 by way of judicial pronouncements. Therefore, the Tribunal has special jurisdiction for enforcement of environmental rights."

As can be seen from the quoted passage, this Court recognised that NGT is set up under the constitutional mandate in Entry 13 of List I in Schedule VII to enforce Article 21 with respect to the environment and in the context observed that the Tribunal has special jurisdiction for enforcement of environmental rights.

**51.** Elaborating further, in paras 44-46, the Supreme Court expressed that the interpretation that is in favour of conferring jurisdiction should be preferred rather than one taking away jurisdiction. It was specifically noted that : (*Mantri Techzone case*[26], SCC p. 518, para 46)

"*46*. … As stated supra the typical nature of the Tribunal, its breadth of powers as provided under the statutory provisions of the Act as well as the scheduled enactments, cumulatively, leave no manner of doubt that the only tenable interpretation to these provisions would be to read the provisions broadly in favour of cloaking the Tribunal with effective authority. An interpretation that is in favour of conferring jurisdiction should be preferred rather than one taking away jurisdiction."

**52.** Such being the wide contour of NGT's powers, the exposition in *Rajeev Suri* v. *DDA*[27] was not to constrict the suo motu powers of NGT. To appreciate the implication of the ratio in *Rajeev Suri*[27], it must be noticed that it was in the specific context of "*Merits Review*" and NGT transgressing beyond its environmental mandate. This is why, one of us, A.M. Khanwilkar, J. observed that : (SCC p. 276, para 516)

"*516*. NGT is not a plenary body with inherent powers to address concerns of a residuary character. It is a statutory body with limited mandate over environmental matters as and when they arise for its consideration. In a cause before it, NGT cannot directly go on to adjudicate on concerns of violation of fundamental rights and once the contours of a subject-matter traverse the scope of appeal from a grant of EC, the merits review by the Tribunal cannot traverse beyond the scope of jurisdiction vested in it by the statute."

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 44 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.



Thus, the ratio in *Rajeev Suri*[27] to the quoted extent will not clash with the view propounded here as the exposition is not to allow any inherent power of residuary character for NGT. In its own domain, as crystalised by the statute, the role of NGT is clearly discernible.

**53.** The need for an expert body with extensive functions and the sources of inspiration behind it was articulated in *A.P. Pollution Control Board* v. *M.V. Nayudu*[28] where M. Jagannadha Rao, J. speaking for a Division Bench referred to a comparable court in Australia and noted the following : (SCC p. 736, para 44)

> "*44*. The Land and Environment Court of New South Wales in Australia, established in 1980, could be the ideal. It is a superior court of record and is composed of four Judges and nine technical and conciliation assessors. Its jurisdiction combines appeal, judicial review and enforcement functions. Such a composition in our opinion is necessary and ideal in environmental matters."

The above would show that from the very inception, the role of NGT was not simply adjudicatory in the nature of a lis but to perform equally vital roles which are preventative, ameliorative or remedial in nature. The functional capacity of NGT was intended to leverage wide powers to do full justice in its environmental mandate.

## VII. *Uniqueness of NGT vis-à-vis other tribunals*

**54.** While we see many tribunals functioning within their specified domains, variances do exist in the manner in which they are designed to function. The statutory tribunals were categorised to fall under four sub-heads; Administrative Tribunals under Article 323-A; Tribunals under Article 323-B; specialised sector tribunals and most prominently; tribunals to safeguard rights under Article 21. As already noted, the duties of NGT brings it within the ambit of the fourth category, creating a compelling proposition for wielding much broader powers as delineated by the statute.

**55.** The ideal was to create a fairly proactive and responsive institution which could step into varying roles, as the situation demanded. Commenting on the specialised and unique role of NGT, Ashok Bhushan, J. in *State of Meghalaya* v. *All Dimasa Students Union*[29], fittingly observed thus : (SCC p. 262, para 163)

> "*163*. The object for which the said power is given is not far to seek. To fulfil the objective of the NGT Act, 2010, NGT has to exercise a wide range of jurisdiction and has to possess wide range of powers to do justice in a given case. The power is given to exercise for the benefit of those who have right for clean

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 45 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


environment which right they have to establish



before the Tribunal. The power given to the Tribunal is coupled with duty to exercise such powers for achieving the objects. In this regard reference is made to the judgment of this Court in *L. Hirday Narain* v. *ITO*[30], wherein this Court was examining provision empowering authority to do something. This Court laid down in para 13 : (SCC p. 359)

> '*13*. … The High Court observed that under Section 35 of the Income Tax Act, 1922, the jurisdiction of the Income Tax Officer is discretionary. If thereby it is intended that the Income Tax Officer has discretion to exercise or not to exercise the power to rectify, that view is in our judgment erroneous. Section 35 enacts that the Commissioner or Appellate Assistant Commissioner or the Income Tax Officer may rectify any mistake apparent from the record. If a statute invests a public officer with authority to do an act in a specified set of circumstances, it is imperative upon him to exercise his authority in a manner appropriate to the case when a party interested and having a right to apply moves in that behalf and circumstances for exercise of authority are shown to exist. Even if the words used in the statute are prima facie enabling the courts will readily infer a duty to exercise power which is invested in aid of enforcement of a right—public or private—of a citizen.' "

**56.** Reflecting on the expanded role of NGT unlike other tribunals, this Court so appositely observed in *All Dimasa Students Union case*[29] that the forum has a duty to do justice while exercising "*wide range of jurisdiction*" and the "*wide range of powers*", given to it by the statute.

**57.** During the course of its functioning, NGT has been recognised as one of the most progressive tribunals in the world. This jurisprudential leap has allowed our country to enter a rather exclusive group of nations which have set up such institutions with broad powers. To understand how NGT is perceived globally, we may usefully refer to the views of Chief Justice Brian Preston of the Land and Environment Court of NSW Australia:

> "NGT is an example of a specialised court to better achieve the goals of ensuring access to justice, upholding the rule of law and promoting good governance."[31]

## VIII. *The sui generis role of NGT*

**58.** NGT being one of its own kind of forum, commends us to

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 46 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


consider the concept of a sui generis role, for the institution. The structure of sui generis institutions was explained in *Paramjit Kaur* v. *State of Punjab*[32], wherein S. Saghir Ahmad, J. spoke thus for a Division Bench : (SCC p. 137, para 14)

Page: 435

> "*14*. The concept of sui generis is applied quite often with reference to resolution of disputes in the context of international law. When the conventions formulated by compacting nations do not cover any area territorially or any subject topically, then the body to which such power to arbiter is entrusted acts sui generis, that is, on its own and not under any law."

**59.** In *NHAI* v. *Aam Aadmi Lokmanch*[33], S. Ravindra Bhat, J. commenting on the sui generis role of NGT, so appropriately stated as follows : (SCC pp. 605 & 629, paras 37 & 73-74)

> "*37*. A conjoint reading of Sections 14, 15 and the Schedules would lead one to infer that NGT has circumscribed jurisdiction to deal with, adjudicate, and wherever needed, direct measures such as payment of compensation, or make restitutionary directions in cases where the violation (i.e. harm caused due to pollution or exposure to hazards, etc.) are the result of infraction of any enactment listed in the First Schedule. Yet, that interpretation, in the opinion of this court, is not warranted.
>
> * * *
>
> *73*. The power and jurisdiction of NGT under Sections 15(1)(b) and (c) are not restitutionary, in the sense of restoring the environment to the position it was before the practise impugned, or before the incident occurred. NGT's jurisdiction in one sense is a remedial one, based on a reflexive exercise of its powers. In another sense, based on the *nature of the abusive practice*, its powers can also be preventive.
>
> *74*. As a quasi-judicial body exercising both appellate jurisdiction over regulatory bodies' orders and directions (under Section 16) and its original jurisdiction under Sections 14, 15 and 17 of the NGT Act, the tribunal, based on the cases and applications made before it, is an expert regulatory body. Its personnel include technically qualified and experienced members. The powers it exercises and directions it can potentially issue, impact not merely those before it, but also state agencies and state departments whose views are heard, after which general directions to prevent the future occurrence of

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 47 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


incidents that impact the environment, are issued."

(emphasis in original)

In that case, this Court repelled the argument for a restricted jurisdiction for NGT, and fittingly observed in para 73 that the powers conferred on NGT are both reflexive and preventive and the role of NGT was recognised in para 74 as "*an expert regulatory body*", which can issue general directions also *albeit* within the statutory framework.

**60.** The above discussion would advise us to say that NGT was conceived as a specialised forum not only as a like substitute for a civil court but more importantly to take over all the environment related cases from the High Courts



and the Supreme Court. Many of those cases transferred to NGT, emanated in the superior courts and it would be appropriate thus to assume that similar power to initiate suo motu proceedings should also be available with NGT.

**61.** NGT is a Tribunal with sui generis characteristic, with the special and all-encompassing jurisdiction to protect the environment. Besides its adjudicatory role as an appellate authority, it is also conferred with the responsibility to discharge role of supervisory body and to decide substantial questions relating to the environment. The necessity of having a specialised body, with the expertise to handle multi-dimensional environmental issues allows for an all-encompassing framework for environmental justice. The technical expertise that may be required to address evolving environmental concerns would definitely require a flexible institutional mechanism for its effective exercise.

**IX. *Authority with self-activating capability***

**62.** Given the multifarious role envisaged for NGT and the purposive interpretation which ought to be given to the statutory provisions, it would be fitting to regard NGT as having the mechanism to set in motion all necessary functions within its domain and this, as would follow from the discussion below, should necessarily clothe it with the authority to take suo motu cognizance of matters, for effective discharge of its mandate.

**63.** The analysis for this segment should commence with Section 14 of the NGT Act and the same being of great relevance is being extracted hereunder:

"**14. *Tribunal to settle disputes***.—(1) The Tribunal shall have

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 48 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days."

**64.** Section 14(1) of the NGT Act deals with jurisdiction, and the jurisdictional provision conspicuously omits to specify that an application is necessary to trigger NGT into action. In situations where the three prerequisites of Section 14(1) i.e. civil cases; involvement of substantial question of environment; and implementation of the enactments in Schedule I are satisfied, the jurisdiction and power of NGT gets activated. On these material aspects, NGT is not required to be triggered into action by an aggrieved or interested party alone. It would therefore be logical to conclude that the exercise of power by NGT is not circumscribed by receipt of application. When substantial



questions relating to the environment arise and the issue is civil in nature and those relate to the enactments in Schedule I to the Act, NGT in our opinion even in the absence of an application, can self-ignite action either towards amelioration or towards prevention of harm.

**65.** In the same spirit, we find merit in the arguments that Section 14(1) exists as a stand-alone feature, not constricted by the operational mechanism of the subsequent sub-sections. Sub-section (2) of Section 14 functions as a corollary and comes into play when a dispute arises from the questions referred to in Section 14(1). Likewise sub-section (3) thereafter, refers to the period of limitation concerning applications, when they are addressed to NGT. Where adjudication is involved, the adjudicatory function under Section 14(2) comes into play. When it is a case warranting NGT's intervention, or may be a situation calling for decisions to meet certain exigencies, the functions under Section 14(1)

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 49 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


can be undertaken and those may not involve any formal application or an adjudicatory process. However, the later provisions may not work in similar fashion. Therefore, care must be taken to ensure unrestricted discharge of the responsibilities under Section 14(1) and that wide arena of NGT's functioning.

**66.** The other pertinent provisions relating to, inter alia, jurisdiction, interim orders, payment of compensation and review, do not require any application or appeal, for NGT to pass necessary orders. These crucial powers are expected to be exercised by NGT, would logically suggest that the action/orders of NGT need not always involve any application or appeal. To hold otherwise would not only reduce its effectiveness but would also defeat the legal mandate given to the forum.

**67.** It may also be relevant to bear in mind that while dealing with contested cases, NGT is required to pass "*award*" and "*order*" and the statute repeatedly uses the word "*decision*". Therefore, it is appropriate to correlate the word "*decision*" to NGT, in its non-adversarial or inquisitorial role, as was suggested by the Law Commission and recognised in *NHAI*[33].

**68.** The duty to safeguard Article 21 rights cannot stand on a narrow compass of interpretation. Procedural provisions must be allowed to fall in step with the substantive rights that are invoked in the environmental domain, in larger public interest. The specialised forum is bestowed with the responsibility to ensure protection of the environment. To be effective in its domain, we need to ascribe to NGT a public responsibility to initiate action when required, to protect the substantive right of a clean environment and the procedural law should not be obstructive in its application. In the context, V.R. Krishna Iyer, J. speaking for a Division Bench in *State of Punjab* v. *Shamlal Murari*[34] has so correctly prioritised the substantive rights and observed succinctly : (SCC p. 722, para 8)

Page: 438

> "*8*. … We must always remember that processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice."

**69.** While discussing NGT's power and responsibility, it is essential to keep in mind the *Principle 10 of the Rio Declaration* which speaks of

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 50 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


three fundamental rights i.e. access to information, access to public participation and access to justice, as key pillars of environmental governance. Access to justice, may however be curtailed by illiteracy, lack of mobility, poverty or even the lack of technical knowledge on the part of citizens. Another deterrence is the likelihood of polluters/violators being powerful entities with adequate wherewithal to skirt regulations. Thus, it may not always be feasible for individuals to knock on the doors of the Tribunal, and NGT in such exigencies must not be made dysfunctional.

**X. *The Precautionary Principle***

**70.** Tracing the origin of the *precautionary principle*, Scott Lafranchi in his treatise[35] has expounded on the proactive role of the authorities in the following passage:

> "Many consider the German development of *Vorsorgeprinzip* to signify the true creation of the precautionary principle, in light of the attention it focuses on "long-term planning to avoid damage to the environment, early detection of dangers to health and environment through comprehensive research, and acting in advance of conclusive scientific evidence of harm."[36] The precautionary foundation of Vorsorgeprinzip has been described as an "action principle" that holds public authorities responsible for protecting the natural foundations of life and preserving the physical world for the present and future generations, and "can therefore be used to counter the short-termism endemic in all democratic, consumption oriented societies"."

**71.** The origin of the *precautionary principle* itself is rooted as an institutional obligation, by holding them primarily responsible for the environmental concerns and remedies.

**72.** As earlier seen, Section 20 of the NGT Act which includes the term "*decision*", in addition to "*order*" and "*award*", also require the Tribunal to apply the "*precautionary principle*" and the statutory mandate being relevant is extracted:

> "**20. *Tribunal to apply certain principles***.—The Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle."



**73.** The principle set out above must apply in the widest amplitude to ensure that it is not only resorted to for adjudicatory purposes but

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 51 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


also for other "*decisions*" or "*orders*" to governmental authorities or polluters, when they fail to "*to anticipate, prevent and attack the causes of environmental degradation*"[37]. Two aspects must therefore be emphasised i.e. that the Tribunal is itself required to carry out preventive and protective measures, as well as hold governmental and private authorities accountable for failing to uphold environmental interests. Thus, a narrow interpretation for NGT's powers should be eschewed to adopt one which allows for full flow of the forum's power within the environmental domain.

**74.** It is not only a matter of rhetoric that the Tribunal is to remain ever vigilant, but an important legal onus is cast upon it to act with promptitude to deal with environmental exigencies. The responsibility is not just to resolve legal ambiguities but to arrive at a reasoned and fair result for environmental problems which are adversarial as well as nonadversarial. It would be apposite here to refer to Justice Benjamin Cardozo, of the United States Supreme Court, who in his seminal treatise, *The Nature of the Judicial Process*, stated thus:

> "It is true that codes and statutes do not render the Judge superfluous, nor his work perfunctory and mechanical. There are gaps to be filled. There are doubts and ambiguities to be cleared. There are hardships and wrongs to be mitigated if not avoided."

The above could be a pointer towards the pre-emptive functions of NGT as a sui generis body.

## XI. *Environmental Justice and Environmental Equity*

**75.** The conceptual frameworks of environmental justice and equity should merit consideration vis-à-vis NGT's domain and how its functioning and decisions can have wide implications in socio-economic dimensions of people at large. The concept of environmental justice is a trifecta of distributive justice, procedural justice and justice as recognition.[38] Environmental equity as a developing concept has focused on the disproportionate implications of environmental harms on the economically or socially marginalised groups. The concerns of human rights and environmental degradation overlap under this umbrella term, to highlight the human element, apart from economic and environmental ramifications. Environmental equity thus stands to ensure a balanced distribution of environmental risks as well as protections, including application of sustainable development principles.

**76.** Voicing concerns about the disproportionate harm for the poor segments, Lois J. Schiffer [then Assistant Attorney General, Environment and Natural Resources Division ("ENRD"), US Department of Justice] and Timothy J. Dowling (then Attorney at ENRD) in their *Reflections on the Role*

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 52 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.



*of the Courts in Environmental Law*, wrote the following evocative passage on the concept of environmental justice:

> "Environmental justice, which focuses on whether minorities and low-income people bear a disproportionate burden of exposure to environmental harms and any resulting health effects. In the past ten to fifteen years, this issue has crystallized a grass-roots movement that combines civil rights issues with environmental issues, with a goal of achieving "environmental justice" or "environmental equity", which is understood to mean the fair distribution of environmental risks and protection from environmental harms."[39]

**77.** There is also a need to focus on the interconnection between principles of procedural justice and distributive justice. The concern is to create a system which is affirmative enough to balance the disproportionate wielding of power between polluters and affected people:

> "Environmental justice starts with distributive justice, or more accurately, distributive injustice. The rich and powerful derive the most benefit while suffering the least harm from environmentally harmful activities; conversely, the poor and minorities derive the least benefit but suffer the most harm. Further, those who benefit cause harm to the places where people "live, work, play, and go to school", whereas the people who reside there do little or nothing to harm their community."[40]

**78.** When substantive justice is elusive for a large segment, disengaging with substantive rights at the very altar, for a perceived procedural lacuna, would surely bring in a process, which furthers inequality, both economic and social. An "*equal footing*" conception may not therefore be feasible to adequately address the asymmetrical relationship between the polluters and those affected by their actions. Instead, a recognition of the historical experience of marginalised classes of persons while accessing and effectively using the legal system, will allow for necessary appreciation of social realities and balancing the arm of justice.

**79.** The law must be interpreted in such a manner as to foster further development of existing legal concepts by incorporating this sense of equity. The issues which this Court has had the occasion to examine have highlighted the limitations of the mechanisms to reach to the heart of environmental concerns. This Court has previously moulded the jurisdictional jurisprudence in favour of larger societal interest,

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 53 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


whether that be in the form of "public interest litigation" or widening the scope of locus standi:

> "The identification of potential environmental justice issues is very important in determining how our enforcement efforts are working in



minority and low-income communities, and whether they are comparable to the enforcement efforts in other communities."[39]

**80.** In the backdrop of the above weighty concerns, this Court should advert to what Schiffer and Dowling have stated on the "*Blindfold of Lady Justice*", which symbolises "*the ideal of administering equal justice to everyone who comes to our courts, regardless of race, creed, or economic class*".[39] The relevance of this concept is particularly apposite when we consider the inability of most marginalised communities, to access the legal machinery.

## IX. *Environmental Jurisprudence in India*

**81.** Proceeding with the above understating, we can comfortably place NGT within the rubric of the larger environmental jurisprudence which has been informing this unique institution. The role of this Court in establishing the legal connect between matters of environmental concern and fundamental rights of citizens, has produced much academic literature. Amongst others, Armin Rosencranz and Shyam Divan in their writing—*Environmental Law and Policy in India*, have noted that the field of laws pertaining to environmental concerns has been a fairly fertile ground for judicial innovations by this Court; moving the concept of Environment Law from the realm of torts to interlink it with fundamental rights[41], liberalising the concept of locus standi in environmental matters, exercising suo motu powers to rein in polluters, using expert committees to monitor implementation of court orders, etc.[42]

**82.** By expanding the scope of Articles 21, 32, 48-A, 51-A(g), this Court has guaranteed the right to a pollution-free environment for a holistic existence.[43] Most crucially, the expansion of right to life under Article 21 by this Court has become a touchstone to determine many environmental concerns. In *Subhash Kumar* v. *State of Bihar*[44], this Court explicitly held the following : (SCC p. 604, para 7)

> "*7*. … Right to life is a fundamental right under Article 21 of the Constitution and it includes the right of enjoyment of pollution-free water and air for full enjoyment of life."

**83.** Adopting international principles and moulding them to Indian

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 54 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


realities also became a focal concern, given the lacunae in regimes which may be



exploited by those who may not have much concern for environmental degradation. Creation of the "*Absolute Liability Principle*"[45] by this Court is a well-recognised testament for this. It would thus be appropriate to state that much of the principles, institutions and mechanisms in this sphere have been created, on account of this Court's initiative:

> "The constitutionally-protected fundamental right to life and liberty has been extended through judicial creativity to cover unarticulated but implicit rights such as the right to a wholesome environment.…The right was recognised as part of the right to life in 1991.…The Court has since fleshed out the right to a wholesome environment by integrating into Indian environmental jurisprudence not just established but even nascent principles of international environmental law."[46]

**84.** It has been noted that the Supreme Court adopted the role of an "amicus environment" by threading together human rights and environmental concerns, resultingly developing a sui generis environmental discourse.[31] There were both procedural and substantive innovations made, by entertaining PIL petitions, seeking remedies, including guidelines and directions in the absence of legislation. Many of the landmark cases which hold the fort to this day, were in recognition of the "*at risk*" nature of some populations. The creation of NGT itself was due in large part to the need expressed by this Court for such a forum.[47]

**85.** T.S. Doabia, J. in *Environmental & Pollution Laws in India*, has highlighted the larger societal concerns which have informed this Court's deliberation when dealing with environmental matters:

> "The Supreme Court of India, in its interpretation of Article 21 of the Constitution of India, has facilitated the emergence of an environmental jurisprudence in India, while also strengthening human rights jurisprudence.
>
> … The courts have successfully isolated specific environmental law principles upon the interpretation of Indian statutes and the Constitution, combined with a liberal view towards ensuring social justice and the protection of human rights. The principles have often found reflection in the Constitution in some form, and are usually justified even when not explicitly mentioned in the statute concerned."[48]

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 55 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.



**86.** Environmental jurisprudence in India has therefore been intrinsic to advancing a democratic, welfare-oriented legal regime. Issues affecting the ecology and the environment must have a broad perspective and should have a society-centric approach. Furthermore, the very nature of ecological and environmental issues has the propensity for rapid deterioration. Many such sensitive matters, as has been noted, stood transferred to NGT, with the aim that those would be dealt with expediently with the required technical expertise and legal sophistication. The proactiveness of the superior court was surely expected to be seen in the Tribunal's approach.

**87.** Analysing the concept of the functioning of NGT and its role within the broader concept of the environmental rule of law, D.Y. Chandrachud, J. speaking for a three-Judge Bench in *H.P. Bus-Stand Management & Development Authority* v. *Central Empowered Committee*[49] so succinctly said that : (SCC pp. 335-36, para 49)

> "*49*. The environmental rule of law, at a certain level, is a facet of the concept of the rule of law. But it includes specific features that are unique to environmental governance, features which are sui generis. The environmental rule of law seeks to create essential tools — conceptual, procedural and institutional to bring structure to the discourse on environmental protection. It does so to enhance our understanding of environmental challenges — of how they have been shaped by humanity's interface with nature in the past, how they continue to be affected by its engagement with nature in the present and the prospects for the future, if we were not to radically alter the course of destruction which humanity's actions have charted. The environmental rule of law seeks to facilitate a multi-disciplinary analysis of the nature and consequences of carbon footprints and in doing so it brings a shared understanding between science, regulatory decisions and policy perspectives in the field of environmental protection. It recognises that the "law" element in the environmental rule of law does not make the concept peculiarly the preserve of lawyers and Judges. On the contrary, it seeks to draw within the fold all stakeholders in formulating strategies to deal with current challenges posed by environmental degradation, climate change and the destruction of habitats. The environmental rule of law seeks a unified understanding of these concepts."

**88.** It is this environmental rule of law that has been encapsulated

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 56 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


with NGT's creation at this Court's behest. Professor Domenico Amirante in a comparative analysis of similar bodies across the world, notes that:

> "With reference to the judicial enforcement of environmental law — which as we have seen should be considered an important condition not only for sustainable development but also for the sustainability of the legal environmental order — the National Green Tribunal of India

Page: 444

seems to be the most comprehensive and promising among the specialised environmental courts created in Asia over the last decade."[50]

**89.** NGT, therefore, is the institutionalisation of the developments made by this Court in the field of Environment Law. These progressive steps have allowed it to inherit a very broad conception of environmental concerns. Its functions, therefore, must not be viewed in a cribbed manner, which detracts from the progress already made in the Indian environmental jurisprudence.

**X. *Conclusion***

**90.** Before we set out our conclusion, we acknowledge the able contribution of Mr Anand Grover as Amicus Curiae, assisted by Ms Astha Sharma, AoR who were requested to assist the Court on the central issue of suo motu jurisdiction of NGT.

**91.** The NGT Act, when read as a whole, gives much leeway to NGT to go beyond a mere adjudicatory role. Parliament's intention is clearly discernible to create a multifunctional body, with the capacity to provide redressal for environmental exigencies. Accordingly, the principles of environmental justice and environmental equity must be explicitly acknowledged as pivotal threads of NGT's fabric. NGT must be seen as a sui generis institution and not *unus multorum*, and its special and exclusive role to foster public interest in the area of environmental domain delineated in the enactment of 2010 must necessarily receive legal recognition of this Court.

**92.** The environmental impacts on climate change are gaining increasing visibility in the shape of uncertain rains, species extinction, loss of natural habitat and so on. These also have the propensity to diminish fresh water resources, reduce agricultural yields and impact public health, particularly in the cities. The flooding and erosion in riverine and coastal areas are matters of serious concern. Governmental assessment of India's increased vulnerability to such changes in the

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 57 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


near future also exists[51] with many countries declaring climate emergencies and many others being urged to follow suit[52].

**93.** Therefore, the nature of ecological imbalance which is visible even in our own times may cascade, and the unforeseen injustice of the future may not be capable of being handled within the frontiers set forth today. The long-term and very often irreparable environmental damage which are expected to be arrested by NGT, urge this Court to advert to what is termed as *the "Seventh Generation" sustainability principle*, or the "*Great Law of the Iroquois*" (as it originates from the Iroquois Tribe) which requires all decision-making to withstand for the benefit of seven generations down the line.



**94.** It is vital for the well-being of the nation and its people, to have a flexible mechanism to address all issues pertaining to environmental damage and resultant climate change so that we can leave behind a better environmental legacy, for our children, and the generations thereafter.

**95.** In circumstances where adverse environmental impact may be egregious, but the community affected is unable to effectively get the machinery into action, a forum created specifically to address such concerns should surely be expected to move with expediency, and of its own accord. The potentiality of disproportionate harm imposes a higher obligation on authorities to preserve rights which may be waylaid due to such restrictive access. It is also noteworthy that the "*global impacts of climate change will fall disproportionately on minority and low-income communities*".[35] Thus, an affirmative role, beyond mere adjudication at the instance of applicant, is certainly required for *serving the ends of environmental justice*, as the statute itself requires of NGT. We cannot validate an argument which furthers uncertainty to justify the role of a spectator, if not inaction, and would most assuredly result in injustice.

**96.** NGT, with the distinct role envisaged for it, can hardly afford to remain a mute spectator when no one knocks on its door. The forum itself has correctly identified the need for collective stratagem for addressing environmental concerns. Such a society-centric approach must be allowed to work within the established safety valves of the principles of natural justice and appeal to the Supreme Court. The hands-off mode for NGT, when faced with exigencies requiring immediate and effective response, would debilitate the forum from

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 58 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


discharging its responsibility and this must be ruled out in the interest of justice.

**97.** It would be procedural hair-splitting to argue (as it has been) that NGT could act upon a letter being written to it, but learning about an environmental exigency through any other means cannot trigger NGT into action. To endorse such an approach would surely be rendering the forum procedurally shackled or incapacitated.

**98.** When the Registry of NGT does indeed receive a communication or letter, including matters published in media, it may cause to initiate suo motu action by inviting attention of NGT to such matters in the form of office report. Such circumstances would however require a notice to be given to the sender of the communication or author of the news item, as the case may be, to assist NGT in the course of hearing and to substantiate the factual matters. It must also be said that the exercise of suo motu jurisdiction does not mean eschewing with the principles of natural justice and fair play. In other words, the party likely to be affected should be afforded due opportunity to present their side, before suffering adverse orders.

**99.** One could admit to the argument of danger of suo motu jurisdiction, if NGT was acting outside its domain. But when it is legitimately working within the contours of its statutory mandate and with procedurals safeguards



clarified above in play, the nature of the trigger itself viz. a letter or a "suo motu" initiation, cannot be the basis to curtail the role and responsibility of the specialised forum.

**100.** Institutions which are often addressing urgent concerns gain little from procedural nit-picking, which are unwarranted in the face of both the statutory spirit and the evolving nature of environmental degradation. Not merely should a procedure exist but it must be meaningfully effective to address such concerns. The role of such an institution cannot be mechanical or ornamental. We must therefore adopt an interpretation which sustains the spirit of public good and not render the environmental watchdog of our country toothless and ineffective.

**101.** Let us now hark back to the dialogues of the two protagonists, in *Waiting for Godot*, the play written by Samuel Beckett with which, we started this judgment. At the end of the deliberations, we find ourselves saying that the National Green Tribunal must act, if the exigencies so demand, without indefinitely waiting for the metaphorical

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 59 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


*Godot* to knock on its portal. The preceding discussion advises us to answer the pointed question in the affirmative. It is accordingly declared that NGT is vested with suo motu power in discharge of its functions under the NGT Act.

**102.** Having answered the common legal issue involved in all these cases regarding the suo motu jurisdiction of NGT, we direct delinking of these cases for now being heard separately on merits. Indeed, if the cases(s) emanate from same/common order of NGT, such case(s) be heard together. Registry may do the needful and post the matters on 25-10-2021 for direction and fixing date of hearing, before the Bench presided over by one of us (A.M. Khanwilkar, J.). For the purpose of further hearing, the respective cases shall not be treated as part-heard before this Bench.

———

† Arising from the Judgment and Order in *Ankita Sinha* v. *State of Maharashtra*, 2018 SCC OnLine NGT 2936 (National Green Tribunal, Original Application No. 510 of 2018, dt. 30-10-2018) and *Municipal Corpn. of Greater Mumbai* v. *Ankita Sinha*, 2018 SCC OnLine NGT 2923 (National Green Tribunal, Review Application No. 49 of 2018, dt. 5-12-2018)

‡ Arising from the Final Judgment and Order in *Ankita Sinha* v. *State of Maharashtra*, 2018 SCC OnLine NGT 2698 (National Green Tribunal, Original Application No. 510 of 2018, dt. 21-12-2018)

†† Arising from the Final Judgment and Order in *News Item Published in The Times of India Titled "Hanging Live Wire Kills 7 Jumbos in Odisha", In re*, 2019 SCC OnLine NGT 2917 (National Green Tribunal, Original Application No. 844 of 2018, dt. 16-5-2019)

†‡ Arising out of SLP (C) No. 6732, 5930, 6733, 16448 of 2021 (Diary No. 11655 of 2021) and 16451 of 2021 (Diary No. 13811 of 2021). Arising from the Final Judgment and Order in *Thomsun Aggregates* v. *State of Kerala* [Kerala High Court, WP (C) No. 19770 of 2020, dt. 21-12-2020] sub nom *V.K. Rocks (P) Ltd.* v. *State of Kerala* [Kerala High Court, WP (C) No. 15962 of 2020, dt. 21-12-2020], 2020 SCC OnLine Ker 25872

‡† Arising out of SLPs (C) Nos. 16449-450 of 2021 (Diary No. 13789 of 2021) and 16452-453 of 2021 (Diary No. 13890 of 2021). Arising from the Final Judgment and Order in *Thomsun Aggregates* v. *State of Kerala* [Kerala High Court, WP (C) No. 19770 of 2020, dt. 21-12-2020] sub nom and *Sachu Rajan Eapen* v. *State of Kerala*, 2021 SCC OnLine Ker 5036 [Kerala High Court, RP No. 1 of 2021 in WP (C) No. 17391 of 2020, dt. 28-1-2021]

‡‡ Arising from the Final Judgment and Order in *News Item Published in Times Now Titled "Karnataka : Six killed in Quarry Blast in Hirenagavalli, Chikkaballapur", In re*, 2021 SCC OnLine NGT 332 (National Green Tribunal, Original Application No. 59 of 2021, dt. 11-6-2021)

††† Arising out of SLPs (C) Nos. 11426, 11427, 11798, 12669 and 16454 of 2021 (Diary No. 19534 of 2021). Arising from the Final Judgment and Order in *P.K. Biju* v. *State of Kerala* [Kerala High Court, WA No. 250 of 2021, dt. 16-3-2021] sub nom *Sachu Rajan Eapen* v. *State*

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 60 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


*of Kerala* (Kerala High Court, WA No. 255 of 2021, dt. 16-3-2021), 2021 SCC OnLine Ker 2641

[†††] Arising out of Diary No. 16948 of 2021. Arising from the Final Judgment and Order in *News Item Published in The Dinamalar Titled "If The Encroachments Are Removed Totally, Narayanapuram Lake Will Become Source of Drinking Water", In re*, 2021 SCC OnLine NGT 333 (National Green Tribunal, Original Application No. 98 of 2020, dt. 4-6-2021)

[1] Samuel Beckett, *Waiting for Godot : A Tragicomedy in Two Acts* (Grove Press Inc., New York 1954).

[2] *Ankita Sinha* v. *State of Maharashtra*, 2018 SCC OnLine NGT 2937

[3] *Ankita Sinha* v. *State of Maharashtra*, 2018 SCC OnLine NGT 2936

[4] *Municipal Corpn. of Greater Mumbai* v. *Ankita Sinha*, 2019 SCC OnLine SC 2093

[5] *Municipal Corpn. of Greater Mumbai* v. *Ankita Sinha*, 2019 SCC OnLine SC 2094

[6] *Standard Chartered Bank* v. *Dharminder Bhohi*, (2013) 15 SCC 341 : (2014) 5 SCC (Civ) 243

[7] *Transcore* v. *Union of India*, (2008) 1 SCC 125 : (2008) 1 SCC (Civ) 116

[8] *Rajeev Hitendra Pathak* v. *Achyut Kashinath Karekar*, (2011) 9 SCC 541 : (2011) 4 SCC (Civ) 781

[9] *Techi Tagi Tara* v. *Rajendra Singh Bhandari*, (2018) 11 SCC 734

[10] *Prabhakar* v. *Sericulture Deptt.*, (2015) 15 SCC 1 : (2016) 2 SCC (L&S) 149

[11] *T.N. Pollution Control Board* v. *Sterlite Industries (I) Ltd.*, (2019) 19 SCC 479

[12] *Powers, Privileges & Immunities of State Legislatures, In re, Special Reference No. 1 of 1964*, 1964 SCC OnLine SC 21 : (1965) 1 SCR 413 : AIR 1965 SC 745

[13] *Halsbury's Law of England*, 3rd Edn., Vol. 9, p. 349.

[14] *BSNL* v. *TRAI*, (2014) 3 SCC 222

[15] *Wilfred J.* v. *Ministry of Environment & Forests*, 2014 SCC OnLine NGT 6860

[*] **Ed.** : Law Commission of India, 186th Report on Proposal to Constitute Environment Courts (September 2003)

[16] *L. Chandra Kumar* v. *Union of India*, (1997) 3 SCC 261 : 1997 SCC (L&S) 577

[17] Chapter IX, 186th Law Commission Report.

[18] *Heydon Case*, (1584) 3 Co Rep 7a : 76 ER 637

[19] *Bengal Immunity Co. Ltd.* v. *State of Bihar*, 1955 SCC OnLine SC 2 : (1955) 2 SCR 603 : AIR 1955 SC 661

[*] **Ed.** : As observed in *Heydon case*, (1584) 3 Co Rep 7a (V).

[20] (1947) 47 Columbia Law Review 527

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 61 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


[21] *Panama Refining Co.* v. *Ryan*, 1935 SCC OnLine US SC 3 : 79 L Ed 446 : 293 US 388 (1935) (dissenting)

[22] *Sarah Mathew* v. *Institute of Cardio Vascular Diseases*, (2014) 2 SCC 62 : (2014) 1 SCC (Cri) 721, *New India Assurance Co. Ltd.* v. *Nusli Neville Wadia*, (2008) 3 SCC 279 : (2008) 1 SCC (Civ) 850

[23] *Vellore Citizens' Welfare Forum* v. *Union of India*, (1996) 5 SCC 647

[24] *M.C. Mehta (Taj Trapezium Matter)* v. *Union of India*, (1997) 2 SCC 353

[25] *Bhopal Gas Peedith Mahila Udyog Sangathan* v. *Union of India*, (2012) 8 SCC 326

[26] *Mantri Techzone (P) Ltd.* v. *Forward Foundation*, (2019) 18 SCC 494

[27] *Rajeev Suri* v. *DDA*, (2022) 11 SCC 1

[28] *A.P. Pollution Control Board* v. *M.V. Nayudu*, (1999) 2 SCC 718

[29] *State of Meghalaya* v. *All Dimasa Students Union*, (2019) 8 SCC 177

[30] *L. Hirday Narain* v. *ITO*, (1970) 2 SCC 355

[31] Gill, G., "Mapping the Power Struggles of the National Green Tribunal of India : The Rise and Fall?", Asian Journal of Law and Society, 7(1), 85-126 (2020).

[32] *Paramjit Kaur* v. *State of Punjab*, (1999) 2 SCC 131 : 1999 SCC (Cri) 109

[33] *NHAI* v. *Aam Aadmi Lokmanch*, (2021) 11 SCC 566

[34] *State of Punjab* v. *Shamlal Murari*, (1976) 1 SCC 719 : 1976 SCC (L&S) 118

[35] Scott LaFranchi, "Surveying the Precautionary Principle's Ongoing Global Development : The Evolution of an Emergent Environmental Management Tool", 32 BC Envtl Aff L Rev 679 (2005).

[36] *See*, Ronnie Harding & Elizabeth Fisher, "Introducing the Precautionary Principle" in *Perspectives on the Precautionary Principle* (1999) at p. 4.

[37] *Vellore Citizens' Welfare Forum* v. *Union of India*, (1996) 5 SCC 647, *S. Jagannath* v. *Union of India*, (1997) 2 SCC 87, *Karnataka Industrial Areas Development Board* v. *C. Kenchappa*, (2006) 6 SCC 371.

[38] Schlosberg D., *Defining Environmental Justice : Theories, Movements, and Nature* (Oxford University Press 2009).

[39] Schiffer, L.J. & Dowling, T.J. (1997), "Reflections on the Role of the Courts in Environmental Law", 27(2) Environmental Law 327-342.

[40] Jeff Todd, "A 'Sense of Equity' in Environmental Justice Litigation", 44 Harv Envtl L Rev 169, 193 (2020).

[41] *Rural Litigation & Entitlement Kendra* v. *State of U.P.*, (1985) 2 SCC 431 : AIR 1985 SC

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 62 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


652, *Charan Lal Sahu* v. *Union of India*, (1990) 1 SCC 613, *Virender Gaur* v. *State of Haryana*, (1995) 2 SCC 577

[42] *See* M.A.A. Baig, *Environmental Law and Justice* (1996). Domenico Amirante, "Environmental Courts in Comparative Perspective : Preliminary Reflections on the National Green Tribunal of India" 29 : 2 Pace Envtl L Rev 440 at p. 447 (2012). M.K. Ramesh, "Environmental Justice : Courts and Beyond", Indian Journal of Envtl Law 20 (2002).

[43] Maheshwara Swamy, N., *Law Relating to Environmental Pollution and Protection*. India, Thompson Reuters, Vol. I, Edn. 5.

[44] *Subhash Kumar* v. *State of Bihar*, (1991) 1 SCC 598

[45] *M.C. Mehta* v. *Union of India*, (1987) 1 SCC 395

[46] Rajamani, Lavanya, "Public Interest Environmental Litigation in India : Exploring Issues of Access, Participation, Equity, Effectiveness and Sustainability", Journal of Environmental Law (2007).

[47] *M.C. Mehta* v. *Union of India*, (1986) 2 SCC 176 : 1986 SCC (Cri) 122, *Indian Council For Enviro-Legal Action* v. *Union of India*, (1996) 3 SCC 212, *A.P. Pollution Control Board* v. *M.V. Nayudu*, (1999) 2 SCC 718, *A.P. Pollution Control Board (2)* v. *M.V. Nayudu*, (2001) 2 SCC 62

[48] Justice T.S. Doabia, *Environmental & Pollution Laws in India*, 3rd Edn., Vol. 2 (2017).

[49] *H.P. Bus-Stand Management & Development Authority* v. *Central Empowered Committee*, (2021) 4 SCC 309

[50] Domenico Amirante, "Environmental Courts in Comparative Perspective : Preliminary Reflections on the National Green Tribunal of India", 29 Pace Envtl L Rev 441 (2012).

[51] Indian Network for Climate Change Assessment, Climate Change and India : A 4×4 Assessment — A sectoral and regional analysis for 2030s, Ministry of Environment and Forests, Government of India, 16-11-2010.

[52] Secretary General's remarks at the Climate Ambition Summit, United Nations. United Nations, 12-12-2020.

**Disclaimer:** While every effort is made to avoid any mistake or omission, this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification. All disputes will be subject exclusively to jurisdiction of courts, tribunals and forums at Lucknow only. The authenticity of this text must be verified from the original source.

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 1 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


## (2019) 19 Supreme Court Cases 479 : 2019 SCC OnLine SC 221

### In the Supreme Court of India

(BEFORE R.F. NARIMAN AND NAVIN SINHA, JJ.)

TAMIL NADU POLLUTION CONTROL BOARD . . Appellant;

*Versus*

STERLITE INDUSTRIES (INDIA) LIMITED AND OTHERS . . Respondents.

Civil Appeals Nos. 4763-64 of 2013† with Nos. 8773-74 and 9542-43 of 2013, 5782 of 2014, 23 of 2019‡, 1552-54 of 2019 and 1582 of 2019, decided on February 18, 2019

A. **Environment Law — National Green Tribunal — Appellate jurisdiction — Scope of — Original orders of TNPCB made under S. 27 of the Water Act and S. 21 of the Air Act — Appeal against, before NGT — Non-exhaustion of remedy of first appeal before appellate authority under S. 28 of Water Act or under S. 31 of the Air Act — Appeal before NGT, on facts, held, not maintainable — Since no decision has been made by appellate authority under the Water Act or Air Act, any direct appeal to NGT against the original order of TNPCB is not maintainable — Thus NGT's order in said appeal is without statutory powers and therefore, without jurisdiction — An appeal is a creation of statute and an Appellate Tribunal has to act strictly within domain prescribed by statute — Leapfrog appeals to the NGT not prescribed by statute would necessarily be without jurisdiction**

**— Orders of NGT set aside on ground of maintainability — Relief — Parties relegated to position that the six orders impugned before NGT are alive and operative — Respondents given liberty to file writ petition before High Court against said six orders — As respondent's plant had been shut down since 9-4-2018 and was involved in import/export of important product, respondents given liberty to approach High Court for expeditious disposal of their writ petition**

**(Para 46)**

**— Water (Prevention and Control of Pollution) Act, 1974 — Ss. 27, 28 and 33-B — Air (Prevention and Control of Pollution) Act, 1981 — Ss. 21, 31 and 31-B — National Green Tribunal Act, 2010, Ss. 16(a) and (f)**

**(Paras 22 to 33 and 46)**

B. **Environment Law — National Green Tribunal — Appellate jurisdiction — Scope of — Original composite orders of TNPCB under S. 33-A of the Water Act and S. 31-A of the Air Act — Appeal against, before NGT — Directions under Water Act appealable to NGT but not those under Air Act — Composite appeal to NGT, held, not maintainable — Not possible to split aforesaid orders and say that so far as they affect water pollution, they**

Page: 480

are appealable and not appealable so far as they relate to air pollution — Plea based on S. 14 of the NGT Act not tenable as S. 14 only refers to original jurisdiction of NGT and not appellate jurisdiction

**— Water (Prevention and Control of Pollution) Act, 1974 — Ss. 33-B and 33-A — Air (Prevention and Control of Pollution) Act, 1981 — Ss. 31-B and 31-A — National Green Tribunal Act, 2010, Ss. 16(c) and 14**

**(Paras 36 and 46)**

C. **Environment Law — National Green Tribunal — Appellate jurisdiction — Scope of — Order of State Government under S. 18 of the Water Act, not appealable to NGT either under Water Act or under NGT Act, held, cannot be judicially reviewed by NGT — NGT has no general powers of judicial review as those vested in High Court under Art. 226 of the Constitution — NGT is not a tribunal set up either under Art. 323-A or Art. 323-B of the Constitution**

**— An appeal being a creature of statute, an order passed under S. 18 of the Water Act is either appealable or not — If it is not, general argument as to NGT being an expert body set up to deal with environmental matters can be of no help — Argument that order under S. 18 of the**

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 2 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


**Water Act can be traced to S. 29 of the Water Act, not tenable — S. 18 of the Water Act order does not purport to be an order which either affirms or sets aside any order made under Ss. 25, 26 or 27 of the Water Act — Order under S. 18 of the Water Act is, thus, not a quasi-judicial order and cannot be traced to revisional powers under S. 29 of the Water Act — Water (Prevention and Control of Pollution) Act, 1974 — Ss. 18, 29 and 25 to 27 — Courts, Tribunals and Judiciary — Courts, Tribunals and Special Courts — Tribunals — Jurisdiction and powers of a tribunal — Strictly circumscribed by statute creating the tribunal — Constitution of India, Arts. 323-A and 323-B and Art. 226**

**(Paras 40 to 46)**

The respondent industry allegedly violated provisions of the Water (Prevention and Control of Pollution) Act, 1974 (Water Act) as well as the Air (Prevention and Control of Pollution) Act, 1981 (Air Act) for which the local residents complained of several health problems. Though the Tamil Nadu Pollution Control Board (TNPCB) had initially granted permission to commence production, the respondent industry allegedly did not comply with the conditions imposed. The TNPCB therefore, directed the closure of respondent industry and refused to renew the consent for its operation. During pendency of appeal before the appellate authority against the orders of the TNPCB, the Tribunal took up the matter and finally disposed them of by its orders. The appeal before the appellate authority became infructuous. The main issue in present case is as to maintainability of the orders passed by the National Green Tribunal [NGT] dated 31-5-2013, 8-8-2013 and 15-12-2018.

Disposing of the appeals, the Supreme Court

*Held* :

**(I) *Re: Order dated 9-4-2018***

The Order dated 9-4-2018 is an order which rejected renewal of consent to operate, and therefore, is traceable to Section 27 of the Water Act and Section 21



of the Air Act. There is no doubt whatsoever that an appeal against an order made under Section 27 of the Water Act is appealable to the appellate authority under Section 28 of the said Act. Under Section 33-B(*a*) of the said Act, if a person is aggrieved by an order or decision of the appellate authority under Section 28, it is then appealable to the NGT. This is made clear also by Section 16(*a*) of the NGT Act. Equally, an order refusing consent under Section 21 of the Air Act is appealable to the appellate authority under Section 31 of the Air Act, and thereafter, from the said appellate authority's order, to the NGT, under Section 31-B of the Air Act and Section 16(*f*) of the NGT Act.

(Para 22)

An appeal to the appellate authority under the Air Act and the Water Act was, in fact, preferred, being Appeals Nos. 36-37 of 2018. While these appeals were pending before the appellate authority, the composite Appeal No. 87 of 2018 was filed on 22-6-2018 before the NGT inter alia against the order of refusal of consent to operate dated 9-4-2018. The respondents submitted that the appeals could not be heard since the State Government had passed an order dated 28-5-2018 directing the TNPCB to close down the plant permanently. What is missed by the respondents is the fact that the said order expressly states that the appeals could not be decided *at this juncture* and were hence adjourned to 10-7-2018. The said appeals on 10-7-2018 were further adjourned, and it is only on 18-12-2018 that they were finally withdrawn as being infructuous in view of the fact that the NGT had passed its order on 15-12-2018 in which it had set aside the order dated 9-4-2018.

(Para 23)

An appeal is a creature of statute and an Appellate Tribunal has to act strictly within the domain prescribed by statute. It is obvious that an appeal would lie from an order or decision of the appellate authority under Section 28 of the Water Act to the NGT only under Section 33-B(*a*) of the Water Act read with Section 16(*a*) of the NGT Act. Similarly, an appeal would lie from an order or decision of the appellate authority under Section 31 of the Air Act to the NGT only under Section 31-B of the Air Act read with Section 16(*f*) of the NGT Act. Obviously, since no order or decision had been made by the appellate authority under either the Water Act or the Air Act, any direct appeal against an original order to the NGT would be incompetent. NGT's jurisdiction being strictly circumscribed by Section 33-B of the Water Act, read with Section 31-B of the Air Act, read with Sections 16(*a*) and (*f*) of the NGT Act, would make it clear that it is only orders or decisions of the appellate authority that are appealable, and not original orders. On the facts of the present case, it is clear that an appeal was pending before the appellate authority when the NGT set aside the original order dated 9-4-2018. This being the case, the NGT's order

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 3 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


being clearly outside its statutory powers conferred by the Water Act, the Air Act, and the NGT Act, would be an order passed without jurisdiction.

(Para 32)

*Manohar Lal* v. *Ugrasen*, (2010) 11 SCC 557 : (2010) 4 SCC (Civ) 524; *Kundur Rudrappa* v. *Mysore Revenue Appellate Tribunal*, (1975) 2 SCC 411; *Cellular Operators Assn. of India* v. *Union of India*, (2003) 3 SCC 186; *B. Himmatlal Agrawal* v. *Competition Commission of India*, (2018) 17 SCC 421; *Raja Soap Factory* v. *S.P. Shantharaj*, (1965) 2 SCR 800 : AIR 1965 SC 1449; *Northern Plastics Ltd.* v. *Hindustan Photo Films Mfg. Co. Ltd.*, (1997) 4 SCC 452; *Arcot Textile Mills Ltd.* v. *Regl. Provident Fund Commr.*, (2013) 16 SCC 1 : (2014) 3 SCC (L&S) 358, *relied on*



*Kundur Rudrappa* v. *Mysore Revenue Appellate Tribunal*, 1973 SCC OnLine Kar 47 : ILR 1973 Mys 281; *Cellular Operators Assn. of India* v. *Union of India*, 2002 SCC OnLine TDSAT 9, *held, reversed*

*Ganga Bai* v. *Vijay Kumar*, (1974) 2 SCC 393; *Gujarat Agro Industries Co. Ltd.* v. *Municipal Corpn. of the City of Ahmedabad*, (1999) 4 SCC 468 : 1994 SCC (L&S) 993; *State of Haryana* v. *Maruti Udyog Ltd.*, (2000) 7 SCC 348; *Super Cassettes Industries Ltd.* v. *State of U.P.*, (2009) 10 SCC 531 : (2009) 4 SCC (Civ) 280; *Raj Kumar Shivhare* v. *Directorate of Enforcement*, (2010) 4 SCC 772 : (2010) 3 SCC (Civ) 712; *Competition Commission of India* v. *SAIL*, (2010) 10 SCC 744; *Edukanti Kistamma* v. *S. Venkatareddy*, (2010) 1 SCC 756 : (2010) 1 SCC (Civ) 244, *cited*

In the United Kingdom, there are several Acts under which a leapfrog appeal is permitted if a point of law of general public importance is involved. No such provisions, as are contained in the UK Acts, being present in any of the Acts of present case, such leapfrog appeals to the NGT would necessarily be without jurisdiction.

(Paras 33 to 35)

*S. Franses Ltd.* v. *Cavendish Hotel (London) Ltd.*, (2018) 3 WLR 1952 : 2018 UKSC 62, *referred to*

**(II) *Re: Orders passed under Section 33-A of the Water Act and Section 31-A of the Air Act***

It is important to state that Section 33-B of the Water Act and Section 31-B of the Air Act were both enacted on 18-10-2010, which is the very date on which the NGT Act came into force. What is important to note is that whereas Section 33-B(*c*) of the Water Act read with Section 16(*c*) of the NGT Act make it clear that directions issued under Section 33-A of the Water Act are appealable to the NGT, directions issued under Section 31-A of the Air Act are not so appealable. In fact, the statutory scheme is that directions given under Section 31-A of the Air Act are not appealable. This being the case, all the aforesaid orders, being composite orders issued under both the Water Act and the Air Act, it will not be possible to split the aforesaid orders and say that so far as they affect water pollution, they are appealable to the NGT, but so far as they affect air pollution, a suit or a writ petition would lie against such orders. The argument that these orders being substantially relatable to the Water Act is not tenable. Equally disingenuous is the reference to Section 14 of the NGT Act which only refers to the original jurisdiction of the NGT and not to its appellate jurisdiction. Also, to state generally that the subject-matter of environment lies with the NGT, is an argument of despair that must be dismissed for the reason that an appeal being a creature of statute, a statute either confers a right of appeal or it does not. In the present case, so far as directions issued under Section 31-A of the Air Act are concerned, there is no right of appeal conferred by the Air Act read with the NGT Act. In the present case, all the appellate proceedings to the NGT, whether under the Air Act, the Water Act, or the NGT Act have been brought into force on the same date. Whereas the identical power to give directions by the Board under the Water Act is appealable to the NGT, the same power to give directions by the Board under the Air Act is not so appealable. The absence of any mention of Section 31-A in Section 31-B of the Air Act, given the statutory scheme as aforesaid, makes it clear that even this argument must be rejected. Also, "directions" that are issued under Section 31-A of the Air Act are of a different quality from "orders" referred to in Section 31 of the same Act. Directions are issued in the exercise of powers and performance of functions under the Act and

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 4 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


are not quasi-judicial in nature, whereas orders that are appealed against under Section 31 are quasi-judicial orders made, inter alia, under Section 21 of the Air Act. It is argued, with particular reference to the Explanation to Section 31-A of the Air Act that "directions" partake of the nature of "orders" when closure of any particular industry or stoppage of supply of electricity qua any single industry is made, and therefore, such directions are appealable as orders under Section 31 of the Air Act. This argument is also of no avail as Section 33-A of the Water Act contains an identical explanation to that contained in Section 31-A of the Air Act. Despite this, the legislative scheme, as stated hereinabove, is that so far as directions under the Water Act are concerned, they are appealable, but so far as directions under the Air Act are concerned, they are not appealable.

(Para 36)

*Garikapati Veeraya* v. *N. Subbiah Choudhry*, 1957 SCR 488 : AIR 1957 SC 540, *relied on*

*Kanhiya Lal Omar* v. *R.K. Trivedi*, (1985) 4 SCC 628; *Maharashtra State Board of Secondary and Higher Secondary Education* v. *Paritosh Bhupeshkumar Sheth*, (1984) 4 SCC 27; *Galada Power & Telecommunication Ltd.* v. *United India Insurance Co. Ltd.*, (2016) 14 SCC 161 : (2017) 2 SCC (Civ) 765; *Allokam Peddabbayya* v. *Allahabad Bank*, (2017) 8 SCC 272 : (2017) 4 SCC (Civ) 62, *distinguished*

*Paritosh Bhupeshkumar Sheth* v. *Maharashtra State Board of Secondary and Higher Secondary Education*, 1980 SCC OnLine Bom 148 : 1981 Mah LJ 587, *held, reversed*

*P. Ramanatha Aiyar's Law Lexicon* and *Black's Law Dictionary*, *referred to*

**(III) *Re: Order passed under Section 18 of the Water Act***

So far as the order dated 28-5-2018 is concerned, this order is expressly stated to be made under Section 18 of the Water Act. There is no doubt whatsoever that such an order is not appealable to the NGT either under the Water Act or under the NGT Act. However, it was argued that Section 18 is referable to orders generally made, and falls under Chapter IV of the Water Act, which deals with powers and functions of Boards, as opposed to the sections that follow in Chapter V, which deals with prevention and control of water pollution, which orders are made against individuals and individual industries. On the assumption that this argument is correct, such order can only be set aside in a suit by a civil court, or under Article 226 of the Constitution of India by a High Court. It is not possible to agree with the argument of Shri Sundaram that such orders can be ignored, being non est. It is settled that an administrative order, when made, does not bear the brand of invalidity on its forehead. Therefore, this order can only be set aside either in a suit, or by the High Court in the exercise of judicial review. It was then argued that though the said order states that it is traceable to Section 18 of the Water Act, it can, in fact, be traced to Section 29 of the same Act. Section 29 deals with the revisional power, in which the State Government is to pass a quasi-judicial order after hearing both the State Board and the person who is affected. Quite obviously, this order is not a quasi-judicial order as the State Government has not found it necessary to hear either the State Board, or any person affected by such order. Further, such order does not purport to be an order which either affirms or sets aside any order made under Sections 25, 26, or 27 of the Water Act. This argument of despair, therefore, must also be rejected.

(Para 40)

*Smith* v. *East Elloe Rural District Council*, 1956 AC 736 : (1956) 2 WLR 888 : (1956) 1 All ER 855 (HL); *State of Punjab* v. *Gurdev Singh*, (1991) 4 SCC 1 : 1991 SCC (L&S) 1082; *Tayabbhai M. Bagasarwalla* v. *Hind Rubber Industries (P) Ltd.*, (1997) 3 SCC 443;



*Pune Municipal Corpn.* v. *State of Maharashtra*, (2007) 5 SCC 211; *Krishnadevi Malchand Kamathia* v. *Bombay Environmental Action Group*, (2011) 3 SCC 363; *Port of Kandla* v. *Hargovind Jasraj*, (2013) 3 SCC 182 : (2013) 2 SCC (Civ) 1, *relied on*

The NGT is not a Tribunal set up either under Article 323-A or Article 323-B of the Constitution, but is a statutory Tribunal set up under the NGT Act. That such a Tribunal does not exercise the jurisdiction of all courts except the Supreme Court is clear from a reading of Section 29 of the NGT Act. Thus, a conjoint reading of Section 14 and Section 29 of the NGT Act must be contrasted with a conjoint reading of Section 14 and Section 28 of the Administrative Tribunals Act, 1985.

(Para 41)

*L. Chandra Kumar* v. *Union of India*, (1997) 3 SCC 261 : 1997 SCC (L&S) 577, *distinguished*

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 5 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


*Union of India* v. *Madras Bar Assn.*, (2010) 11 SCC 1; *State of Gujarat* v. *Gujarat Revenue Tribunal Bar Assn.*, (2012) 10 SCC 353 : (2012) 4 SCC (Civ) 1229 : (2013) 1 SCC (Cri) 35 : (2013) 1 SCC (L&S) 56, *cited*

In the present case, it is clear that Section 16 of the NGT Act is cast in terms that are similar to Section 14(*b*) of the Telecom Regulatory Authority of India Act, 1997, in that appeals are against the orders, decisions, directions, or determinations made under the various Acts mentioned in Section 16. It is clear, therefore, that under the NGT Act, the Tribunal exercising appellate jurisdiction cannot strike down rules or regulations made under this Act. Therefore, it would be fallacious to state that the Tribunal has powers of judicial review akin to that of a High Court exercising constitutional powers under Article 226 of the Constitution of India. There is a distinction between a superior court of record and courts of limited jurisdiction. The State Government's order made under Section 18 of the Water Act, not being the subject-matter of any appeal under Section 16 of the NGT Act, cannot be "judicially reviewed" by the NGT. The NGT has no general power of judicial review akin to that vested under Article 226 of the Constitution of India.

(Para 43)

*BSNL* v. *TRAI*, (2014) 3 SCC 222, *followed*

*Powers, Privileges and Immunities of State Legislatures, In re*, (1965) 1 SCR 413 : AIR 1965 SC 745, *relied on*

*Wilfred J.* v. *Ministry of Environment & Forests'*, 2014 SCC OnLine NGT 6860, *partly overruled*

*Halsbury's Laws of England*, Vol. 9, p. 349, *referred to*

If as submitted, the order submitted by the State Government is a direction to the TNPCB and not to the respondent, there would have been no necessity to file an appeal before the NGT against such order. To then say that this order which is challenged would be defended on certain grounds, as a result of which, the NGT then gets vested with the jurisdiction to decide the same, is again to put the cart before the horse. It is clear that no appeal is provided against orders made under Section 18 of the Water Act, and the attempt to bring the NGT in by the backdoor, as it were, would, therefore, have to be rejected. Also, to argue that as against a writ court acting under Article 226 of the Constitution of India, the NGT is an expert body set up only to deal with environmental matters, again does not answer the specific issue before the Court. An appeal being a creature of statute, an order passed under Section 18 of the Water Act is either appealable or it is not. If it is not, no general argument as to the NGT being an expert body set up to hear environmental matters can be of any help.

(Para 44)

Page: 485

Equally, so far as the order dated 8-8-2013 is concerned, the doctrine of necessity would take over if an appellate authority under the Act is not properly constituted so that no appeal can then be effectively preferred. This, again, is an argument that cannot be countenanced. If an appellate authority is either not yet constituted, or not properly constituted, a leapfrog appeal to the NGT cannot be countenanced. The NGT is only conferred with appellate jurisdiction from an order passed in exercise of first appeal. Where there is no such order, the NGT has no jurisdiction.

(Para 45)

In conclusion, the court is cognizant of the fact that the respondent's plant has been shut down since 9-4-2018. Since the impugned judgments of the NGT is set aside on the ground of maintainability, the order dated 22-1-2019 passed by the TNPCB, being a consequential order, is also set aside. The respondents are relegated to the position that the six orders impugned before the NGT, dealt with by the impugned judgment dated 15-12-2018, and the order dated 29-3-2013, dealt with by the final judgment dated 8-8-2013, are alive and operative. Thus, it will be open for the respondents to file a writ petition in the High Court against all the aforesaid orders. If such writ petition is filed, it will be open for the respondent to apply for interim reliefs considering that their plant has been shut down since 9-4-2018. Also, since their plant has been so shut down for a long period, and they are exporting a product which is an important import substitute, the respondent may apply to the Chief Justice of the High Court for expeditious hearing of the writ petition, which will be disposed of on merits notwithstanding the availability of an alternative remedy in the case of challenge to 9-4-2018 order of the TNPCB. The appeals are

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 6 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


disposed of accordingly.

(Para 46)

*Sterlite Industries (India) Ltd.* v. *T.N. Pollution Control Board*, 2013 SCC OnLine NGT 1886; *Sterlite Industries (India) Ltd.* v. *T.N. Pollution Control Board*, 2013 SCC OnLine NGT 68; *Vedanta Ltd.* v. *State of T.N.*, 2018 SCC OnLine NGT 1239, *reversed*

*National Trust for Clean Environment* v. *Union of India*, 2010 SCC OnLine Mad 6495; *Vedanta Ltd.* v. *Inspector General of Police*, 2018 SCC OnLine Mad 10223; *State of T.N.* v. *Vedanta Ltd.*, 2018 SCC OnLine SC 3334; *Vedanta Ltd.* v. *State of T.N.*, 2018 SCC OnLine NGT 1238; *State of T.N.* v. *Vedanta Ltd.*, 2018 SCC OnLine SC 3335; *State of T.N.* v. *Vedanta Ltd.*, 2018 SCC OnLine SC 3337, *referred to*

SS-D/62520/S

Advocates who appeared in this case :

Balaji Srinivasan, Additional Advocate General, C.S. Vaidyanathan, K.V. Viswanathan, Guru Krishnakumar, C.A. Sundaram and R. Raizada, Senior Advocates (M. Yogesh Kanna, Siddhanth Kohli, Ms Vrinda Bhandari, Ravi Raghunath, Venkatraman, Akshay Nagarajan, G. Sivabalamurugan, G. Ananda Selvam, Vasantha Kumar, Karuppaiah, Vivek Bharathi, Vinodh Kanna B., R. Nedumaran, Beno Bencigar, Parijat Kishore, Santosh Kr. Tripathi, Ms Rohini Musa, Abhishek Gupta, Zaffar Inayat, Arjun Singh, Deepak Goel, Ashutosh Kr. Sharma, Rajeev Dubey, Kamlendra Mishra, Ms Rachna Gupta, Nikhil Nayyar and Ms K.V. Bharathi Upadhyaya, Advocates) for the appearing parties.

***Chronological list of cases cited*** ***on page(s)***

1. 2018 SCC OnLine Mad 10223, *Vedanta Ltd.* v. *Inspector General of Police* 48

2. 2018 SCC OnLine SC 3337, *State of T.N.* v. *Vedanta Ltd.* 491*a*

3. 2018 SCC OnLine SC 3335, *State of T.N.* v. *Vedanta Ltd.* 49

Page: 486

4. 2018 SCC OnLine SC 3334, *State of T.N.* v. *Vedanta Ltd.* 490*e-f*, 490*g*, 491*a*

5. 2018 SCC OnLine NGT 1239, *Vedanta Ltd.* v. *State of T.N.* **(reversed)** 487*d-e*, 489*d-e*, 489*f-g*, 494 494*b-c*, 506*b*, 507*f*, 509*c*-52

6. 2018 SCC OnLine NGT 1238, *Vedanta Ltd.* v. *State of T.N.* 490*e-f*, 491*a*, 494*a*

7. (2018) 17 SCC 421, *B. Himmatlal Agrawal* v. *Competition Commission of India* 51

8. (2018) 3 WLR 1952 : 2018 UKSC 62, *S. Franses Ltd.* v. *Cavendish Hotel (London) Ltd.* 515*g*

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 7 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


9. (2017) 8 SCC 272 : (2017) 4 SCC (Civ) 62, *Allokam Peddabbayya* v. *Allahabad Bank* 518

10. (2016) 14 SCC 161 : (2017) 2 SCC (Civ) 765, *Galada Power & Telecommunication Ltd.* v. *United India Insurance Co. Ltd.* 51

11. (2014) 3 SCC 222, *BSNL* v. *TRAI* 522*d*, 522*e*, 52

12. 2014 SCC OnLine NGT 6860, *Wilfred J.* v. *Ministry of Environment & Forests'* **(partly overruled)** 524*c*

13. (2013) 16 SCC 1 : (2014) 3 SCC (L&S) 358, *Arcot Textile Mills Ltd.* v. *Regl. Provident Fund Commr.* 513*e*

14. (2013) 3 SCC 182 : (2013) 2 SCC (Civ) 1, *Port of Kandla* v. *Hargovind Jasraj* 51

15. 2013 SCC OnLine NGT 1886, *Sterlite Industries (India) Ltd.* v. *T.N. Pollution Control Board* **(reversed)** 487*d*-*e*, 48

16. 2013 SCC OnLine NGT 68, *Sterlite Industries (India) Ltd.* v. *T.N. Pollution Control Board* **(reversed)** 487*d*-*e*, 488*c*-*d*, 488*e*, 493*a*-495*b*, 506*a*-*b*, 506*b*, 506*b*-525*a*, 525*c*

17. (2012) 10 SCC 353 : (2012) 4 SCC (Civ) 1229 : (2013) 1 SCC (Cri) 35 : (2013) 1 SCC (L&S) 56, *State of Gujarat* v. *Gujarat Revenue Tribunal Bar Assn.* 52

18. (2011) 3 SCC 363, *Krishnadevi Malchand Kamathia* v. *Bombay Environmental Action Group* 51

19. (2010) 11 SCC 557 : (2010) 4 SCC (Civ) 524, *Manohar Lal* v. *Ugrasen* 506*g*, 507*a*, 513*b*-*c*, 51

20. (2010) 11 SCC 1, *Union of India* v. *Madras Bar Assn.* 523*c*

21. (2010) 10 SCC 744, *Competition Commission of India* v. *SAIL* 51

22. (2010) 4 SCC 772 : (2010) 3 SCC (Civ) 712, *Raj Kumar Shivhare* v. *Directorate of Enforcement* 514*b*

23. (2010) 1 SCC 756 : (2010) 1 SCC (Civ) 244, *Edukanti Kistamma* v. *S. Venkatareddy* 508*b*

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 8 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


24. 2010 SCC OnLine Mad 6495, *National Trust for Clean Environment* v. *Union of India* 488*a*

25. (2009) 10 SCC 531 : (2009) 4 SCC (Civ) 280, *Super Cassettes Industries Ltd.* v. *State of U.P.* 514*b*

26. (2007) 5 SCC 211, *Pune Municipal Corpn.* v. *State of Maharashtra* 519*b*

27. (2003) 3 SCC 186, *Cellular Operators Assn. of India* v. *Union of India* 51

28. 2002 SCC OnLine TDSAT 9, *Cellular Operators Assn. of India* v. *Union of India* **(held, reversed)** 51

29. (2000) 7 SCC 348, *State of Haryana* v. *Maruti Udyog Ltd.* 514*b*

30. (1999) 4 SCC 468 : 1994 SCC (L&S) 993, *Gujarat Agro Industries Co. Ltd.* v. *Municipal Corpn. of the City of Ahmedabad* 514*b*

31. (1997) 4 SCC 452, *Northern Plastics Ltd.* v. *Hindustan Photo Films Mfg. Co. Ltd.* 512*a*

Page: 487

32. (1997) 3 SCC 443, *Tayabbhai M. Bagasarwalla* v. *Hind Rubber Industries (P) Ltd.* 519*b*

33. (1997) 3 SCC 261 : 1997 SCC (L&S) 577, *L. Chandra Kumar* v. *Union of India* 496*d*, 519*e*, 519*e-f*, 519*f*, 521 522*e*, 52

34. (1991) 4 SCC 1 : 1991 SCC (L&S) 1082, *State of Punjab* v. *Gurdev Singh* 519*b*

35. (1985) 4 SCC 628, *Kanhiya Lal Omar* v. *R.K. Trivedi* 517*b*

36. (1984) 4 SCC 27, *Maharashtra State Board of Secondary and Higher Secondary Education* v. *Paritosh Bhupeshkumar Sheth* 51

37. 1980 SCC OnLine Bom 148 : 1981 Mah LJ 587, *Paritosh*

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 9 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


*Bhupeshkumar Sheth* v. *Maharashtra State Board of Secondary and Higher Secondary Education* **(held, reversed)** 51

38. (1975) 2 SCC 411, *Kundur Rudrappa* v. *Mysore Revenue Appellate Tribunal* 50

39. (1974) 2 SCC 393, *Ganga Bai* v. *Vijay Kumar* 51

40. 1973 SCC OnLine Kar 47 : ILR 1973 Mys 281, *Kundur Rudrappa* v. *Mysore Revenue Appellate Tribunal* **(held, reversed)** 51

41. (1965) 2 SCR 800 : AIR 1965 SC 1449, *Raja Soap Factory* v. *S.P. Shantharaj* 511

42. (1965) 1 SCR 413 : AIR 1965 SC 745, *Powers, Privileges and Immunities of State Legislatures, In re* 523g

43. 1957 SCR 488 : AIR 1957 SC 540, *Garikapati Veeraya* v. *N. Subbiah Choudhry* 518b

44. 1956 AC 736 : (1956) 2 WLR 888 : (1956) 1 All ER 855 (HL), *Smith* v. *East Elloe Rural District Council* 51

The Judgment of the Court was delivered by

**R.F. NARIMAN, J.**— The present appeals arise out of orders that have been passed by the National Green Tribunal ["NGT"] dated 31-5-2013[1], 8-8-2013[2] and 15-12-2018[3]. The brief facts necessary to appreciate the controversy raised in the present case are as follows.

**2.** The respondent, Sterlite Industries (India) Ltd./Vedanta Ltd., was operating a copper smelter plant at the State Industries Promotion Corporation of Tamil Nadu Ltd. (SIPCOT) Industrial Complex at Thoothukudi, Tamil Nadu. On 1-8-1994, the respondent received a No-Objection Certificate ["NOC"] from the Tamil Nadu Pollution Control Board ["TNPCB"] for the production of blister copper and sulphuric acid. The environmental clearance to the project by the Ministry of Environment, Forest, and Climate Change ["MoEF"] followed on 16-1-1995. On 17-5-1995, the State MoEF also granted environmental clearance to the respondent. The TNPCB granted its consent under the Air (Prevention and Control of Pollution) Act, 1981 ["the Air Act"] and the Water (Prevention and Control of Pollution) Act, 1974 ["the Water Act"] on 22-5-1995. After obtaining the requisite permissions, the consent to operate the plant was issued on 14-10-1996 by the TNPCB. Production commenced on 1-1-1997. However, the environmental clearances that were granted were challenged before the Madras High Court in Writ Petitions Nos. 15501-503 of 1996, 5769 of 1997 and 16961 of 1998. On 20-5-1999, the TNPCB granted its consent for production of two more products, namely, phosphoric acid



and hydrofluorosilicic acid. On 21-9-2004, a Supreme Court Monitoring Committee was constituted to verify the compliance status of hazardous waste management. It recommended to the MoEF that the environmental clearance for the proposed expansion

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 10 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


should not be granted, and if granted, should be revoked. On 19-4-2005, the TNPCB issued consent to operate, subject to fulfilment of various conditions for the expanded capacity. Meanwhile, the Madras High Court, on 28-9-2010[4], allowed the various writ petitions that had been filed and quashed the environmental clearances granted to the respondent and directed the TNPCB to close down the plant.

**3.** Meanwhile, on 23-3-2013, the residents of nearby areas started complaining of irritation, throat infection, severe cough, breathing problem, nausea, etc. due to emissions from Sterlite Industries. Reports were obtained after inspection of the premises by the TNPCB. Based on these reports, the TNPCB issued a show-cause notice dated 24-3-2013 and directed closure of the unit under Section 31-A of the Air Act on 29-3-2013. This order was stayed by the NGT on 31-5-2013[1], allowing the respondent to commence production subject to certain conditions. Against this, the TNPCB filed Civil Appeals Nos. 4763-64 of 2013, which will be disposed of by the judgment delivered in this case. Finally, on 8-8-2013[2], the NGT set aside the TNPCB order dated 29-3-2013, against which, Civil Appeals Nos. 8773-74 of 2013 were filed, which again will be disposed of by this judgment. It is important to note that the appellants herein raised the issue of maintainability of the respondent's appeal before the NGT, stating that an appeal should have been filed first before the appellate authority under the Air Act/the National Green Tribunal Act, 2010 ["the NGT Act"]. This ground of maintainability was decided against the appellants by the impugned order dated 8-8-2013[2].

**4.** Owing to various interim orders passed by the NGT, the respondent continued to operate its plant. On 13-4-2016, the TNPCB granted consent to operate the plant for one year subject to certain conditions. Post inspection of the unit of the respondent in March 2017, the TNPCB issued a show-cause notice dated 14-3-2017 for violations under the Air Act and the Water Act which, apparently, was not pursued. On 6-9-2017, an inspection report by the TNPCB was made, and an order passed on 7-9-2017, granting renewal of consent to operate only till 31-3-2018 subject to various conditions. Meanwhile, a protest had been organised in March 2018 by some persons against the proposed expansion sought by the respondent. The respondent, therefore, had to file Writ Petition No. 7313 of 2018 before the Madurai Bench of the Madras High Court for police protection. This writ petition was disposed of by an order dated 4-4-2018[5] with a direction to consider the respondent's application. On 9-4-2018, the TNPCB refused renewal of consent to operate to the respondent's unit based on non-compliance with certain conditions that were laid down



under the Air Act and the Water Act. On 12-4-2018, the respondent filed Appeals Nos. 36-37 of 2018 before the appellate authority under Section 28 of the Water Act. In these appeals, various orders were passed, until, on 6-6-2018, the following order was passed:

> "*Applications Nos. 28 & 29 of 2018, Applications Nos. 30 & 31 of 2018 and Appeals Nos. 36 & 37 of 2018*:
>
> Heard.
>
> In view of the government order passed by the Government of Tamil Nadu in GOMs No. 72, Environment & Forests (EC-3) Department dated: 28-5-2018, directing the Tamil Nadu Pollution Control Board to close the plant permanently, we feel it is not appropriate to hear the appeals and decide the issue at this juncture.
>
> Hence the appeals and applications are adjourned to 10-7-2018."

On 10-7-2018, the matter was further adjourned as follows:

> "*Applications Nos. 28 & 29 of 2018, Applications Nos. 30 & 31 of 2018 and Appeals Nos. 36 & 37 of 2018*:

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 11 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


In view of the remarks made in the adjudication proceedings on 6-6-2018 and as the position is same now, the appeals and applications are adjourned to 21-8-2018."

**5.** Finally, on 18-12-2018 i.e. three days after the impugned order was passed by the NGT on 15-12-2018[3], an order passed by the appellate authority was as follows:

"*Applications Nos. 28, 29, 30 & 31 of 2018 and Appeals Nos. 36 & 37 of 2018*:

Ms Janani, counsel for the appellant and Mr V. Vasanthakumar, counsel for the respondent Board are present. None is present on behalf of the 1st, 2nd and 3rd interveners.

Counsel for the appellant seeks permission to withdraw the appeals. She has also filed a memo to that effect.

In view of the order passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi on 15-12-2018 in *Vedanta Ltd.* v. *State of T.N.*[3] setting aside the impugned order dated 9-4-2018 which is subject-matter of these appeals pending before this appellate authority, the appeals have become infructuous and hence they are closed."

**6.** On 12-4-2018, an order was passed by the TNPCB under Section 33-A of the Water Act and Section 31-A of the Air Act directing that the respondent's unit shall not resume production without obtaining prior approval/renewal or consent from the TNPCB. This was followed by two orders, both dated 23-5-2018, again issued under the same sections, this time to close down the respondent's unit and disconnect power supply to it. Finally, on 28-5-2018,



an order was issued by the Government of Tamil Nadu under Section 18(1)(*b*) of the Water Act stating:

"It is brought to the notice of the Government that Tamil Nadu Pollution Control Board did not renew the Consent to Operate to M/s Vedanta Ltd., Copper Smelter Plant, SIPCOT Industrial Complex, Thoothukudi District in its order dated 9-4-2018. Subsequently, on 23-5-2018, Tamil Nadu Pollution Control Board has also issued directions for closure and disconnection of power supply to the Unit. The power supply has been disconnected on 24-5-2018.

2. Under Article 48-A of the Constitution,

'**48-A.** ***Protection and improvement of environment and safeguarding of forests and wildlife***.—The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.'

3. Under Section 18(1)(*b*) of the Water Act, 1974 in the larger public interest, the Government endorse the closure direction of the Tamil Nadu Pollution Control Board and also direct the Tamil Nadu Pollution Control Board to seal the unit and close the plant permanently."

**7.** On the same date, the TNPCB issued a letter to the District Collector, inter alia, directing him to seal the respondent's unit. These six orders became the subject-matter of a composite Appeal No. 87 of 2018 under Section 16 of the NGT Act.

**8.** A writ petition was filed by the respondent before the Madurai Bench of the Madras High Court on 18-6-2018 so that the respondent could access its unit to maintain its plant. This was dismissed as withdrawn on 9-7-2018.

**9.** The appellants then took up a plea of maintainability of the composite appeal. As this was not being disposed of by the NGT, this Court, by its order dated 17-8-2018[6], directed the NGT to render its final findings, both on maintainability as well as on merits. On 20-8-2018[7], the NGT constituted a Committee to go into the material produced by the parties to the civil appeal and to visit the site. This Committee was ultimately headed by Justice Tarun Agarwala, former Chief Justice of the Meghalaya High Court, together with two experts, one being a representative of the Central Pollution Control Board ["CPCB"] and

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 12 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


another a representative of the MoEF. Aggrieved by this order, the appellants knocked on the doors of this Court. This Court disposed of this appeal on 10-9-2018[8], by stating: (*Vedanta Ltd. case*[8], SCC OnLine SC paras 1-2)

> "*1*. By our order dated 17-8-2018[6], we had made it clear that the NGT may continue to hear the matter both on merits as well as on maintainability and finally decide the matter on both counts.



> *2*. Since our order is not referred to in the order dated 20-8-2018[7] passed by the NGT, we need only to state that once the Committee's report is given to the Tribunal, it will proceed to decide the matter in accordance with our order dated 17-8-2018[6]."

A review petition that was filed against this order was dismissed[9].

**10.** The Committee constituted by the NGT then inspected the site on various dates in September/October 2018, and heard all parties concerned as well as interveners. It then came out with a detailed Enquiry Report dated 20-11-2018, in which it concluded as follows:

> "On the basis of the site visit, public hearing and after hearing the appellant Company, State of Tamil Nadu, Tamil Nadu Pollution Control Board, and the interveners and, upon consideration of the issues raised, the Committee is of the opinion:
>
> 1. The impugned orders cannot be sustained as it is against the principles of natural justice. No notice or opportunity of hearing was given to the appellant.
>
> 2. The grounds mentioned in the impugned orders are not that grievous to justify permanent closure of the factory.
>
> 3. Other issues raised also do not justify the closure of the factory even if the appellant was found to be violating the conditions/norms/directions.
>
> 4. In the event the Hon'ble Tribunal is of the opinion that the factory should commence production, the Committee is of the opinion that the following directions may be issued:
>
> (*a*) As per Condition 44 of the Consent Order dated 19-4-2005, the appellant should be directed to monitor ground water quality including heavy metals such as Arsenic, Cadmium, Silver, Copper, Fluoride, etc. in and around the factory premises and nearby villages once a month and such report should be furnished to the TNPCB.
>
> (*b*) The sampling of the above should be taken in the presence of an official from TNPCB.
>
> (*c*) In addition to the above, the sampling of effluent/emission and solid waste should also be done by a monitoring group to be constituted by TNPCB comprising a representative of the District Collector, an official of TNPCB, NGOs and academicians as per Condition 43 of Consent Order dated 19-4-2005.
>
> (*d*) Both the reports should be sent by TNPCB to CPCB for analysis. Recommendations made by CPCB should be followed.



> (*e*) Copper slag dumped at all the eleven sites including the Uppar River should be removed. If copper slag has been used for landfill purposes, then the excess

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 13 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


amount of the slag over and above the level of ground would be removed and thereafter the landfill should be compacted with one feet of soil, so that the copper slag is not blown away by the strong winds.

(*f*) The dead stock of copper slag lying in the dump yard inside the factory premises which has solidified should be removed in a time-bound manner. Thereafter, the bottom of the dump yard and the side walls should be covered with HDPE liner. Further, the Company should ensure that the generation and disposal of copper slag is maintained in the ratio of 1: 1 and that the Company at best, can retain 10 days' generation of copper slag in its dump yard.

(*g*) The dead stock of gypsum lying in the dump yard inside the factory premises which has solidified should be removed in a time-bound manner. Thereafter, the bottom of the dump yard and the side walls should be covered with HDPE liner. Further, the Company should ensure that the generation and disposal of gypsum is maintained in the ratio of 1: 1 and that the Company at best, can retain 10 days' generation of gypsum in its dump yard.

(*h*) The Company before disposing copper slag, gypsum (or) any other waste product will seek previous permission from the TNPCB.

(*i*) Application of the Company for obtaining valid authorisation for disposal of hazardous waste under Hazardous & Other Wastes (Management, & Transboundary Movement) Rules, 2016 should be disposed of by the TNPCB in a time-bound manner.

(*j*) Even though there is no requirement of analysing the air samples through an accredited laboratory nonetheless a direction should be issued to the appellant that they will conduct a periodical survey for ambient air quality/noise level/stack emission through accredited laboratories of MoEF&CC/NABL and furnish such report to the TNPCB.

(*k*) The appellant Company should be directed that they shall develop a green belt of 25 metres' width around the battery limits of its factory by planting native and high foliage tree and also in and around the factory.

(*l*) The State of Tamil Nadu/TNPCB should collect data from their primary health centres and government hospitals to monitor the various ailments that are being complained of by the inhabitants living in and around the factory premises.

(*m*) The State Government should specify the module to the appellant for conducting the proper and designed health monitoring study.



(*n*) Direction (*iii*) on "Source Apportionment Study" and Direction (*ix*) on "conducting a study on health hazards" passed by the NGT in its judgment dated 8-8-2013 in *Sterlite Industries (India) Ltd.* v. *T.N. Pollution Control Board*[2] should be carried out by the Tamil Nadu State Government and TNPCB. Such reports should be furnished to NGT in a time-bound manner.

(*o*) The appellant should be directed to start the construction of gypsum pond immediately and complete the same in a time-bound manner as per the conditions laid down in the guidelines given by CPCB in October 2014.

(*p*) The appellant shall undertake a fresh detailed hydrogeological study for determining aquifer vulnerability and migration of leachate from the existing phosphogypsum pond through a reputed organisation approved by the TNPCB as per Condition 15 of the Consent Order dated 19-4-2005.

(*q*) Direction should be given to the TNPCB as well as to the appellant to take independent ground water samples from the same points for the purpose of

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 14 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


finding out groundwater pollution if any. Such reports should then be compared by the CPCB. Recommendations made by CPCB should be followed.

(*r*) Directions/regulation may be framed for import of high grade copper ore.

(*s*) Irrespective of the norms, stack height in any case be increased in order to remove the ambiguity and the grievance of inhabitants of the people of Tuticorin with regard to emission of $SO_2$.

(*t*) Till such time, the stack height is not increased, the production of copper as well as sulphuric acid should be restricted/reduced to match the existing stack height.

(*u*) The transportation of copper ore concentrate from the port to the factory premises should be done in a closed conveyance or through a pipe conveyor system.

(*v*) Self-monitoring mechanism needs to be prepared by the appellant for the periodic monitoring of ambient air quality/stack emissions/fugitive emissions/ground water quality/surface water quality/soil quality/slag analysis through third party and report shall be furnished to the regulatory agencies concerned.

(*w*) All the monitoring data, compliance reports of CTE/CTO/EC and environmental statement shall be uploaded on the website of the Company.

Page: 494

(*x*) TNPCB should be directed to commission "Regional Environmental Impact Assessment Study" in and around Tuticorin District by engaging a reputed national agency.

(*y*) CPCB recommendations as contained in the order of NGT, dated 20-8-2018[7] to be complied with."

Both the respondent as well as the appellants made their detailed comments on the Committee's report. The NGT then heard final arguments and dictated the impugned order on 15-12-2018[3], in which it substantially accepted the Committee's recommendations. In doing so, it set aside the six impugned orders in the composite appeal. One major bone of contention of both the State of Tamil Nadu as well as the TNPCB in this case is that the appeal before the NGT is not maintainable and hence, the order dated 15-12-2018[3] is without jurisdiction.

**11.** As a postscript to this order, the TNPCB looked into the matter again, and issued yet another rejection letter dated 22-1-2019, by which the respondent's application seeking renewal of consent to operate was rejected, stating that the conditions of various previous consents over the last 20 years had not been followed.

**12.** We have heard wide-ranging arguments from the learned counsel appearing on behalf of all the parties as well as the interveners, on maintainability as well as on merits. Since we will be deciding this case on maintainability alone, we have not ventured to state anything on the merits of the case.

**13.** Shri C.S. Vaidyanathan, learned Senior Advocate appearing on behalf of the TNPCB, showed us various provisions of the Water Act, the Air Act, and the NGT Act and argued that the six impugned orders before the NGT were orders which could not have been corrected by the NGT. Insofar as the first order dated 9-4-2018 was concerned, an appeal was pending before the appellate authority, as a result of which, the NGT, when it set aside the said order, could not have done so. Similarly, the orders dated 12-4-2018, 23-5-2018 and 28-5-2018, made under Section 33-A of the Water Act and Section 31-A of the Air Act, were composite orders issued. As orders under Section 31-A of the Air Act were not appealable to the NGT either under the Air Act or under Section 16 of the NGT Act, the

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 15 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


Tribunal acted without jurisdiction in interfering with these orders. Further, the order dated 28-5-2018, issued by the Government of Tamil Nadu under Section 18 of the Water Act, was certainly not an appealable order under either the Water Act or the NGT Act, and could only have been corrected in judicial review in a writ petition filed under Article 226 of the Constitution of India or in a suit before a civil court. According to him, therefore, the setting aside of such an order was also completely without jurisdiction. Shri K.V. Viswanathan, learned Senior Advocate appearing on behalf of the State of Tamil Nadu, added to these submissions. He cited some



of our judgments as well as statutes and judgments of the English courts to show that once an appeal is available to an appellate authority, after which an appeal lies to the NGT, a party cannot leapfrog directly to the NGT. Apart from this, the learned Senior Advocate also argued, based on the scheme of the Water Act, the Air Act, and the NGT Act, that all the appeals filed before the NGT were incompetent. Shri Guru Krishnakumar, learned Senior Advocate appearing on behalf of the TNPCB, also went on to criticise the order passed by the NGT dated 8-8-2013[2] on maintainability. According to him, no doctrine of necessity could be imported if an Appellate Tribunal was not constituted, as a result of which an appeal could not be argued before the appellate authority. Consequently, a leapfrog appeal would not be maintainable before the NGT. According to the learned Senior Advocate, this order also had to be set aside for the reason that even assuming that the appellate authority was not constituted on the date on which an appeal could have been preferred to it, the NGT, being a second Appellate Tribunal, would not have jurisdiction, and that either a suit or a writ petition under Article 226 would have to be filed against the original order.

**14.** As against these arguments, Shri C.A. Sundaram, learned Senior Advocate appearing on behalf of the respondents in all three appeals, sought to sustain the order of the NGT in these three appeals. The learned Senior Advocate painstakingly took us through all the orders that were impugned before the NGT, together with the relevant provisions of the Air Act, the Water Act, and the NGT Act. According to the learned Senior Advocate, so far as the order dated 9-4-2018 is concerned, thanks to a government affidavit filed, the appeal before the appellate authority had become infructuous, as a result of which, a direct appeal to the NGT would obviously become maintainable. Insofar as the combined orders under Sections 33-A and 31-A of the Water Act and the Air Act, respectively, are concerned, according to him, an express appeal is provided to the NGT against orders passed under Section 33-A of the Water Act, and even if there is no appeal provided under Section 31-A of the Air Act, yet, as four out of five items in these orders dealt with the Water Act, the order could be stated to be substantially an order under the Water Act, and therefore, appealable as such. He added that, in any case, such orders could be corrected under Section 14 of the NGT Act to avoid piecemeal litigation. Further, in any case, according to the learned Senior Advocate, a direction made under Section 31-A of the Air Act is undoubtedly equivalent to an order made under Section 31 of the Air Act, and therefore, would be expressly appealable under Section 16 of the NGT Act. Another without prejudice argument was made, that assuming all other arguments failed, these matters are only procedural, and therefore, appeals must necessarily land up before the expert tribunal which is so constituted as an expert tribunal to deal with all matters relating to the environment. For this, he referred to and relied strongly upon Sections 14, 15, 29, and 33 of the NGT Act. Insofar as

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 16 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


the attack made upon the order dated 28-5-2018 of the Government of Tamil Nadu under Section 18 of the Water Act is concerned, Shri Sundaram argued that on a proper construction of Section 18 read with the other provisions of the Water Act, only a general order, dealing with general matters, could be passed under the said Section, and not an order to shut down one particular industry. Since the Section 18 order purports to deal with only one particular industry, it is non est and liable to be ignored. An alternate argument made is that even though the order states that it is made under Section 18, it can otherwise be traced to Section 29 of the Water Act as an order made in revision, and would, therefore, be appealable as such. The learned Senior Advocate then argued that, in any case, this is an order by which a direction has been made by the State Government to the TNPCB and, therefore, does not directly affect his client. He also argued that when this order was challenged before the NGT, the defence of the Government and the TNPCB would be that this is an order which, though binding on the TNPCB, would also impact the respondent. This being the case, the NGT could always go into whether such a defence is a valid defence, and could, therefore, decide the matter. He also went on to state that the NGT is an expert body constituted specifically under a special Act, which is far better equipped than the High Court under Article 226 exercising its powers in the writ jurisdiction, and therefore, all matters dealing with the environment should necessarily be decided by the NGT alone. He also relied upon our judgment in *L. Chandra Kumar* v. *Union of India*[10] ["*L. Chandra Kumar*"], in which it has been made clear that Tribunals can exercise powers of judicial review and that, therefore, being the equivalent of a High Court, the NGT could, in exercise of its powers of judicial review, have interfered with the State Government's orders passed under Section 18 of the Water Act.

**15.** Having heard the learned counsel for all parties, it is important first to advert to the provisions of the three Acts in question.

**16.** The relevant sections of the Water Act are as follows:

"**18.** ***Powers to give directions***.—(1) In the performance of its functions under this Act—

(*a*) the Central Board shall be bound by such directions in writing as the Central Government may give to it; and

(*b*) every State Board shall be bound by such directions in writing as the Central Board or the State Government may give to it:

Provided that where a direction given by the State Government is inconsistent with the direction given by the Central Board, the matter shall be referred to the Central Government for its decision.

* * *

**25.** ***Restrictions on new outlets and new discharges***.—(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,—



(*a*) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or

(*b*) bring into use any new or altered outlet for the discharge of sewage; or

(*c*) begin to make any new discharge of sewage:

Provided that a person in the process of taking any steps to establish any industry,

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 17 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988, for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.

(2) An application for consent of the State Board under sub-section (1) shall be made in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry shall follow such procedure as may be prescribed.

(4) The State Board may—

(*a*) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being—

(*i*) in cases referred to in clauses (*a*) and (*b*) of sub-section (1) of Section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;

(*ii*) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or premises from which the discharge or new discharge is to be made; and

(*iii*) that the consent will be valid only for such period as may be specified in the order,

and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system or extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or

(*b*) refuse such consent for reasons to be recorded in writing.

(5) Where, without the consent of the State Board, any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new



discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect of such establishment, such outlet or discharge.

(6) Every State Board shall maintain a register containing particulars of the conditions imposed under this section and so much of the register as relates to any outlet, or to any effluent, from any land or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by such outlet, land or premises, as the case may be, or by any person authorised by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject to such conditions.

(7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 18 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


(8) For the purposes of this section and Sections 27 and 30,—

(*a*) the expression "new or altered outlet" means any outlet which is wholly or partly constructed on or after the commencement of this Act or which (whether so constructed or not) is substantially altered after such commencement;

(*b*) the expression "new discharge" means a discharge which is not, as respects the nature and composition, temperature, volume, and rate of discharge of the effluent substantially a continuation of a discharge made within the preceding twelve months (whether by the same or a different outlet), so however that a discharge which is in other respects a continuation of previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of discharge of the effluent as compared with the previous discharge.

**26.** ***Provision regarding existing discharge of sewage or trade effluent***.— Where immediately before the commencement of this Act any person was discharging any sewage or trade effluent into a stream or well or sewer or on land, the provisions of Section 25 shall, so far as may be, apply in relation to such person as they apply in relation to the person referred to in that section subject to the modification that the application for consent to be made under sub-section (2) of that section shall be made on or before such date as may be specified by the State Government by notification in this behalf in the Official Gazette.

**27.** ***Refusal or withdrawal of consent by State Board***.—(1) A State Board shall not grant its consent under sub-section (4) of Section 25 for the establishment of any industry, operation or process, or treatment and disposal system or extension or addition thereto, or to the bringing into use of a new or altered outlet unless the industry, operation or process, or treatment and disposal system or extension or addition thereto, or the outlet is so established



as to comply with any conditions imposed by the Board to enable it to exercise its right to take samples of the effluent.

(2) A State Board may from time to time review—

(*a*) any condition imposed under Section 25 or Section 26 and may serve on the person to whom a consent under Section 25 or Section 26 is granted a notice making any reasonable variation of or revoking any such condition;

(*b*) the refusal of any consent referred to in sub-section (1) of Section 25 or Section 26 or the grant of such consent without any condition, and may make such orders as it deems fit.

(3) Any condition imposed under Section 25 or Section 26 shall be subject to any variation made under sub-section (2) and shall continue in force until revoked under that sub-section.

**28.** ***Appeals***.—(1) Any person aggrieved by an order made by the State Board under Section 25, Section 26 or Section 27 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the appellate authority) as the State Government may think fit to constitute:

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) An appellate authority shall consist of a single person or three persons, as the State Government may think fit, to be appointed by that Government.

(3) The form and manner in which an appeal may be preferred under sub-section (1), the fees payable for such appeal and the procedure to be followed by the appellate

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 19 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


authority shall be such as may be prescribed.

(4) On receipt of an appeal preferred under sub-section (1), the appellate authority shall, after giving the appellant and the State Board an opportunity of being heard, dispose of the appeal as expeditiously as possible.

(5) If the appellate authority determines that any condition imposed, or the variation of any condition, as the case may be, was unreasonable, then,—

(*a*) where the appeal is in respect of the unreasonableness of any condition imposed, such authority may direct either that the condition shall be treated as annulled or that there shall be substituted for it such condition as appears to it to be reasonable;

(*b*) where the appeal is in respect of the unreasonableness of any variation of a condition, such authority may direct either that the condition shall be treated as continuing in force unvaried or that it shall be varied in such manner as appears to it to be reasonable.

**29. *Revision***.—(1) The State Government may at any time either of its own motion or on an application made to it in this behalf, call for the records of any case where an order has been made by the State Board under Section 25, Section 26 or Section 27 for the purpose of satisfying itself as to the legality



or propriety of any such order and may pass such order in relation thereto as it may think fit:

Provided that the State Government shall not pass any order under this sub-section without affording the State Board and the person who may be affected by such order a reasonable opportunity of being heard in the matter.

(2) The State Government shall not revise any order made under Section 25, Section 26 or Section 27 where an appeal against that order lies to the appellate authority, but has not been preferred or where an appeal has been preferred such appeal is pending before the appellate authority.

* * *

**33-A. *Power to give directions***.—Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions.

*Explanation*.—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

(*a*) the closure, prohibition or regulation of any industry, operation or process; or

(*b*) the stoppage or regulation of supply of electricity, water or any other service.

**33-B. *Appeal to National Green Tribunal***.—Any person aggrieved by,—

(*a*) an order or decision of the appellate authority under Section 28, made on or after the commencement of the National Green Tribunal Act, 2010; or

(*b*) an order passed by the State Government under Section 29, on or after the commencement of the National Green Tribunal Act, 2010; or

(*c*) directions issued under Section 33-A by a Board, on or after the commencement of the National Green Tribunal Act, 2010,

may file an appeal to the National Green Tribunal established under Section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act."

**17.** The relevant sections of the Air Act are as follows:

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 20 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


"**21. *Restrictions on use of certain industrial plants*.**—(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board, establish or operate any industrial plant in an air pollution control area:

Provided that a person operating any industrial plant in any air pollution control area immediately before the commencement of Section 9 of the Air (Prevention and Control of Pollution) Amendment Act, 1987, for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an



application for such consent within the said period of three months, till the disposal of such application.

(2) An application for consent of the State Board under sub-section (1) shall be accompanied by such fees as may be prescribed and shall be made in the prescribed form and shall contain the particulars of the industrial plant and such other particulars as may be prescribed:

Provided that where any person, immediately before the declaration of any area as an air pollution control area, operates in such area any industrial plant such person shall make the application under this sub-section within such period (being not less than three months from the date of such declaration) as may be prescribed and where such person makes such application, he shall be deemed to be operating such industrial plant with the consent of the State Board until the consent applied for has been refused.

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry, shall follow such procedure as may be prescribed.

(4) Within a period of four months after the receipt of the application for consent referred to in sub-section (1), the State Board shall, by order in writing and for reasons to be recorded in the order, grant the consent applied for subject to such conditions and for such period as may be specified in the order, or refuse such consent:

Provided that it shall be open to the State Board to cancel such consent before the expiry of the period for which it is granted or refuse further consent after such expiry if the conditions subject to which such consent has been granted are not fulfilled:

Provided further that before cancelling a consent or refusing a further consent under the first proviso, a reasonable opportunity of being heard shall be given to the person concerned.

(5) Every person to whom consent has been granted by the State Board under sub-section (4), shall comply with the following conditions, namely—

(*i*) the control equipment of such specifications as the State Board may approve in this behalf shall be installed and operated in the premises where the industry is carried on or proposed to be carried on;

(*ii*) the existing control equipment, if any, shall be altered or replaced in accordance with the directions of the State Board;

(*iii*) the control equipment referred to in clause (*i*) or clause (*ii*) shall be kept at all times in good running condition;

(*iv*) chimney, wherever necessary, of such specifications as the State Board may approve in this behalf shall be erected or re-erected in such premises;

(*v*) such other conditions as the State Board may specify in this behalf; and

(*vi*) the conditions referred to in clauses (*i*), (*ii*) and (*iv*) shall be complied with within such period as the State Board may specify in this behalf:

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 21 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.




Provided that in the case of a person operating any industrial plant in an air pollution control area immediately before the date of declaration of such area as an air pollution control area, the period so specified shall not be less than six months:

Provided further that—

(*a*) after the installation of any control equipment in accordance with the specifications under clause (*i*), or

(*b*) after the alteration or replacement of any control equipment in accordance with the directions of the State Board under clause (*ii*), or

(*c*) after the erection or re-erection of any chimney under clause (*iv*),

no control equipment or chimney shall be altered or replaced or, as the case may be, erected or re-erected except with the prior approval of the State Board.

(6) If due to any technological improvement or otherwise the State Board is of the opinion that all or any of the conditions referred to in sub-section (5) require or requires variation (including the change of any control equipment, either in whole or in part), the State Board shall, after giving the person to whom consent has been granted an opportunity of being heard, vary all or any of such conditions and thereupon such person shall be bound to comply with the conditions as so varied.

(7) Where a person to whom consent has been granted by the State Board under sub-section (4) transfers his interest in the industry to any other person, such consent shall be deemed to have been granted to such other person and he shall be bound to comply with all the conditions subject to which it was granted as if the consent was granted to him originally.

* * *

**31.** ***Appeals***.—(1) Any person aggrieved by an order made by the State Board under this Act may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the appellate authority) as the State Government may think fit to constitute:

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The appellate authority shall consist of a single person or three persons as the State Government may think fit to be appointed by the State Government.

(3) The form and the manner in which an appeal may be preferred under sub-section (1), the fees payable for such appeal and the procedure to be followed by the appellate authority shall be such as may be prescribed.

(4) On receipt of an appeal preferred under sub-section (1), the appellate authority shall, after giving the appellant and the State Board an opportunity of being heard, dispose of the appeal as expeditiously as possible.

**31-A.** ***Power to give directions***.—Notwithstanding anything contained in any other law, but subject to the provisions of this Act and to any directions that the Central Government may give in this behalf a Board may, in the exercise of its powers and performance of its functions under this Act, issue



any directions in writing to any person, officer or authority, and such person, officer or

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 22 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


authority shall be bound to comply with such directions.

*Explanation*.—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

(*a*) the closure, prohibition or regulation of any industry, operation or process; or

(*b*) the stoppage or regulation of supply of electricity, water or any other service.

**31-B.** ***Appeal to National Green Tribunal***.—Any person aggrieved by an order or decision of the appellate authority under Section 31, made on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under Section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act."

**18.** The relevant sections of the NGT Act are as follows:

"**2.** ***Definitions***.—(1) In this Act, unless the context otherwise requires,—

* * *

(*m*) "**substantial question relating to environment**" shall include an instance where,—

(*i*) there is a direct violation of a specific statutory environmental obligation by a person by which,—

(A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or

(B) the gravity of damage to the environment or property is substantial; or

(C) the damage to public health is broadly measurable;

(*ii*) the environmental consequences relate to a specific activity or a point source of pollution;

* * *

**14.** ***Tribunal to settle disputes***.—(1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:



Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

**15.** ***Relief, compensation and restitution***.—(1) The Tribunal may, by an order, provide,—

(*a*) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule I (including accident occurring while handling any hazardous substance);

(*b*) for restitution of property damaged;

(*c*) for restitution of the environment for such area or areas,

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 23 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


as the Tribunal may think fit.

(2) The relief and compensation and restitution of property and environment referred to in clauses (*a*), (*b*) and (*c*) of sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991 (6 of 1991).

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

(4) The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.

(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other court or authority.

**16. *Tribunal to have appellate jurisdiction***.—Any person aggrieved by,—

(*a*) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under Section 28 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(*b*) an order passed, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government under Section 29 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(*c*) directions issued, on or after the commencement of the National Green Tribunal Act, 2010, by a Board, under Section 33-A of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(*d*) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under Section 13 of the Water (Prevention and Control of Pollution) Cess Act, 1977 (36 of 1977);



(*e*) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government or other authority under Section 2 of the Forest (Conservation) Act, 1980 (69 of 1980);

(*f*) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under Section 31 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(*g*) any direction issued, on or after the commencement of the National Green Tribunal Act, 2010, under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986);

(*h*) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986);

(*i*) an order made, on or after the commencement of the National Green Tribunal Act, 2010, refusing to grant environmental clearance for carrying out any activity or

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 24 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


operation or process under the Environment (Protection) Act, 1986 (29 of 1986);

(*j*) any determination of benefit sharing or order made, on or after the commencement of the National Green Tribunal Act, 2010, by the National Biodiversity Authority or a State Biodiversity Board under the provisions of the Biological Diversity Act, 2002 (18 of 2003),

may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.

* * *

**29.** ***Bar of jurisdiction***.—(1) With effect from the date of establishment of the Tribunal under this Act, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction.

(2) No civil court shall have jurisdiction to settle dispute or entertain any question relating to any claim for granting any relief or compensation or restitution of property damaged or environment damaged which may be adjudicated upon by the Tribunal, and no injunction in respect of any action taken or to be taken by or before the Tribunal in respect of the settlement of such dispute or any such claim for granting any relief or compensation or restitution of property damaged or environment damaged shall be granted by the civil court.

Page: 506

* * *

**33.** ***Act to have overriding effect***.—The provisions of this Act, shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act."

**19.** It is important now to advert to both the orders dated 8-8-2013[2] and 15-12-2018[3], insofar as they deal with the maintainability of the appeals before them.

**20.** By the judgment of the NGT dated 8-8-2013[2], the NGT disposed of the plea on maintainability as follows: [*Sterlite Industries (India) Ltd. case*[2], SCC OnLine NGT paras 62 -64]

"*62*. Another aspect that would support the view that we are taking is the doctrine of necessity. Wherever in the facts and circumstances of the case, it is absolutely inevitable for a person to exercise another right available to it under the statute and where it is unable to exercise the preliminary right of appeal because of non-existence or non-proper constitution of the appellate authority and for its effective and efficacious exercise of right, it becomes necessary for the appellant Company to invoke another remedy, then the same would be permitted unless it was so specifically barred by law governing the subject and the rights of the parties. It was upon the appellant Company, particularly keeping in view the emergent situation created by issuance of the order dated 29-3-2013, to avail of its right to appeal without any undue delay and as was rightly done by it within two days of the passing of the order. The unit of the appellant Company had been directed to be shut down and the appellant Company obviously could not have taken recourse to the remedy under Section 31 of the Air Act as the authority itself was not properly constituted and was not functional. Besides the aid of the doctrine of necessity, the appellant Company has also placed its reliance on Section 31-B of the Air Act. An appeal against the order passed by the appellate

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 25 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


authority in exercise of its powers under Section 31 of the Air Act lies to the NGT in terms of Section 31-B of the Air Act. In other words, the appellate order passed by the proper authority under Section 31 of the Air Act is appealable to the NGT in terms of Section 31-B. Thus, the NGT is the appellate authority of the appellate authority constituted under Section 31 of the Air Act by the State Government. The appellant Company has itself given up its right of first appeal before the appellate authority in view of the peculiar facts and circumstances of the case. The respondents have placed reliance upon the judgment of the Supreme Court in *Manohar Lal* v. *Ugrasen*[11] where the Court had taken the view that no higher authority in the hierarchy or an appellate or revisional authority can exercise the power of the statutory authority nor the superior authority can mortgage its wisdom and direct



the statutory authority to act in a particular manner. Firstly this judgment on facts and law has no application to the present case. Secondly, the non-constitution of the authority itself would bring the present case outside the application of the judgment of the Supreme Court in *Manohar Lal*[11].

*63*. We are unable to contribute ourselves to the contention raised that a direction passed under Section 31-A of the Air Act is not covered under the expression "order" used in Section 31 of the Air Act. Any direction essentially would contain an element of order as it requires and calls upon the parties to comply with the same. "Direction" itself means an order; an instruction how to proceed, like the Judge's direction to the jury, while "order" is defined as a command, direction or instruction. This is how *Black's Law Dictionary*, 9th Edn., refers to these two expressions. In other words, they can be used as synonyms. They are not conflicting terms and one can be read into the other. Thus, we find no substance in this contention raised on behalf of the respondents.

*64*. An appellate authority, which is constituted under the statute, is completely distinct and different from an administrative authority constituted otherwise even to deal with adjudicatory proceedings. In the case of an appellate authority, it must satisfy the existence *de facto* and must function *de jure*, in accordance with law. If the appellate authority itself was not in conformity with the notification, it cannot be said that it could function in accordance with law without constitution of the three-member appellate authority. The cumulative effect of this discussion is that the objection in regard to maintainability is without any substance and is liable to be rejected. In view of this finding, it is not necessary for us to examine whether this could be treated as a petition under Section 14 of the National Green Tribunal Act (for short "the NGT Act") even if it was not maintainable in view of the objection taken by the respondent in regard to maintainability of the present appeal."

**21.** Insofar as the judgment dated 15-12-2018[3] is concerned, the NGT, on maintainability, held as follows: (*Vedanta Ltd. case*[3], SCC OnLine NGT paras 44-46 & 48-49)

"*44*. It is undisputed that this Tribunal is an appellate authority as far as orders of closure under the Air Act and the Water Act are concerned. The impugned orders dated 12-4-2018, 23-5-2018 and 28-5-2018 are such orders. Mere fact that an appeal against the order declining renewal of Consent to Operate is provided for and was filed cannot be in the facts and circumstances of the present case, be a bar to exercise of powers of the appellate authority by this Tribunal. As already noted, the appellate authority has declined to proceed with the matter. The grounds in the impugned orders dated 9-4-2018, 12-4-2018, 23-5-2018 and 28-5-2018 are

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 26 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


identical. If the appeals are held to be not maintainable, the appellant will be without any remedy against the order of closure. Order of the appellate authority is also appealable before this Tribunal under Section 16(*f*) of the NGT Act, 2010. We, thus, do not find any merit in this case in the objections of the respondent.

*45*. Mere fact that the State of Tamil Nadu also endorsed the order of the TNPCB and that order of the State is not appealable to this Tribunal, does not deviate from the legal position that order of TNPCB is appealable to this Tribunal. Moreover, order of the State of Tamil Nadu is not a policy matter but mere endorsement of order of the TNPCB.

*46*. The judgments relied upon by the respondents are distinguishable. Unlike *Edukanti Kistamma* v. *S. Venkatareddy*[12], this is not a case where the first order has not been challenged. Challenge before us is to the first order as well as subsequent orders. Basis for all the orders is common.

* * *

*48*. The order of the Government of Tamil Nadu issued under Section 18(1)(*b*) of the Water Act also cannot be said to be an independent order but relied on and endorsing the views of the TNPCB which is under challenge and that are not sufficient for ordering closure or refusal to grant even consent. If there are no other materials for the Government of Tamil Nadu to arrive at conclusion of closure on the ground of irreversible pollution being caused to the environment allowing the unit to function, then it cannot be said to be a policy decision to close down the industry permanently and if any order was passed based on the order by the Pollution Control Board, without independent application of mind and arbitrarily, then that can also be incidentally considered by the Tribunal for the purpose of deciding the question of legality of that order. So, under the present circumstances, it is not a case of this Tribunal entertaining the appeals where there is inherent lack of jurisdiction to entertain the same.

*49*. In the present proceedings, as already noted, the appellate authority having declined to proceed with the matter and the order of closure being appealable before this Tribunal, there is no ground to reject the appeal on the ground of maintainability so as to deprive the appellant of any judicial remedy in the matter."

**(I)** ***Re: Order dated 9-4-2018***

**22.** This order is an order which rejected renewal of consent to operate, and therefore, is traceable to Section 27 of the Water Act and Section 21 of the Air Act. There is no doubt whatsoever that an appeal against an order made under Section 27 of the Water Act is appealable to the appellate authority under Section 28 of the said Act. Under Section 33-B (*a*) of the said Act, if a person is aggrieved by an order or decision of the appellate authority under Section 28, it is then appealable to the NGT. This is made clear also by Section 16(*a*) of the NGT Act. Equally, an order refusing consent under Section 21 of the Air



Act is appealable to the appellate authority under Section 31 of the Air Act, and thereafter, from the said appellate authority's order, to the NGT, under Section 31-B of the Air Act and Section 16(*f*) of the NGT Act.

**23.** As has been stated hereinabove, it is clear that an appeal to the appellate authority under the Air Act and the Water Act was, in fact, preferred, being Appeals Nos. 36-37 of 2018. While these appeals were pending before the appellate authority, the composite Appeal No. 87 of 2018 was filed on 22-6-2018 before the NGT inter alia against the order of refusal of consent to operate dated 9-4-2018. Shri Sundaram, however, argued before us that the order dated 6-6-2018 made by the appellate authority, which we have set out

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 27 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


hereinabove, makes it clear that the appeals could not be heard since the State Government had passed an order dated 28-5-2018 directing the TNPCB to close down the plant permanently. What is missed by Shri Sundaram is the fact that the said order expressly states that the appeals could not be decided *at this juncture* and were hence adjourned to 10-7-2018. The said appeals on 10-7-2018 were further adjourned, and it is only on 18-12-2018 that they were finally withdrawn as being infructuous in view of the fact that the NGT had passed its order on 15-12-2018[3] in which it had set aside the order dated 9-4-2018.

**24.** What becomes clear from the above narration of facts is the fact that while an appeal was still pending before the appellate authority, the NGT took up a matter directly against the original order dated 9-4-2018 which was challenged before the appellate authority even before the appellate authority could decide the same. However, Shri Sundaram referred to Section 28(4) of the Air Act and Section 31(4) of the Water Act to argue that appeals to the appellate authority must be decided expeditiously, and if they were not so decided, an appeal would lie to the NGT against a decision by the appellate authority not to decide the matter before it expeditiously. This argument must also be negatived as, in point of fact, no appeal was preferred from any orders of the appellate authority adjourning the proceedings. As we have seen, an appeal was directly filed from the order of the TNPCB dated 9-4-2018.

**25.** At this point, it is important to advert to a few judgments of this Court. In *Kundur Rudrappa* v. *Mysore Revenue Appellate Tribunal*[13], this Court, while dealing with Section 64 of the Motor Vehicles Act, 1939, stated: (SCC pp. 413-14, paras 4-5)

> "*4*. The point that arises for consideration is whether any appeal lay under Section 64 of the Act to the State Transport Appellate Tribunal against the issue of a permit in pursuance of an earlier resolution of the Regional Transport Authority granting the permit. It is only necessary to read Section 64(1)(*a*) which is material for the purpose of this appeal:
>
> '**64. *Appeals***.—(1) Any person—



> (*a*) aggrieved by the refusal of the State or a Regional Transport Authority to grant a permit, or by any condition attached to a permit granted to him, or
>
> * * *
>
> may within the prescribed time and in the prescribed manner, appeal to the State Transport Appellate Tribunal constituted under sub-section (2), who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final.'
>
> We are not required to consider the other clauses of Section 64(1) which are admittedly not relevant. Section 64 has to be read with Rule 178 of the Rules which prescribes the procedure for appeal to the various authorities.
>
> *5. Appeal is a creature of the statute*. There is no dispute that Section 64 of the Act is the only section creating rights of appeal against the grant of permit and other matters with which we are not concerned here. *There is no appeal provided for under Section 64 against an order issuing a permit in pursuance of the order granting the permit*. Issuance of the permit is only a ministerial act necessarily following the grant of the permit. The appeals before the State Transport Appellate Tribunal and the further appeal to the Mysore Revenue Appellate Tribunal are, therefore, not competent under Section 64 of the Act and both the Tribunals had no jurisdiction to entertain the appeals and to interfere with the order of the Regional Transport Authority granting the permit which had already been affirmed in appeal by the State Transport Appellate Tribunal and further in second appeal by the Mysore Revenue Appellate Tribunal. There was,

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 28 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


therefore, a clear error of jurisdiction on the part of both the Tribunals in interfering with the grant of the permit to the appellant. The High Court was, therefore, not right in dismissing[14] the writ application of the appellant which ought to have been allowed."

(emphasis supplied)

**26.** Similarly, in a concurring judgment of Sinha, J., in *Cellular Operators Assn. of India* v. *Union of India*[15], the learned Judge observed: (SCC p. 211, para 27)

"*27*. TDSAT was required to exercise its jurisdiction[16] in terms of Section 14-A of the Act. TDSAT itself is an expert body and its jurisdiction is wide having regard to sub-section (7) of Section 14-A thereof. Its jurisdiction extends to examining the legality, propriety or correctness of a direction/order or decision of the authority in terms of sub-section (2) of Section 14 as also the dispute made in an application under sub-section (1) thereof. *The approach of the learned TDSAT, being on the premise that its jurisdiction is limited or akin to the power of judicial review is,*



*therefore, wholly unsustainable. The extent of jurisdiction of a court or a tribunal depends upon the relevant statute. TDSAT is a creature of a statute. Its jurisdiction is also conferred by a statute*. The purpose of creation of TDSAT has expressly been stated by Parliament in the amending Act of 2000. TDSAT, thus, failed to take into consideration the amplitude of its jurisdiction and thus misdirected itself in law."

(emphasis supplied)

**27.** In *B. Himmatlal Agrawal* v. *Competition Commission of India*[17], this Court, while dealing with Section 53-B of the Competition Act, 2002 held: (SCC p. 424, para 10)

"*10*. The aforesaid provision, thus, confers a right upon any of the aggrieved parties mentioned therein to prefer an appeal to the Appellate Tribunal. This statutory provision does not impose any condition of pre-deposit for entertaining the appeal. Therefore, right to file the appeal and have the said appeal decided on merits, if it is filed within the period of limitation, is conferred by the statute and that cannot be taken away by imposing the condition of deposit of an amount leading to dismissal of the main appeal itself if the said condition is not satisfied. Position would have been different if the provision of appeal itself contained a condition of pre-deposit of certain amount. That is not so. Sub-section (3) of Section 53-B specifically cast a duty upon the Appellate Tribunal to pass order on appeal, as it thinks fit i.e. either confirming, modifying or setting aside the direction, decision or order appealed against. It is to be done after giving an opportunity of hearing to the parties to the appeal. It, thus, clearly implies that appeal has to be decided on merits. *The Appellate Tribunal, which is the creature of a statute, has to act within the domain prescribed by the law/statutory provision*. This provision nowhere stipulates that the Appellate Tribunal can direct the appellant to deposit a certain amount as a condition precedent for hearing the appeal. In fact, that was not even done in the instant case. It is stated at the cost of repetition that the condition of deposit of 10% of the penalty was imposed insofar as stay of penalty order passed by the CCI is concerned. Therefore, at the most, stay could have been vacated. The Appellate Tribunal, thus, had no jurisdiction to dismiss the appeal itself."

(emphasis supplied)

**28.** In *Raja Soap Factory* v. *S.P. Shantharaj*[18], the plaintiffs instituted an action in the nature of passing off against the defendants in the High Court of Mysore, stating that they are exclusive owners of a particular trade mark. This Court found that exercise of jurisdiction by the High Court of Mysore is governed by Mysore Act 5 of 1962. Holding that the said High Court does not exercise any original jurisdiction, this Court held: (SCR p. 802: AIR p. 1450, paras 5-6)

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 29 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


Page: 512

"*5*. The High Court of Mysore is by its constitution primarily a court exercising appellate jurisdiction; it is competent to exercise original jurisdiction only in those matters in respect of which by special Acts it has been specifically invested with jurisdiction. The High Court is competent to exercise original jurisdiction under Section 105 of Trade and Merchandise Marks Act 43 of 1958 if it is invested with the ordinary original civil jurisdiction of a District Court, and not otherwise, and the High Court of Mysore not being invested by any statute or under its constitution with that jurisdiction was incompetent to entertain a passing off action.

*6*. But it was urged that in a State the High Court is at the apex of the hierarchy of civil courts and has all the powers which the subordinate courts may exercise, and it is competent to entertain all actions as a court of original jurisdiction which may lie in any court in the State. For this exalted claim, there is no warrant in our jurisprudence. Jurisdiction of a court means the extent of the authority of a court to administer justice prescribed with reference to the subject-matter, pecuniary value and local limits. Barring cases in which jurisdiction is expressly conferred upon it by special statutes e.g. the Companies Act; the Banking Companies Act, the High Court of Mysore exercises appellate jurisdiction alone. As a court of appeal it undoubtedly stands at the apex within the State, but on that account it does not stand invested with original jurisdiction in matters not expressly declared within its cognizance."

**29.** In *Northern Plastics Ltd.* v. *Hindustan Photo Films Mfg. Co. Ltd.*[19], Section 129-D of the Customs Act, 1962 was referred to, under which, the Board of Excise and Customs may direct a Collector to apply to the Appellate Tribunal for determination of points which arise out of an order or decision. In repelling an argument that even without such direction, the Union of India may file an appeal directly, this Court held: (SCC pp. 464-65 & 468, paras 10 & 12)

"*10*. … The aforesaid provisions of the Act leave no room for doubt that they represent a complete scheme or code for challenging the orders passed by the Collector (Customs) in exercise of his statutory powers. … So far as departmental authorities themselves are concerned including the Collector of Customs no direct right of appeal is conferred on the Collector to prefer appeal against his own order before the CEGAT. However there is sufficient safeguard made available to the Revenue by the Act for placing in challenge erroneous orders of adjudication as passed by the Collector of Customs by moving the Central Board of Excise and Customs under Section 129-D(1) for a direction to the Collector to apply to the CEGAT for determination of such point arising out of the decision or order as may be specified by the Board of Revenue in this connection. …

* * *

*12*. … But even if it is so, the statutory procedure laid down by Parliament in its wisdom for enabling the challenge to the adjudication

Page: 513

order of the Collector of Customs by way of appeals or revisions as per the aforesaid relevant statutory provisions, to which we have made a mention, has got to be followed in such an eventuality. Bypassing the said statutory procedure a direct frog leap to CEGAT is contra-indicated by the statutory scheme of the Act. If such direct appeals are permitted the very scheme of Section 129-D(1) would get stultified. It must, therefore, be held that direct appeal filed by the Union of India through Industries Ministry to CEGAT under Section 129-A(1) was clearly incompetent. It may be added that the Union of India could

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 30 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


have used the mode set out in Section 129-D, but it did not do so."

**30.** In *Manohar Lal* v. *Ugrasen*[11], one of the questions involved, under sub-para 2(*a*) of the judgment, was as follows: (SCC p. 562, para 2)

> "*2*. In these appeals, three substantial questions of law for consideration of this Court are involved. They are, namely:
>
> (*a*) As to whether the State Government, a revisional authority under the statute, could take upon itself the task of a lower statutory authority?"

After reviewing a number of cases, this Court then concluded: (*Manohar Lal case*[11], SCC p. 567, para 23)

> "*23*. Therefore, the law on the question can be summarised to the effect that no higher authority in the hierarchy or an appellate or revisional authority can exercise the power of the statutory authority nor can the superior authority mortgage its wisdom and direct the statutory authority to act in a particular manner. If the appellate or revisional authority takes upon itself the task of the statutory authority and passes an order, it remains unenforceable for the reason that it cannot be termed to be an order passed under the Act."

**31.** In *Arcot Textile Mills Ltd.* v. *Regl. Provident Fund Commr.*[20], appeals lay to the Tribunal constituted under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, under Section 7-I of the Act. Whereas appeals lay against orders passed under Section 7-A of the Act, which provided for determination of monies due from employers, no appeal lay against orders made under Section 7-Q of the said Act, which spoke of interest payable by the employer. This Court held: (SCC p. 10, para 20)

> "*20*. On a scrutiny of Section 7-I, we notice that the language is clear and unambiguous and it does not provide for an appeal against the determination made under Section 7-Q. It is well settled in law that right of appeal is a creature of statute, for the right of appeal inheres in no one and, therefore, for maintainability of an appeal there must be authority of law. This being the position a provision providing for appeal should neither be



construed too strictly nor too liberally, for if given either of these extreme interpretations, it is bound to adversely affect the legislative object as well as hamper the proceedings before the appropriate forum. Needless to say, a right of appeal cannot be assumed to exist unless expressly provided for by the statute and a remedy of appeal must be legitimately traceable to the statutory provisions. If the express words employed in a provision do not provide an appeal from a particular order, the court is bound to follow the express words. To put it otherwise, an appeal for its maintainability must have the clear authority of law and that explains why the right of appeal is described as a creature of statute. (See *Ganga Bai* v. *Vijay Kumar*[21], *Gujarat Agro Industries Co. Ltd.* v. *Municipal Corpn. of the City of Ahmedabad*[22], *State of Haryana* v. *Maruti Udyog Ltd.*[23], *Super Cassettes Industries Ltd.* v. *State of U.P.*[24], *Raj Kumar Shivhare* v. *Directorate of Enforcement*[25], *Competition Commission of India* v. *SAIL*[26].)"

In para 21, this Court further went on to hold that in case an order under Section 7-A speaks of delay in payment as well as interest, a composite order passed would be amenable to appeal under Section 7-I, as interest is only parasitic on the principal sum due under Section 7-A. However, if an independent order is passed under Section 7-Q for interest alone, the same was held to be not appealable.

**32.** From the above authorities, it is clear that an appeal is a creature of statute and an Appellate Tribunal has to act strictly within the domain prescribed by statute. It is obvious that an appeal would lie from an order or decision of the appellate authority under Section

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 31 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


28 of the Water Act to the NGT only under Section 33-B(*a*) of the Water Act read with Section 16(*a*) of the NGT Act. Similarly, an appeal would lie from an order or decision of the appellate authority under Section 31 of the Air Act to the NGT only under Section 31-B of the Air Act read with Section 16(*f*) of the NGT Act. Obviously, since no order or decision had been made by the appellate authority under either the Water Act or the Air Act, any direct appeal against an original order to the NGT would be incompetent. NGT's jurisdiction being strictly circumscribed by Section 33-B of the Water Act, read with Section 31-B of the Air Act, read with Sections 16(*a*) and (*f*) of the NGT Act, would make it clear that it is only orders or decisions of the appellate authority that are appealable, and not original orders. On the facts of the present case, it is clear that an appeal was pending before the appellate authority when the NGT set aside the original order dated 9-4-2018. This being the case, the NGT's order being clearly outside its statutory powers conferred by the Water Act, the Air Act, and the NGT Act, would be an order passed without jurisdiction.



**33.** In fact, in the United Kingdom, there are several Acts under which a leapfrog appeal is permitted if a point of law of general public importance is involved. Thus, the Administration of Justice Act, 1969 states that such a leapfrog appeal directly to the Supreme Court may be filed on grant of certificate by the trial Judge in the following terms:

"**12.** ***Grant of certificate by trial Judge***.—(1) Where on the application of any of the parties to any proceedings to which this section applies the Judge is satisfied—

(*a*) that the relevant conditions are fulfilled in relation to his decision in those proceedings or that the conditions in sub-section (3-A) ("the alternative conditions") are satisfied in relation to those proceedings, and

(*b*) that a sufficient case for an appeal to the Supreme Court under this Part of this Act has been made out to justify an application for leave to bring such an appeal, …

(*c*) * * *

the Judge, subject to the following provisions of this Part of this Act, may grant a certificate to that effect.

(2) This section applies to any civil proceedings in the High Court which are either—

(*a*) proceedings before a Single Judge of the High Court (including a person acting as such a Judge under Section 3 of the Judicature Act, 1925), or

(*b*) * * *

(*c*) proceedings before a Divisional Court.

(3) Subject to any Order in Council made under the following provisions of this section, for the purposes of this section the relevant conditions, in relation to a decision of the Judge in any proceedings, are that a point of law of general public importance is involved in that decision and that that point of law either—

(*a*) relates wholly or mainly to the construction of an enactment or of a statutory instrument, and has been fully argued in the proceedings and fully considered in the judgment of the Judge in the proceedings, or

(*b*) is one in respect of which the Judge is bound by a decision of the court of appeal or of the Supreme Court in previous proceedings, and was fully considered in the judgments given by the court of appeal or the Supreme Court (as the case may be) in those previous proceedings."

**34.** To similar effect are sections of the Tribunals, Courts and Enforcement Act, 2007, and the Employment Tribunals Act, 1996. Such appeals in the UK are referred to as

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 32 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


"leapfrog appeals" [see *S. Franses Ltd.* v. *Cavendish Hotel (London) Ltd.*[27], para 7].

**35.** It is, therefore, clear that no such provisions, as are contained in the UK Acts, being present in any of the Acts that we are concerned with, such leapfrog appeals to the NGT would necessarily be without jurisdiction.



**(II)** ***Re: Orders passed under Section 33-A of the Water Act and Section 31-A of the Air Act***

**36.** We have referred to the orders dated 12-4-2018, 23-5-2018, and 28-5-2018 passed by the TNPCB under Sections 33-A and 31-A of the Water Act and the Air Act respectively. At this juncture, it is important to state that Section 33-B of the Water Act and Section 31-B of the Air Act were both enacted on 18-10-2010, which is the very date on which the NGT Act came into force. What is important to note is that whereas Section 33-B(*c*) of the Water Act read with Section 16(*c*) of the NGT Act make it clear that directions issued under Section 33-A of the Water Act are appealable to the NGT, directions issued under Section 31-A of the Air Act are not so appealable. In fact, the statutory scheme is that directions given under Section 31-A of the Air Act are not appealable. This being the case, all the aforesaid orders, being composite orders issued under both the Water Act and the Air Act, it will not be possible to split the aforesaid orders and say that so far as they affect water pollution, they are appealable to the NGT, but so far as they affect air pollution, a suit or a writ petition would lie against such orders. Shri Sundaram's argument that these orders being substantially relatable to the Water Act would, therefore, not hold, as such orders are composite orders made *both* under the Water Act and the Air Act. Equally disingenuous is the reference to Section 14 of the NGT Act which only refers to the original jurisdiction of the NGT and not to its appellate jurisdiction. Also, to state generally that the subject-matter of environment lies with the NGT, is an argument of despair that must be dismissed for the reason that as held by us hereinabove, an appeal being a creature of statute, a statute either confers a right of appeal or it does not. In the present case, we have seen that so far as directions issued under Section 31-A of the Air Act are concerned, there is no right of appeal conferred by the Air Act read with the NGT Act. The ingenious argument made by Shri Sundaram that, in any case, a "direction" under Section 31-A of the Air Act is nothing but an "order", and would, therefore, be appealable as such under Section 31-B of the Air Act read with Section 16(*f*) of the NGT Act would drive a coach-and-four through the statutory scheme that has just been adverted to. We have seen how all the appellate proceedings to the NGT, whether under the Air Act, the Water Act, or the NGT Act have been brought into force on the same date. Whereas the identical power to give directions by the Board under the Water Act is appealable to the NGT, the same power to give directions by the Board under the Air Act is not so appealable. The absence of any mention of Section 31-A in Section 31-B of the Air Act, given the statutory scheme as aforesaid, makes it clear that even this argument must be rejected. Also, "directions" that are issued under Section 31-A of the Air Act are of a different quality from "orders" referred to in Section 31 of the same Act. Directions are issued in the exercise of powers and performance of functions under the Act and are not quasi-judicial in nature, whereas orders that are appealed against under Section 31 are quasi-judicial orders made, inter alia, under Section 21 of the Air Act. For this reason also, we cannot accept the aforesaid argument of Shri Sundaram. However, Shri Sundaram argued, with particular reference to

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 33 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


the Explanation to Section 31-A of the Air Act that "directions" partake of the nature of "orders" when closure of any particular industry or stoppage of supply of electricity qua any single industry is made, and therefore, such directions are appealable as orders under Section 31 of the Air Act. This argument is also of no avail as Section 33-A of the Water Act contains an identical explanation to that contained in Section 31-A of the Air Act. Despite this, the legislative scheme, as stated hereinabove, is that so far as directions under the Water Act are concerned, they are appealable, but so far as directions under the Air Act are concerned, they are not appealable. Hence, reference made to *P. Ramanatha Aiyar's Law Lexicon* and *Black's Law Dictionary*, which state that in certain circumstances, orders are also directions and vice versa, would not apply to the present case, given the express statutory scheme. In this connection, Shri Sundaram cited *Kanhiya Lal Omar* v. *R.K. Trivedi*[28], and relied upon para 17, where this Court held, referring to Article 324(1) of the Constitution of India, that a "direction" may be equated with a specific or a general order. The context of Article 324 being wholly different, it is obvious that this authority also has no application, given the statutory scheme in the present case.

**37.** Shri Sundaram then cited *Maharashtra State Board of Secondary and Higher Secondary Education* v. *Paritosh Bhupeshkumar Sheth*[29]. In this judgment, the High Court had struck down[30] Regulation 104 of the Maharashtra Secondary and Higher Secondary Boards Regulations, 1977, by which, no re-evaluation of an answer book given in an examination can be undertaken. In setting aside the High Court judgment, this Court stated that the process of re-evaluation of answer papers is extremely time-consuming, would involve several thousand man-hours, and is bound to throw the entire system out of gear. Further, it is in public interest that the results of public examinations, when published, should have some finality attached to them [see para 27]. It is in this context that this Court held: (SCC p. 57, para 29)

> "*29*. … It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice."

To bodily lift the aforesaid sentence and apply it to the fact situation here would be a huge leap which we are not prepared to make. Further, given the statutory scheme as aforesaid, it is not possible for us to provide *an appeal where there is none* in the guise of making an appellate system workable in practice.

**38.** Shri Sundaram then relied upon this Court's judgments in *Galada Power & Telecommunication Ltd.* v. *United India Insurance Co. Ltd.*[31] and



*Allokam Peddabbayya* v. *Allahabad Bank*[32] for the proposition that the right of appeal is a statutory right, and like all other statutory rights, it can be waived, unless its waiver is detrimental to public interest. The question in these appeals is not whether an appellant may waive a statutory right of appeal. The question is whether the NGT, which is only invested with the jurisdiction of entertaining an appeal from an order of an appellate authority, is jurisdictionally capable of entertaining an appeal directly from the original authority. It is clear, as has been held by us, that the NGT possesses no such jurisdiction.

**39.** One further argument was made that these matters are only procedural, and therefore, substantially, an appeal to the NGT would be maintainable. It is well settled that the right to appeal is not a procedural matter but a substantive one. In *Garikapati Veeraya* v. *N. Subbiah Choudhry*[33], this Court held: (SCR pp. 514-15: AIR p. 553, para 23)

> "*23*. From the decisions cited above, the following principles clearly emerge:
>
> (*i*) That the legal pursuit of a remedy, suit, appeal and second appeal are really but steps in a series of proceedings all connected by an intrinsic unity and are to be

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 34 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


regarded as one legal proceeding.

(*ii*) The right of appeal is not a mere matter of procedure but is a substantive right.

(*iii*) The institution of the suit carries with it the implication that all rights of appeal then in force are preserved to the parties thereto till the rest of the career of the suit.

(*iv*) The right of appeal is a vested right and such a right to enter the superior court accrues to the litigant and exists as on and from the date the lis commences and although it may be actually exercised when the adverse judgment is pronounced such right is to be governed by the law prevailing at the date of the institution of the suit or proceeding and not by the law that prevails at the date of its decision or at the date of the filing of the appeal.

(*v*) This vested right of appeal can be taken away only by a subsequent enactment, if it so provides expressly or by necessary intendment and not otherwise."

This argument must, therefore, be rejected.

**(III) *Re: Order passed under Section 18 of the Water Act***

**40.** So far as the order dated 28-5-2018 is concerned, this order is expressly stated to be made under Section 18 of the Water Act. There is no doubt whatsoever that such an order is not appealable to the NGT either under the Water Act or under the NGT Act. However, Shri Sundaram has argued that Section 18 is referable to orders generally made, and falls under Chapter IV of the Water Act, which deals with powers and functions of Boards, as opposed to



the sections that follow in Chapter V, which deals with prevention and control of water pollution, which orders are made against individuals and individual industries. On the assumption that Shri Sundaram is correct in this argument, it is clear that such order can only be set aside in a suit by a civil court, or under Article 226 of the Constitution of India by a High Court. It is not possible to agree with the argument of Shri Sundaram that such orders can be ignored, being non est. It is settled that an administrative order, when made, does not bear the brand of invalidity on its forehead, as has been held in *Smith* v. *East Elloe Rural District Council*[34], All ER p. 871, which has been followed by this Court in *State of Punjab* v. *Gurdev Singh*[35], SCC p. 6; *Tayabbhai M. Bagasarwalla* v. *Hind Rubber Industries (P) Ltd.*[36], SCC p. 455; *Pune Municipal Corpn.* v. *State of Maharashtra*[37], SCC p. 225; *Krishnadevi Malchand Kamathia* v. *Bombay Environmental Action Group*[38], SCC p. 369 and *Port of Kandla* v. *Hargovind Jasraj*[39], SCC p. 193. Therefore, this order can only be set aside either in a suit, or by the High Court in the exercise of judicial review. Faced with this, Shri Sundaram then argued that though the said order states that it is traceable to Section 18 of the Water Act, it can, in fact, be traced to Section 29 of the same Act. Section 29 deals with the revisional power, in which the State Government is to pass a quasi-judicial order after hearing both the State Board and the person who is affected. Quite obviously, this order is not a quasi-judicial order as the State Government has not found it necessary to hear either the State Board, or any person affected by such order. Further, such order does not purport to be an order which either affirms or sets aside any order made under Sections 25, 26, or 27 of the Water Act. This argument of despair, therefore, must also be rejected.

**41.** Shri Sundaram then argued that this Court in *L. Chandra Kumar*[10] made it clear that tribunals that are set up, generally have the power of judicial review, save and except a challenge to the vires of the legislation under which such tribunals are themselves set up. For this, he relied strongly upon paras 90 and 93 of the judgment in *L. Chandra*

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 35 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


*Kumar*[10]. It is important to notice that *L. Chandra Kumar*[10] pertained to a tribunal that was set up under Article 323-A of the Constitution of India. Under Article 323-A(2)(*d*), the Administrative Tribunal so set up would be able to exercise the jurisdiction of all courts except the jurisdiction of the Supreme Court under Article 136 of the Constitution. This would mean that the Administrative Tribunal so set up could exercise the jurisdiction of all High Courts when it came to the matters specified in Article 323-A. This is further made clear by a conjoint reading of Section 14 and Section 28 of the Administrative Tribunals Act, 1985, which read as follows:

Page: 520

"**14. *Jurisdiction, powers and authority of the Central Administrative Tribunal*.**—(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court) in relation to—

(*a*) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

(*b*) all service matters concerning—

(*i*) a member of any All-India Service; or

(*ii*) a person not being a member of an All-India Service or a person referred to in clause (*c*) appointed to any civil service of the Union or any civil post under the Union; or

(*iii*) a civilian not being a member of an All-India Service or a person referred to in clause (*c*) appointed to any defence services or a post connected with defence,

and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation or society owned or controlled by the Government;

(*c*) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (*ii*) or sub-clause (*iii*) of clause (*b*), being a person whose services have been placed by a State Government or any local or other authority or any corporation or society or other body, at the disposal of the Central Government for such appointment.

*Explanation*.—For the removal of doubts, it is hereby declared that references to "Union" in this sub-section shall be construed as including references also to a Union Territory.

(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations or societies owned or controlled by the Government, not being a local or other authority or corporation or society controlled or owned by a State Government:

Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations or societies.

(3) Save as otherwise expressly provided in this Act, the Central Administrative

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 36 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other



authority or corporation or society, all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court) in relation to—

(*a*) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation or society; and

(*b*) all service matters concerning a person other than a person referred to in clause (*a*) or clause (*b*) of sub-section (1) appointed to any service or post in connection with the affairs of such local or other authority or corporation or society and pertaining to the service of such person in connection with such affairs.

* * *

**28.** ***Exclusion of jurisdiction of courts except the Supreme Court under Article 136 of the Constitution***.—On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any service or post or service matters concerning members of any service or persons appointed to any service or post, no court except—

(*a*) the Supreme Court; or

(*b*) any Industrial Tribunal, Labour Court or other authority under the Industrial Disputes Act, 1947 or any other corresponding law for the time being in force,

shall have, or be entitled to exercise any jurisdiction, powers or authority in relation to such recruitment or matters concerning such recruitment or matters concerning such recruitment or such service matters."

Article 323-B of the Constitution of India also provides for tribunals for certain other matters which are specified by clause (2) thereof. Suffice it to say that the NGT is not a tribunal set up either under Article 323-A or Article 323-B of the Constitution, but is a statutory tribunal set up under the NGT Act. That such a tribunal does not exercise the jurisdiction of all courts except the Supreme Court is clear from a reading of Section 29 of the NGT Act. Thus, a conjoint reading of Section 14 and Section 29 of the NGT Act must be contrasted with a conjoint reading of Section 14 and Section 28 of the Administrative Tribunals Act, 1985.

**42.** It is in the context of Article 323-A and the Administrative Tribunals Act, 1985 that this Court in *L. Chandra Kumar*[10] has observed in para 93 as follows: (SCC pp. 308-09)

"*93*. Before moving on to other aspects, we may summarise our conclusions on the jurisdictional powers of these Tribunals. The Tribunals are competent to hear matters where the vires of statutory provisions are questioned. However, in discharging this duty, they cannot act as substitutes



for the High Courts and the Supreme Court which have, under our constitutional set-up, been specifically entrusted with such an obligation. Their function in this respect is only supplementary and all such decisions of the Tribunals will be subject to scrutiny before a Division Bench of the respective High Courts. The Tribunals will consequently also have the power to test the vires of subordinate legislations and rules. However, this power of the Tribunals will be subject to one important exception. The Tribunals shall not entertain any question regarding the vires of their parent statutes following the settled principle that a

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 37 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


Tribunal which is a creature of an Act cannot declare that very Act to be unconstitutional. In such cases alone, the High Court concerned may be approached directly. All other decisions of these Tribunals, rendered in cases that they are specifically empowered to adjudicate upon by virtue of their parent statutes, will also be subject to scrutiny before a Division Bench of their respective High Courts. We may add that the Tribunals will, however, continue to act as the only courts of first instance in respect of the areas of law for which they have been constituted. By this, we mean that it will not be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except, as mentioned, where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned."

**43.** In *BSNL* v. *TRAI*[40] ["*BSNL*"], this Court had to construe the appellate power that is contained in Section 14 of the Telecom Regulatory Authority of India Act, 1997, by which, the TDSAT was conferred with the power to hear and dispose of appeals against any direction, decision, or order of the TRAI. In this context, after distinguishing the judgment in *L. Chandra Kumar*[10], this Court held: (*BSNL case*[40], SCC pp. 293, 297 & 303-04, paras 108, 114 & 123-24)

> "*108*. Before the 2000 Amendment, the applications were required to be filed under Section 15 which also contained detailed procedure for deciding the same. While sub-section (2) of Section 15 used the word "orders", sub-sections (3) and (4) thereof used the word "decision". In terms of sub-section (5), the orders and directions of TRAI were treated as binding on the service providers, Government and all other persons concerned. Section 18 provided for an appeal against any decision or order of TRAI. Such an appeal could be filed before the High Court. The amendment made in 2000 is intended to vest the original jurisdiction of TRAI in TDSAT and the same is achieved by Section 14(*a*). The appellate jurisdiction exercisable by the High Court is also vested in TDSAT by virtue of Section 14(*b*) but this does not include decision made by TRAI. Section 14-N provides for transfer to all appeals pending before the High Court to TDSAT and in terms of clause (*b*) of sub-section (2), TDSAT was required to proceed to deal with the appeal from the stage which was reached before such transfer or from any earlier stage or de novo as



considered appropriate by it. Since the High Court while hearing appeal did not have the power of judicial review of subordinate legislation, the transferee adjudicatory forum i.e. TDSAT cannot exercise that power under Section 14(*b*).

* * *

> *114*. … From the above-extracted portion of the order it is evident that the Bench, which decided the matter, felt that the view taken by TDSAT would encourage rampant violation of the orders without any penal consequence and the entire scheme of the TRAI Act would become unworkable. The word "directions" used in Section 29 of the TRAI Act was interpreted to include orders and regulations in the context of the factual matrix of that case and the apprehension of the Court that Section 29 would otherwise become unworkable, but the same cannot be read as laying down a proposition of law that the words "direction", "decision" or "order" used in Section 14(*b*) would include regulations framed under Section 36, which are in the nature of subordinate legislation.

* * *

> *123*. In *Union of India* v. *Madras Bar Assn.*[41] and *State of Gujarat* v. *Gujarat Revenue Tribunal Bar Assn.*[42], this Court applied the principles laid down in *L. Chandra Kumar case*[10] and reiterated the importance of tribunals created for resolution of disputes but these judgments too have no bearing on the decision of the question formulated before

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 38 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


us.

*124*. In the result, the question framed by the Court is answered in the following terms: in exercise of the power vested in it under Section 14(*b*) of the TRAI Act, TDSAT does not have the jurisdiction to entertain the challenge to the regulations framed by TRAI under Section 36 of the TRAI Act."

In the present case, it is clear that Section 16 of the NGT Act is cast in terms that are similar to Section 14(*b*) of the Telecom Regulatory Authority of India Act, 1997, in that appeals are against the orders, decisions, directions, or determinations made under the various Acts mentioned in Section 16. It is clear, therefore, that under the NGT Act, the Tribunal exercising appellate jurisdiction cannot strike down rules or regulations made under this Act. Therefore, it would be fallacious to state that the Tribunal has powers of judicial review akin to that of a High Court exercising constitutional powers under Article 226 of the Constitution of India. We must never forget the distinction between a superior court of record and courts of limited jurisdiction that was, in the felicitous language of Gajendragadkar, C.J., in *Powers, Privileges and Immunities of State Legislatures, In re*[43], made in the following words: (SCR p. 499: AIR p. 789, para 138)

Page: 524

"*138*. We ought to make it clear that we are dealing with the question of jurisdiction and are not concerned with the propriety or reasonableness of the exercise of such jurisdiction. Besides, in the case of a superior court of record, it is for the court to consider whether any matter falls within its jurisdiction or not. Unlike a court of limited jurisdiction, the superior court is entitled to determine for itself questions about its own jurisdiction.

'Prima facie', says Halsbury, 'no matter is deemed to be beyond the jurisdiction of a superior court unless it is expressly shown to be so, while nothing is within the jurisdiction of an inferior court unless it is expressly shown on the face of the proceedings that the particular matter is within the cognizance of the particular court[44]'. "

For this reason also, we are of the view that the State Government order made under Section 18 of the Water Act, not being the subject-matter of any appeal under Section 16 of the NGT Act, cannot be "judicially reviewed" by the NGT. Following the judgment in *BSNL*[40], we are of the view that the NGT has no general power of judicial review akin to that vested under Article 226 of the Constitution of India possessed by the High Courts of this country. Shri Sundaram's strong reliance on the NGT judgment dated 17-7-2014 in *Wilfred J.* v. *Ministry of Environment & Forests*[45] must also be rejected as this NGT judgment does not state the law on this aspect correctly. This contention is also without merit, and therefore, rejected.

**44.** Shri Sundaram then argued that, in any case, this order is an order made by the State Government against the TNPCB, and is therefore, a direction to the TNPCB and not a direction to his client. If this were so, and the order had no effect on his client, there would have been no necessity to file an appeal before the NGT against such order. We have seen, however, that this order has been challenged on merits by the respondent before the NGT. To then say that this order which is challenged would be defended on certain grounds, as a result of which, the NGT then gets vested with the jurisdiction to decide the same, is again to put the cart before the horse. It is clear that no appeal is provided against orders made under Section 18 of the Water Act, and the attempt to bring the NGT in by the backdoor, as it were, would, therefore, have to be rejected. Also, to argue that as against a writ court acting under Article 226 of the Constitution of India, the NGT is an expert body set up only to deal with environmental matters, again does not

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 39 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


answer the specific issue before this Court. As we have held earlier, an appeal being a creature of statute, an order passed under Section 18 of the Water Act is either appealable or it is not. If it is not, no general argument as to the NGT being an expert body set up to hear environmental matters can be of any help.



**45.** Equally, so far as the order dated 8-8-2013[2] is concerned, we have seen how the NGT stated that the doctrine of necessity would take over if an appellate authority under the Act is not properly constituted so that no appeal can then be effectively preferred. This, again, is an argument that cannot be countenanced. If an appellate authority is either not yet constituted, or not properly constituted, a leapfrog appeal to the NGT cannot be countenanced. As has been held by us supra, the NGT is only conferred appellate jurisdiction from an order passed in exercise of first appeal. Where there is no such order, the NGT has no jurisdiction.

**46.** In conclusion, we are cognizant of the fact that the respondent's plant has been shut down since 9-4-2018. Since we have set aside the impugned judgments of the NGT on the ground of maintainability, the order dated 22-1-2019 passed by the TNPCB, being a consequential order, is also set aside. The respondents are relegated to the position that the six orders impugned before the NGT, dealt with by the impugned judgment dated 15-12-2018[3] and the order dated 29-3-2013, dealt with by the final judgment dated 8-8-2013[2], are alive and operative. Given the fact that we are setting aside the NGT judgments involved in these appeals on the ground of maintainability, we state that it will be open for the respondents to file a writ petition in the High Court against all the aforesaid orders. If such writ petition is filed, it will be open for the respondent to apply for interim reliefs considering that their plant has been shut down since 9-4-2018. Also, since their plant has been so shut down for a long period, and they are exporting a product which is an important import substitute, the respondent may apply to the Chief Justice of the High Court for expeditious hearing of the writ petition, which will be disposed of on merits notwithstanding the availability of an alternative remedy in the case of challenge to the 9-4-2018 order of the TNPCB. The appeals are disposed of accordingly.

———

† Arising from the Judgment and Order in *Sterlite Industries (India) Ltd.* v. *T.N. Pollution Control Board*, 2013 SCC OnLine NGT 1886 (National Green Tribunal, Principal Bench at New Delhi, Appeal No. 57 of 2013, dt. 31-5-2013); *Sterlite Industries (India) Ltd.* v. *T.N. Pollution Control Board*, 2013 SCC OnLine NGT 68 (National Green Tribunal, Appeal No. 57 of 2013, dt. 8-8-2013)

‡ Arising from the Judgment and Order in *Vedanta Ltd.* v. *State of T.N.*, 2018 SCC OnLine NGT 1239 (National Green Tribunal, Appeal No. 87 of 2018, dt. 15-12-2018)

[1] *Sterlite Industries (India) Ltd.* v. *T.N. Pollution Control Board*, 2013 SCC OnLine NGT 1886

[2] *Sterlite Industries (India) Ltd.* v. *T.N. Pollution Control Board*, 2013 SCC OnLine NGT 68

[3] *Vedanta Ltd.* v. *State of T.N.*, 2018 SCC OnLine NGT 1239

[4] *National Trust for Clean Environment* v. *Union of India*, 2010 SCC OnLine Mad 6495

[5] *Vedanta Ltd.* v. *Inspector General of Police*, 2018 SCC OnLine Mad 10223

[6] *State of T.N.* v. *Vedanta Ltd.*, 2018 SCC OnLine SC 3334

[7] *Vedanta Ltd.* v. *State of T.N.*, 2018 SCC OnLine NGT 1238

[8] *State of T.N.* v. *Vedanta Ltd.*, 2018 SCC OnLine SC 3335

[9] *State of T.N.* v. *Vedanta Ltd.*, 2018 SCC OnLine SC 3337

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 40 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


[10] *L. Chandra Kumar* v. *Union of India*, (1997) 3 SCC 261 : 1997 SCC (L&S) 577

[11] *Manohar Lal* v. *Ugrasen*, (2010) 11 SCC 557 : (2010) 4 SCC (Civ) 524

[12] *Edukanti Kistamma* v. *S. Venkatareddy*, (2010) 1 SCC 756 : (2010) 1 SCC (Civ) 244

[13] *Kundur Rudrappa* v. *Mysore Revenue Appellate Tribunal*, (1975) 2 SCC 411

[14] *Kundur Rudrappa* v. *Mysore Revenue Appellate Tribunal*, 1973 SCC OnLine Kar 47 : ILR 1973 Mys 281

[15] *Cellular Operators Assn. of India* v. *Union of India*, (2003) 3 SCC 186

[16] *Cellular Operators Assn. of India* v. *Union of India*, 2002 SCC OnLine TDSAT 9

[17] *B. Himmatlal Agrawal* v. *Competition Commission of India*, (2018) 17 SCC 421

[18] *Raja Soap Factory* v. *S.P. Shantharaj*, (1965) 2 SCR 800 : AIR 1965 SC 1449

[19] *Northern Plastics Ltd.* v. *Hindustan Photo Films Mfg. Co. Ltd.*, (1997) 4 SCC 452

[20] *Arcot Textile Mills Ltd.* v. *Regl. Provident Fund Commr.*, (2013) 16 SCC 1 : (2014) 3 SCC (L&S) 358

[21] *Ganga Bai* v. *Vijay Kumar*, (1974) 2 SCC 393

[22] *Gujarat Agro Industries Co. Ltd.* v. *Municipal Corpn. of the City of Ahmedabad*, (1999) 4 SCC 468 : 1994 SCC (L&S) 993

[23] *State of Haryana* v. *Maruti Udyog Ltd.*, (2000) 7 SCC 348

[24] *Super Cassettes Industries Ltd.* v. *State of U.P.*, (2009) 10 SCC 531 : (2009) 4 SCC (Civ) 280

[25] *Raj Kumar Shivhare* v. *Directorate of Enforcement*, (2010) 4 SCC 772 : (2010) 3 SCC (Civ) 712

[26] *Competition Commission of India* v. *SAIL*, (2010) 10 SCC 744

[27] *S. Franses Ltd.* v. *Cavendish Hotel (London) Ltd.*, (2018) 3 WLR 1952 : 2018 UKSC 62

[28] *Kanhiya Lal Omar* v. *R.K. Trivedi*, (1985) 4 SCC 628

[29] *Maharashtra State Board of Secondary and Higher Secondary Education* v. *Paritosh Bhupeshkumar Sheth*, (1984) 4 SCC 27

[30] *Paritosh Bhupeshkumar Sheth* v. *Maharashtra State Board of Secondary and Higher Secondary Education*, 1980 SCC OnLine Bom 148 : 1981 Mah LJ 587

[31] *Galada Power & Telecommunication Ltd.* v. *United India Insurance Co. Ltd.*, (2016) 14 SCC 161 : (2017) 2 SCC (Civ) 765

[32] *Allokam Peddabbayya* v. *Allahabad Bank*, (2017) 8 SCC 272 : (2017) 4 SCC (Civ) 62

[33] *Garikapati Veeraya* v. *N. Subbiah Choudhry*, 1957 SCR 488 : AIR 1957 SC 540

[34] *Smith* v. *East Elloe Rural District Council*, 1956 AC 736 : (1956) 2 WLR 888 : (1956) 1 All ER 855 (HL)

[35] *State of Punjab* v. *Gurdev Singh*, (1991) 4 SCC 1 : 1991 SCC (L&S) 1082

[36] *Tayabbhai M. Bagasarwalla* v. *Hind Rubber Industries (P) Ltd.*, (1997) 3 SCC 443

[37] *Pune Municipal Corpn.* v. *State of Maharashtra*, (2007) 5 SCC 211

[38] *Krishnadevi Malchand Kamathia* v. *Bombay Environmental Action Group*, (2011) 3 SCC 363

[39] *Port of Kandla* v. *Hargovind Jasraj*, (2013) 3 SCC 182 : (2013) 2 SCC (Civ) 1

[40] *BSNL* v. *TRAI*, (2014) 3 SCC 222

[41] *Union of India* v. *Madras Bar Assn.*, (2010) 11 SCC 1

[42] *State of Gujarat* v. *Gujarat Revenue Tribunal Bar Assn.*, (2012) 10 SCC 353 : (2012) 4 SCC (Civ) 1229 : (2013) 1 SCC (Cri) 35 : (2013) 1 SCC (L&S) 56

[43] *Powers, Privileges and Immunities of State Legislatures, In re*, (1965) 1 SCR 413 : AIR 1965 SC 745

[44] *Halsbury's Laws of England*, Vol. 9, p. 349

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 41 Tuesday, December 05, 2023
Printed For: Mr. Rahul Garg MGK Legal
SCC Online Web Edition: https://www.scconline.com/
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.


[45] *Wilfred J.* v. *Ministry of Environment & Forests*, 2014 SCC OnLine NGT 6860

**Disclaimer:** While every effort is made to avoid any mistake or omission, this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification. All disputes will be subject exclusively to jurisdiction of courts, tribunals and forums at Lucknow only. The authenticity of this text must be verified from the original source.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.93 OF 2009

Deepak Balkrishna Vahikar and another Petitioners
versus
The State of Maharashtra and others Respondents

Mr.R.B.Paranjpe with Mr.Vishal V. Kale and Mr.J.D.Khairnar for Petitioners.

Mr.A.B.Vagyani, AGP with Mr.P.B.Darandale, Assistant to G.P. for Respondent State.

Mr.A.A.Kumbhakoni with Dr.Sadhana Mahashabde and Mr.A.P.Kulkarni for Respondents 2 and 3.

Mr.Sunil B. Limaye, Director of Sanjay Gandhi National Park and Professor Jitendra Shah, Research Scientist, GIC, IIT Mumbai are present.

CORAM : DR.D.Y.CHANDRACHUD AND
M.S.SONAK, JJ.

DATE : 20 September 2013

JUDGMENT (PER : DR.D.Y.CHANDRACHUD, J.) :

1. The present Public Interest Litigation has been instituted for the effective implementation of the provisions of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975. In exercise of the powers conferred by the Act, the State Government has framed the Maharashtra (Urban Areas) Protection and Preservation of Trees Rules, 2009.

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


2. The city of Pune covers an area of 243.48 square kilometers. The city has expanded in the last several decades by leaps and bounds resulting in a reduction in the green cover. As the population has expanded, unregulated development has resulted in a rapid deterioration of green areas in the city. The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (`the Act') provides for the establishment of a Tree Authority in Section 3. The Tree Authority is to consist of a Chairperson who is to be the Commissioner of the Municipal Corporation and not less than five and not more than fifteen persons from amongst members of the Urban Local Authority. Sub-section 3 of Section 3 provides for the nomination of representatives of civil society organizations with a special knowledge or expertise in the planning and preservation of trees. Section 3(3) provides as follows :

> "3. Establishment of Tree Authority :
>
> (1) ... ... ...
> (2) ... ... ...
> (3) Every Tree Authority may nominate representatives of non-official organizations, who have special knowledge or practical experience in the field of planting and preservation of trees, as members of the Tree Authority, but the number of such nominated members shall not exceed the number of members appointed under sub-section (1). These members shall be nominated in such manner and for such period as may be prescribed"

Presently thirteen Corporators have been nominated as members of the tree authority. There is no representative of any non-governmental

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


organization. There is one tree officer who has been appointed in exercise of the powers conferred by Section 5(1). Section 5(1) empowers an urban local authority to appoint one or more of its officers as tree officers. A tree officer, in the case of Pune Municipal Corporation (`PMC') is a Garden Superintendent. There is one Chief Garden Superintendent who is assisted by one Garden Superintendent and it is proposed to enhance the strength of the latter to two. There are two Assistant Garden Superintendents, four Supervisors and four hundred workmen. The number of Supervisors is proposed to be increased to eight, the number of Horticulture Mistries is proposed to be increased to forty seven, Malis to one hundred and thirty six and the workmen to five hundred and fifty. A proposal has been sent to the State Government for sanction. The area of the PMC is for the purposes of administrative convenience bifurcated into four zones and each one is headed by a Zonal Commissioner of the rank of Deputy Municipal Commissioner. There are seventy six electoral wards which are administered by fifteen ward offices headed by an officer of the rank of Assistant Municipal Commissioner.

3. Section 7 of the Act defines the duties of the Tree Authority as follows :

> "7. Duties of Tree Authority : Notwithstanding anything contained in the relevant Act or in any other law for the time being in force, and subject to any special or general directions given by the State Government, the Tree Authority shall be responsible for:
>
> (a) protection and preservation of all trees in all lands within its jurisdiction;

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


(b) carrying out a census of the existing trees in all lands within its jurisdiction once before December 1996 and thereafter once in every five years;
(c) prescribing standards specifying the number and types of trees which each plot of land shall have and which shall be planted therein;
(d) development and maintenance of nurseries for the supply of seeds, sapplings and trees to persons who desire to plant new trees or to replace trees which have been felled with the previous permission of the Tree Officer or involuntarily uprooted;
(e) transplanting of trees necessitated by construction of new roads or widening of existing roads or for safeguarding danger to life or property;
(f) organization of flower, fruit, vegetable, tree or plant shows at least once a year and assisting private and public institutions in organizing such shows, and creation of consciousness of importance of trees and vegetation to the human welfare;
(g) grant of advice and technical assistance to any person seeking such advice or assistance in any matter connected with planting, protection and preservation of trees;
(h) planting and maintaining such number of trees as it considers necessary, according to the prescribed standards along the roads in public parks and gardens and on banks of rivers or lakes or sea shores, on hills, open spaces or public places;
(i) undertaking any other schemes or measures for achieving the objects of this Act."

4. Section 8 stipulates that on and after the date on which the Act is brought into force in any urban area, notwithstanding any custom, usage, contract or law for the time being in force, no person shall fell any tree or cause any tree to be felled in any land, whether of his ownership or otherwise, situated within that urban area, except with the previous permission of the Tree Officer. Under sub-section 2 of

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


Section 8, an application for the felling of a tree has to be submitted to the Tree Authority and must be accompanied by the description of the tree and a site plan indicating the position of the tree required to be felled and the reasons for felling. Under sub-section 3, on receipt of an application, the Tree Officer has to cause the tree to be personally inspected and after holding an inquiry to submit a report to the Tree Authority within a period of thirty days from the receipt of an application. The Tree Officer has to give a public notice in the newspapers and to affix a notice on a conspicuous part of the tree which has to be felled. Thereafter the Tree Authority is vested with the discretion to give permission with or without conditions or to refuse permission within a period of sixty days from the date of receipt of an application. However, no tree is to be felled until fifteen days elapse after the permission is given. The proviso to sub-section 3(a) stipulates that no permission is to be refused if in the opinion of the Tree Authority, a tree is dead, deceased or windfallen, or constitutes a danger to life or property, or obstructs traffic. Sub-section 4 of Section 8 contains a deeming provision under which if the Tree Authority fails to inform the applicant of its decision within sixty days from the receipt of an application, or if the receipt of application is acknowledged within that period from the date of acknowledgement of the receipt of the application, the permission applied for shall be deemed to have been granted.

Section 9 empowers the Tree Officer to require the owner/ occupier of the land concerned to plant adequate number of trees, as prescribed under Section 7(c) of the Act. Similarly, under Section 10,

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


the Tree Officer has authority of planting a tree in place of a tree which has fallen or has been destroyed. Section 11 stipulates that where any order is made under Sections 8, 9 or 10, it shall be the duty of the owner or the occupier of the land who is directed to plant a tree, to see that the tree grows properly and is well preserved and shall give a report to the Tree Officer once in six months about the conditions of such tree or trees for a period of three years. Section 12 allows the Tree Officer to permit an individual, body corporate or an institution to adopt any tree for a specified period.

5. Section 19 of the Act requires approval of the Tree Officer before permission is granted for the development of land by the urban local authority. Section 19 also imposes a condition to the effect that a completion or occupation certificate in respect of a building shall not be issued unless the authority competent to issue the certificate is satisfied that the condition subject to which the permission for development of the land was given, has been complied with. Section 19 provides as follows :

> "19. Permission for development of land to be given with approval of Tree Officer : Notwithstanding anything contained in the relevant law or any other law for the time being in force :
>
> (a) any authority or officer of the urban local authority, who is empowered to give any permission for development of land, shall not give such permission, except with the approval of and subject to the conditions, if any, imposed by the Tree Officer in regard to the preservation or plantation of trees on such land;

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


> (b) no completion or occupation certificate in respect of any building shall be issued under the relevant law unless the authority competent to issue such certificate is satisfied that the conditions subject to which permission for development of the land as aforesaid was given have been complied with."

6. Section 7(b) requires the carrying out of a census of the existing trees in all lands within the jurisdiction of the authority, once before December-1996 and thereafter once in every five years. Rule 6 requires the Tree Authority to carry out the census of the existing trees within its jurisdiction in Form-A appended to the Rules.

7. Rule 3 stipulates that for being nominated as a representative of non-official organizations on the Tree Authority, a person shall be an active member of a non-official organization registered with the Social Forestry Department of the Government and shall have an interest in tree plantation, tree preservation, tree protection etc. and shall possess a rich experience of at least five years in the field.

8. After the petition was filed before this Court, interim orders were passed from time to time for regulating the felling and cutting of the trees. By an order dated 6 May 2009, a Division Bench of this Court consisting of J.N.Patel and Mrs.Mridula Bhatkar, JJ. issued an ad-interim direction to the Municipal Corporation not to permit felling or cutting of trees within municipal limits without the approval of the Court. Thereafter several orders have been passed by the Court regulating the felling of the trees subject to conditions imposed by the Court. These orders have regulated the felling, cutting and

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


transplantation of trees within the municipal limits of PMC. The procedure which is followed during the pendency of this petition for dealing with applications, may now be elucidated. An application for felling, cutting or transplantation of the trees is initially processed by the PMC after site visit. An expert committee has been appointed by the PMC and the members of the committee physically inspect the trees in issue and make a recommendation. After receipt of the report of the expert committee, a public notice is issued calling for objections from the general pubic and a notice is pasted on the tree concerned. Objections, if any, are entertained upon which a docket is prepared in respect of every application. This is then placed before the Tree Authority and is also uploaded on the website of PMC. Each applicant has thereafter submitted Civil Applications before this Court, in which orders have been passed. Once an order has been passed by this Court, the Tree Officer or, as the case may be, the Garden Superintendent issues a conditional permission upon due verification of compliance of the conditions imposed by the Court. The Court has been informed that undertakings furnished by the Applicants have been periodically verified by the Tree Officer or the Garden Superintendent. During the course of the last verification carried out by the PMC, notices have been issued in 177 cases. It has been found that undertakings in 94 cases have been complied with whereas a breach has been committed in 83 cases. The Tree Officer/Garden Superintendent is taking follow-up action where a breach has been found. During the pendency of this PIL and as and when interim orders were passed, the Court has, broadly speaking, required each Applicant seeking felling of trees, to plant new trees in

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


the proportion of 1:3. The conditions which have been stipulated by the Court required the following compliance :

(i) In compliance with the report of the expert committee, three new trees shall be planted for every existing tree to be felled;

(ii) The trees to be planted shall be of local species;

(iii) A plan shall be annexed to the undertaking earmarking the places at which the trees shall be replanted;

(iv) The name of the person/agency which shall carry out the plantation is to be indicated;

(v) The trees which are to be replanted shall not be small saplings, but shall be half grown trees of a sufficient growth which shall ensure their survival;

(vi) The Applicant shall continue to maintain the aforesaid trees after plantation or, as the case may be, uprooting of the trees;

(vii) The Applicant shall not use or develop the property on which the plantation is to be done, in such a manner which will adversely affect the growth or survival of the trees planted/ transplanted thereon; and

(viii) The work of transplantation shall be done by an agency

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


to be nominated by the Garden Superintendent of the Pune Municipal Corporation or the Deputy Municipal Commissioner concerned and subject to the due supervision of the Garden Superintendent or the Deputy Municipal Commissioner who shall personally verify as to whether the transplantation has been carried out properly with a view to ensuring the survival of the tree or the trees, as the case may be.

9. By an order dated 16 September 2010 this Court directed the PMC to file a comprehensive affidavit in relation to the issues raised in this PIL. The PMC filed its affidavit-in-reply. During the course of the hearing the Court directed PMC to submit a comprehensive scheme for effectively implementing the provisions of the Act and the Rules. A draft scheme has been prepared by PMC which has been improved upon from time to time having due regard to the suggestions which have been received, inter alia, from the parties to the litigation. A final version of the scheme approved by the PMC has been presented to the Court. Before we deal with the salient aspects of the scheme, it will be necessary for the Court to refer to certain issues which have arisen during the course of the proceedings.

10. As noted earlier, Section 8(4) of the Act contains a deeming provision under which permission is deemed to have been granted, where the Tree Authority fails to inform the Applicant of its decision within sixty days of the receipt of an application. In view of this deeming provision, it is mandatory for the Tree Authority to take a decision in respect of every application within the stipulated period. However, it has been pointed out by the PMC before the Court that

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


the experience is that the members of the Tree Authority fail to take a decision within the stipulated period of sixty days “for reasons that need not be mentioned”. Evidently, members of the Tree Authority (which consists of municipal corporators), delay decisions on applications for felling, cutting or transplantation of trees for extraneous reasons so that once the period of sixty days has elapsed, a fait accompli is presented and the application is deemed to have been granted. This is, in the view of the Court, is a sorry state of affairs. The Tree Authority is not an authority that has been constituted for the destruction of trees. The primary object of the Tree Authority is to ensure the preservation and protection of the trees, the plantation of trees and the enhancement of the tree cover. Evidently, however, this purpose has been defeated. The object of the Act has been defeated by the failure of the PMC to co-opt members of civil society on the Tree Authority. The object underlying the provisions of Section 3(3) is that civil society organizations with special knowledge or practical expertise in the preservation of trees, should be co-opted as non-official representatives. It is an unfortunate reflection on the state of affairs in the PMC that not a single non-official organization has been co-opted in the Tree Authority at present. In consequence, the entire work of the Tree Authority is manned by municipal corporators. The applications are not disposed of within the statutory period of sixty days with the result that a developer goes scot-free and can destroy trees virtually at will. Such a state of affairs needs urgent remedial attention by the Court. Article 21 of the Constitution which recognizes the right to live, it is well settled, includes the right to a clean and healthy environment. The protection of the environment is

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


a fundamental duty under Article 51(A)(d) of the Constitution. Our jurisprudence has now been expanded to incorporate the principles of sustainable development. Sustainable development seeks to draw a balance between the needs of development in the present with the need to preserve and protect the environment in the interests of future generations. The doctrine of public trust recognizes that the environment should be protected for future generations. Legislation, such as the Trees Act, must, therefore, be interpreted by the Court consistent with the need to ensure sustainable development so that the green cover in urban agglomerations of the State, is not destroyed by rapacious development motivated by human greed.

11. Section 8(4) provides for a deeming permission. But it is equally well settled that where a statutory provision stipulates that an application would be deemed to be granted after a stipulated period, it must, be complete in all respects and must comply with the law. The legislature could not possibly have intended a deeming provision to apply even though a legal obligation is not fulfilled. We also take serious note of the failure of the members of the Tree Authority to dispose of applications within the stipulated period of sixty days. We hereby place the members of the Tree Authority on notice that they shall follow the mandate of the law and take a decision on each application within a period of sixty days, failing which they shall invite an action in exercise of the contempt jurisdiction of this Court, if such dereliction is brought to the notice of the Court.

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


12. Section19 of the Act which is a non-obstante provision, makes it clear that permission for the development of land shall not be given except with the approval of and subject to the conditions imposed by the Tree Officer or the Garden Superintendent in regard to the preservation or plantation of trees on such lands. The provision also stipulates that no completion certificate in respect of a building shall be issued unless the authority competent to issue such a certificate is satisfied that the conditions subject to which permission for development was given have been complied with. In view of these mandatory provisions, the Building Department of the PMC must not issue either a completion or occupation certificate in respect of any building constructed in pursuance of permission for development without the previous approval and sanction of the Tree Officer or, as the case may be, the Garden Superintendent. It has become necessary for the Court to issue these directions since the Building Department of the PMC has issued a circular on 20 December 2011 stating that there is no need to obtain permission/clearance from the Garden Department and that it is for the Building Permission Department to verify the requirements of plantation of trees while granting a completion or occupation certificate. We clarify that though the grant of a completion or occupation certificate lies within the jurisdiction of the Building Permission Department, the issue as to whether the requirements of the Trees Act have been duly fulfilled, is a matter which must fall within the jurisdiction of the Tree Authority or, as the case may be, the Tree Officer/Garden Superintendent. Hence, before granting a completion or occupation certificate, prior approval of the Tree Authority must be obtained.

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


13. Another dubious method which has recently been followed by developers and builders, is for developing agricultural lands, where a number of trees are situated. An agriculturist applies for permission to remove the trees on the ground that he or she intends to use the land for agricultural purposes, some times for ostensibly converting the use from Horticulture to Agriculture. After obtaining permission for cutting and felling of trees on such grounds, which is generally granted, trees in huge numbers are cut and the land is levelled. Thereafter instead of using the land for agricultural operations, permission is obtained from the Collector for conversion of land from agriculture to non-agriculture. As a result, the builder or developer who is the architect of these dubious methods, puts up plans before PMC seeking building permission. In order to obviate such instances, we are of the view that an undertaking must be taken by the Tree Officer before permission is granted to an Applicant for cutting or felling of trees. The undertaking must specify that upon the grant of permission for cutting or, as the case may be, for felling of trees, the land shall be utilized strictly for agricultural, or as the case may be, horticulture purposes for a stipulated period of at least three years, and any breach or deviation therefrom shall invite a penal consequence under Section 21 of the Act. The Tree Authority shall take necessary action in accordance with these directions for curbing such instances of mischief.

14. Section 7(b) stipulates that one of the duties of the Tree Authority is to carry out a census of the existing trees in all the lands

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


situated within its jurisdiction. The first census was to be carried out before December-1996 while each subsequent census is to take place once every five years thereafter. In the case of PMC, the last census was initiated in 2007 and took six years for completion in 2013. According to the PMC, this delay took place principally because of the non co-operation of the contractor appointed for the purpose of conducting the census through a tendering process as well as because of the non co-operation of private citizens. During the course of the hearing the Court passed two orders on 29 January 2013 and 21 March 2013. By those orders the PMC was directed to forward copies of the draft scheme prepared for the effective implementation of the Act and Rules to the Chief Conservator of Forests and to the Director of Sanjay Gandhi National Park for their expert suggestions. Accordingly, PMC forwarded copies of the draft scheme and conducted meetings with Mr.Sunil Bhalchandra Limaye, the Director of Sanjay Gandhi National Park and Professor Jitendra Shah, Research Scientist, GIC Lab, IIT, Mumbai. The Court expresses its appreciation to Mr.Limaye and Mr.Shah for their able assistance to the Court by spending time apart from their official duties. These experts were assisted in their work by Mr.Rajendra Jagtap, the Deputy Municipal Commissioner. The Court also expresses its appreciation for his able assistance.

15. The assistance of the experts has been obtained for ascertaining whether a census of trees can be carried out in future by utilizing modern technology and in particular with the help of Radio Frequency Identification Devices (RFID). The modalities which were

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


used by the PMC for carrying out the census of the trees were largely manual without the aid of modern technology and hence it became necessary to allow these experts to consider measures to adopt modern technology for managing the trees and the green cover. During the course of the meeting between the PMC and the experts referred to above, a conclusion was arrived at that an effective census of trees can be carried out by utilizing the process of geo tagging. By the process of geo-tagging (additional geographical identification meta-data to various media such as geo-tag photograph or media) the latitude and longitude of every tree in an urban agglomeration can be verified, documented and preserved. In the process, a photograph of every individual tree is taken, which is automatically tagged to the Global Positioning System (`GPS'). During the course of the hearing, this Court had observed that PMC can take a lead role in the State of Maharashtra for developing a Geographical Information System (`GIS') based system which includes as its components geo-tagging and the creation of a data base for effective mapping and enumeration of trees.

16. In pursuance of the directions which were issued by the Court, the PMC set up a panel consisting of Professor Jitendra Shah of IIT, Mumbai and the Director of Sanjay Gandhi National Park Mr.Sunil Limaye together with the Additional Municipal Commissioner. A pilot project utilizing geo-tagging was carried out for the census of trees. The pilot project was carried out in four electoral constituencies of Pune city. A comprehensive report on the pilot project emphasizing public participation, has been submitted on 17 September 2013. In addition to the pilot project conducted by the

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


Expert Committee, the PMC had also entrusted a private agency (Smart Survey, Pune) the task of conducting a pilot project for carrying out a census of trees. This agency conducted the pilot project in respect of certain selected public and private properties. The PMC has, thus, received two pilot project reports, one conducted by a private agency and other by the experts appointed by the Court.

17. As a public authority, PMC is required to follow a tender process when it allows anybody to conduct a census/survey of trees. A prerequisite to the tender process is preparation of the tender document which incorporates all the relevant technical specifications to be adopted by the selected bidder. In the first stage, the PMC has to finalize the technical aspects before proceeding with a formulation of the tender document. PMC has hence proposed to the Court that it will appoint a committee of experts which may include the following :

(i) One or more software expert/s having special skills with mobile application development, such as `Android';

(ii) One or more Botanist/s and/or Horticulturist/s;

(iii) A legal expert; and

(iv) An Urban or Town Planner.

PMC has stated that the committee will hear presentations from software developers/agencies including the aforesaid agency (Smart Survey, Pune) and the experts appointed by the Court for the pilot project before finalizing the technical specifications and the tender

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


documents. Presently there may be no precedent which will furnish a guide for comprehensive specifications for such a survey with the objectives set out by the Court. Tender documentation requires detailed specifications of the requirements of the local body in technical terms in the proposed GIS/GPS based tree census. The technical specifications may incorporate minimum requirements and desirable requirements in recommending technology and processes for conducting a tree census/survey. The committee must bear in mind several aspects, these being :

(i) Affordaibility : The survey rate per tree should be affordable while providing an incentive to NGOs, academic institutions and other bodies with a view to strengthen public participation;

(ii) Reproducibility : The model should be such that it can be expected to be spread across all cities;

(iii) Flexibility : The model should be sufficiently flexible so that urban agglomeration of different sizes with a different I.T. enabled environment can adopt the system; and

(iv) Scalability : The process should be easy to maintain at a city level while at the same time be scalable for a group of cities or for the State.

18. While finalizing the specifications, the committee would be at liberty to seek written inputs from relevant authorities and may request different stakeholders to submit their presentations. We would expect that this part of the exercise should be completed by the

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


committee within a period of three months from today. The Court has been informed that after formulation of the basic tender document, PMC will float tenders after following the requisite procedure and thereafter appoint a selected bidder in accordance with law for implementing the project of conducting a tree census by using digitized/paperless process. The tender process shall be completed preferably within a period of four months thereafter. The Court has been informed that in the budget for 2013-14, an amount of Rs.1.20 crores has been earmarked for conducting the aforesaid exercise of a tree census and that for 2014-15, the amount is to be enhanced to Rs.2.00 crores.

19. We clarify that until the completion of the aforesaid digitized tree census, applications for felling/cutting or, as the case may be, transplantation of the trees, shall be dealt with strictly as per the scheme subject to the approval of the Court for the effective implementation of the Act and the Rules. Once the exercise is completed and the entire data in the electronic format is available through web application, the scheme finalized and approved by the Court may be suitably modified so as to take into account the need to make the entire process in a digitized format. During the course of the submissions PMC has indicated that the procedure to be followed, broadly stated, would include the following :

(i) The Surveyor logs in with his login credentials;

(ii) Android application authenticates user and gives access for survey;

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


(iii) The Surveyor records the requisite details and tree records;

(iv) The data so recorded is electronically (without human intervention so that it is not tampered) transferred from android application to the web server;

(v) On approval of such data by the competent person/authority it gets inserted into the actual database which then becomes open for public access;

(vi) All these activities are stored (data log files) where user login date, time, ip and other details can be seen.

Similarly it has been stated before the Court that the technology to be employed should have the following basic features :

a) The method for recording of the data should be user friendly and even a surveyor who is not an expert in the operation of hand-held machines should be enable to enter the data. The data fields must be easy to understand and easy to operate;

b) Database of trees & properties must be in accordance with the requirements of the Maharashtra Preservation of Trees Act 1975 and amendments of 2009;

c) The latest technology should be used that will automate

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


the tree census process, and will digitize the tree census data. Every tree surveyed must have a tree identification key. However, it should be possible to capture latitude, longitude and other tree data with or without the availability of the Internet connection. Mapping of each tree should be possible by using GPS locations on Google map or GIS map or GIS application;

d) The application should support all versions of Android mobiles/tablets having compatibility with all screen sizes and various models/makes;

e) It should be possible to store date and time of every data capture for an individual tree, which will make it possible to check the efficiency of an individual surveyor;

f) The transfer of data from the handheld device to the server should be automatic and not manual so that the data so recorded by the surveyor is not tampered;

g) The web application should process and store the data;

h) The Server should be capable of storing unlimited data having unlimited hosting space and bandwidth. Web application should be developed using proven and tested programming tools/languages;

i) Preferably, the Application should be able to generate

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


notice as required by various provisions of the Act and the rules e.g. to the property owner for plantation of deficit number of trees (Section 7c);

j) The web application should be developed in such a way that, mapping & tracking of special attention trees; like endemic, rare and endangered trees will be possible;

k) Preferably the application should be able to store the observations and suggestions of plant species for plantation in the property based on natural diversity of trees in the area;

l) The web application should be able to calculate annual carbon assimilation rate of trees in the city/ward/sub ward, property/individual tree;

m) The application should be capable of taking geo-tagged pictures for reference (single image/panoramic view/video);

n) Using web application, anyone should be able to see the tree census data;

o) The data so collected and processed must be fully secured, while developing web application, particularly in respect of threats from hackers;

p) The server should be capable of storing unlimited data

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


and should have unlimited bandwidth;

q) The web application should be capable of generating different reports such as :

i. Property wise data;
ii. Area/ward/pin code data;
iii. Scientific name;
iv. Common name;
v. Flowering season;
vi. Flower colour;
vii. Fruiting season;
viii. Native/exotic trees;
ix. Growth rate;
x. Wild/cultivated trees;
xi. Tree use; and
xii. Tree condition.

20. That leaves the Court with two aspects to be considered namely (i) the Constitution of the Tree Authority; and (ii) the procedure to be followed. As regards the constitution of the Tree Authority, under Section 3(2), only the members of the urban local authority [as defined in Section 2(g)] can constitute the Tree Authority. For the constitution of the Tree Authority, the minimum required strength is five members while the maximum permissible is fifteen. PMC has stated that the total number of members should be fixed at seven and that those corporators who are Science Graduates would be preferred.

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


A membership of seven non-official members is, in our view, fair and proper having regard to the need of making the functioning of the Tree Authority of manageable proportion. Under Section 3(3), the total number of nominated members cannot exceed the number of corporators, who constitute the Tree Authority. Hence, the nominated members would also be restricted to seven. The nominated members should belong to independent NGOs and PMC has stated that not more than one person shall be appointed from the same NGO. As regards the nominated members, wider representation needs to be given to diverse cross sections of NGOs with a special knowledge or expertise in plantation and preservation of trees with a minimum experience of at least five years. Care shall be taken to obviate a situation which had occurred in the past whereby all the nominated members belonged to the same NGO. While nominating the non-official members, preference shall be given to qualified persons with a degree or diploma in agriculture/ forestry/horticulture with an expertise of five years in plantation/ preservation/transplantation of trees and/or in environment protection. PMC has stated that preference would be given to those NGOs who have a national presence.

21. The scheme envisages that since there are four zones in PMC, each zone should have an independent zonal officer appointed in terms of Section 5 of the Act. While making the appointments, preference would be given to qualified persons with a degree or diploma in agriculture/forestry or horticulture or having an expertise in the field of plantation/preservation or transplantation of trees and in

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


the area of environmental protection. All the Tree Officers shall work under the Tree Authority and will independently discharge their duties in respect the zone within their jurisdiction. Each Tree Officer will be personally held responsible for following the requisite procedure and for due compliance of the undertakings and conditions imposed on applicants for permission under the Act and Rules. Each Tree Officer will have an independent establishment working under him for the effective discharge of his duties and would be accessible on an official website. In terms of the provisions of Section 5(2), the Commissioner of PMC shall authorize any functional officer not below the rank of an Assistant Municipal Commissioner, as a Tree Officer for a particular zone.

22. PMC has agreed to constitute an Expert Committee consisting of at least six members who may be appointed by the General Body of the PMC from amongst candidates who are selected by a screening committee consisting of the following persons :

(i) The Head of the Department of Environment of the Government College of Engineering or Pune University;

(ii) The Head of the Department of Environment/Horticulture/ Agro Forestry Department of the Government College of Agriculture;

(iii) A nominee of NEERI or the Deputy Director, Social Forestry.

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY
399



For this purpose PMC has stated that it would invite applications accompanied by a resume from the members of public at large for appointment as members of the expert committee. Wide publicity would be given to such invitation for nominations in the print and electronic media. PMC has assured the Court that the selection process shall be conducted in an open and transparent manner. We also clarify that if a person of eminence has to be appointed to the expert committee, it will be open to the screening committee to shortlist a non-applicant as well who has consented to work as a member of the expert committee. More than one person from the same NGO shall not be shortlisted. The expert committee will work with a minimum quorum of three members.

23. As regards the procedure to be followed for taking a decision on applications for replantation, cutting or, as the case may be, plantation of trees, we accept the proposal of the PMC which is in the following terms :

**"The Proposed Procedure**

1. Every Application either for replanting/cutting of tree shall be addressed to the Tree Authority. However, the same for the administrative convenience be submitted with the Tree Officer of the PMC.

2. The application shall be accompanied by the documents set out at **Annexure-I** in addition to the accompaniments prescribed by the said Act & Rules.

3. The application shall be made in the form prescribed by Rule 9 of the said Rules. The application

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


shall state self-explanatory reasons keeping in view the provisions of the said Act & the Rules, for replanting/cutting, as the case may be, the tree in issue. The applicant shall state the number and the type of trees situate in the concerned plot in which the tree(s) in issue is/are situate enabling examination of the matter in the light of Section 7(b) of the said Act.

4. The Tree Officer of the concerned zone after scrutinizing the application and after getting the same duly filled in by the applicant, within one week shall personally inspect the tree(s) in issue. A report of such inspection with material particulars in writing shall be prepared, which report will include the actual status of the tree(s) in issue and suggestions as to the proposed action to be taken in that regard, such as cutting/transplantation.

5. The said report along with appropriate recommendation(s) of the Tree Officer will be sent to the expert committee, which will personally inspect the site as & when it deems fit and make its recommendation(s).

6. The Tree Officer shall cause publication of a notice in the local news paper as also on the website/internet inviting objections/suggestions, if any, in regard to the application(s) so made. The copies of these applications shall be supplied well in advance to the nominated NGO-members of the tree authority. The Tree Officer shall also comply with the provisions of Section 8(3)(a) such as affixing the notice on the conspicuous part of the tree.

7. The Tree Officer shall submit to the Tree Authority the entire proposal for its consideration along with objections/suggestions, if any, received in response to the aforesaid public notice.

8. The Tree Authority, in accordance with law shall take a provisional decision on the application, which

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


shall be intimated to each applicant(s). The Tree Authority shall make every endeavor to preserve the tree in issue and shall prefer transplantation to any other available option.

9. In terms of the provisional decision of the Tree Authority the applicant shall submit appropriate undertaking and/or make appropriate security deposit with the Tree Authority. The applicant shall also comply with other requisite directions/conditions that may be issued/imposed by the Tree Authority. The draft of the undertaking is **Annexure-II**.

10. The Tree Authority shall issue a final order, taking into consideration due compliances made by the applicant. A copy of the final order along with the copy of the undertaking and other requisite papers will be sent to the Tree Officer of the respective zone for his record as also for appropriate action.

11. The Tree Authority shall authorize in every zone at least three agencies for carrying out the work of cutting/transplantation of trees and shall fix as also notify the charges that may be recovered by such an agency from the concerned applicant in that regard. Every applicant who is required to carry out cutting/transplantation shall not get the cutting/transplantation work carried through anybody else than such an authorized agency.

12. Only when it is inevitable the Tree Authority may permit felling of tree(s). However, the same shall be subject to the condition that the applicant plants trees in the minimum proportion of **1:3.** All trees to be so planted shall satisfy minimum following specifications :

a) The height shall not be less than Six feet;

b) The Collar Girth should not be less than Ten centimeters;

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


c) The age of the sapling should not be less than five years;

d) The species of the sapling should be local or indigenous;

e) Preferably endemic and local trees supplied by the garden department of the Corporation be used for plantation. In case if these are not available, then species recommended by forestry department shall be used for plantation.

13. The Tree Authority shall also consider, while taking any decision, various orders passed by the Hon'ble High Court from time to time on various applications seeking permissions for either felling of trees or for transplantation thereof, in their proper perspective.

14. The Tree officer shall supervise the execution of the order issued by Tree Authority and will accordingly submit monthly reports with the Tree Authority. Every such report shall be submitted by the 10th day of each English calendar month.

15. The Tree Officer shall be personally responsible to supervise the implementation of each and every order of the tree authority as also the compliance of each and every clause of every undertaking submitted by each of the applicants, in so far as his zone is concerned.

16. The Tree Officer shall maintain a register in appropriate format for recording his every personal visit and the aforesaid compliances, which register shall be made available during office hours on all working days for inspection to general public.

17. The Tree Officer shall also be personally responsible for due compliance of every direction(s) issued by the Hon'ble High Court and shall also maintain a similar separate register for recording such compliances, which register shall also be made available

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


during office hours on all working days for inspection to general public.

18. In case of every new construction that is carried out within the limits of the PMC, the Building Completion Certificate shall not be issued unless the concerned Tree Officer issues a prior certificate to the effect that the orders of the Tree Authority, if any, particularly the conditions imposed by the same, if any, are fully complied by the developer/owner. Tree Officer has to issue the certificate within 60 days.

19. The Tree Officer may be empowered to take a decision of permitting pruning/cutting of such trees by the municipal staff under his personal supervision that on his personal inspection are found by him to be completely dead or that cause an immediate as also imminent danger to human life or property or that obstruct the smooth flow of traffic on any public street.

20. The Tree Authority shall also take into consideration the provisions of the Wild Life Act wherever applicable while considering any application made to it for granting permission under the said Act and the Rules framed thereunder. The Tree Authority will, as far as possible, preserve big, old trees or snags which are required for nesting of birds. In this regard, the opinion of local Assistant Conservator of Forests (Wildlife) shall be taken into consideration by the Tree Authority.

21. The Tree Authority shall regularly maintain its website for publishing the relevant information relating to the tree census as also tree cutting and/or transplantation. The Tree Authority shall display on its website all the requisite information in the form of a docket in respect of each and every application received and/or processed by the Tree Authority in regard to cutting or transplantation of tree(s).

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


## ANNEXURE-I

Accompaniments of the application

1. A map indicating location of the existing trees in the entire plot in which the tree(s) in issue is situate. The location of the tree(s) in issue to be shown in red colour as against the rest of the trees that are to be shown in green colour. The data of the concerned tree(s) and surrounding trees as far as possible should be in the format prescribed for the census survey.

2. Adequate and appropriate photographs of the tree(s) in issue.

**For removal of trees obstructing the Construction/ other work:**

i) Application under Proforma 'C'.

ii) Commencement Certificate.

iii) Sanctioned plan showing tree(s) in issue in red colour, other trees in green colour and location of proposed tree(s) plantation /transplantation in blue colour.

iv) Adequate and appropriate Photographs of the tree(s) in issue.

v) Appropriate Undertaking.

vi) A certificate of the concerned Architect to the effect that without felling of the concerned tree(s) permissible developmental activity(ies) in terms of the DCR cannot be carried out at the site in issue.

**For pruning of dangerous branches of trees :**

1. Adequate and appropriate Photograph of tree(s) in issue showing dangerous branches, proposed to be removed.

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


2. Appropriate Undertaking to the effect that only permitted trimmings of dangerous branch will be carried out.

## ANNEXURE-II

Undertaking

I, ..... Age. ... years, do hereby state on solemn affirmation as under:-

1. I have filed the present application for seeking permission for transplantation/felling of …… trees in terms of the recommendations of the Expert Committee.

2. I hereby undertake that I shall plant ..... local species of trees which shall not be small saplings, but shall be of such age that on plantation they will grow. I undertake not only to ensure their survival but also their growth.

**OR**

I hereby undertake that I shall transplant …….tree(s) in terms of the order of the Tree Authority and shall make every endeavor that these tree(s) not only survive but also grow.

3. I undertake to continue to maintain such tree(s) for a period of two years from plantation/transplantation and that I shall submit a quarterly compliance report in this regard with the concerned Tree Officer.

4. I Undertake to comply with each and every condition and direction issued by the Tree Authority and/or Tree Officer in its true letter and spirit as also with the provisions of the Maharashtra (Urban Area) Protection and Preservation of Trees Act, 1975 and the Rules framed thereunder.

Solemnly affirmed at..... )

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


This.…day of..... )

.....Deponent.

Identified by me.”

24. The resolution of the complex issues which have arisen before the Court in the PIL has been made possible as a result of the non adversarial approach adopted by the PMC in the present case. The experts who have devoted a considerable amount of time and offered valuable suggestions must be appreciated by the Court. Both Mr.Sunil B. Limaye, Director of Sanjay Gandhi National Park and Mr.Jitendra Shah, the expert from IIT, Mumbai have devoted a considerable amount of time and effort in ensuring that the pilot project for geo-tagging of trees attains finality, which would help not only the residents of Pune but also of other cities and urban agglomerations of the State. The officers of the PMC who have been associated with the work of the public interest litigation including Mr.Ashok Ghorpade, Garden Superintendent, have given their wholehearted assistance and effort to complete the pilot project. We would request the Commissioner of PMC to take a special note of the appreciation of the work which has been rendered by Mr.Ashok Ghorpade and record the same in his service book.

25. Finally, as we conclude, the Court also expresses its appreciation for the able assistance rendered by Mr.A.A.Kumbhakoni, counsel for the PMC (instructed by the legal adviser Ms.Sadhana Mahashabde), and by all the other learned counsel.

::: Downloaded on - 05/12/2023 20:40:07 :::

HIGH COURT OF JUDICATURE AT BOMBAY


26. We now direct that the PMC shall take necessary steps to effectuate this order to ensure that the census of trees adopting modern technology in a digitized frame work with geo-tagging is duly completed. All steps shall be taken to ensure that the constitution of the Tree Authority is carried out in terms as indicated to the Court. Above all, we would seek to emphasize that the Tree Authority is not an authority for the destruction of trees but for the preservation of trees and the enhancement of the fast depleting green cover in the urban areas of the State.

27. The petition is accordingly disposed of. There shall be no order as to costs.

(DR.D.Y.CHANDRACHUD, J.)

(M.S.SONAK, J.)

MST

::: Downloaded on - 05/12/2023 20:40:07 :::

I

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. ___ OF 2023

DIST:- PUNE

Shalvi Pawar and Ors. )...Petitioners

Vs

Pune Municipal Corporation & Ors )...Respondents

INDEX

| PART – I – PAGE NO.1 TO 219 | | |
|---|---|---|
| **SR. NO.** | **PARTICULARS** | **PG. NO.** |
| 1. | Synopsis | A – E |
| 2. | Petition | 1 – 107 |
| 3. | **EXHIBIT "A"**- Satellite maps showing the affected areas of the Riverfront Development Project and the proposed trees to be cut. | 108 – 110 |
| 4. | **EXHIBIT "B"**- Copy of the order dated 31.05.2023 in OA 80 of 2023 passed by the | 111 – 112 |



| | | |
|---|---|---|
| | Hon'ble NGT. | |
| 5. | **EXHIBIT "C"**- Copy of the order dated 18, 19, 20 and 23rd April 2018 in PIL No. 119 of 2017 with PIL No. 46 of 2015 passed by this Hon'ble Court. | **113 – 185** |
| 6. | **EXHIBIT "D"**- Copy of the judgment dated 20.09.2013 passed in PIL No. 93 of 2009 by this Hon'ble Court. | **186 – 219** |
| 7. | **EXHIBIT "E" (COLLY)**- Copy of The Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act 2021 and the Statement of Objects and Reasons. | **220 – 226** |
| 8. | **EXHIBIT "F"**- Copy of the proposal dated 6th June 2023 sent to the Maharashtra State Tree Authority. | **227 – 229** |
| 9. | **EXHIBIT "G"**- Copy of the legal notice dated 24.06.2023. | **230 – 234** |

| | | |
|---|---|---|
| 10. | **EXHIBIT "H"**- Copy of the extract of the minutes of the meeting held on 30th June 2023. | **235** |
| 11. | **EXHIBIT "I"**- Copy of the letter dated 31st July 2023. | **236 – 238** |
| 12. | **EXHIBIT "J"**- Copy of the docket dated 02.03.2023 bearing inward number 2193. | **239 – 243** |
| 13. | **EXHIBIT "K"**- Copy of the docket bearing Inward No. 11328. | **244 – 277** |
| 14. | **EXHIBIT "L"**- Copy of the letter dated 3.01.2021. | **278 – 281** |
| 15. | **EXHIBIT "M"**- Copy of the circular dated 21.09.2021 and 22.09.2021. | **282 – 292** |
| 16. | **EXHIBIT "N"**- Copy of docket prepared in February 2023. | **293 – 298** |
| 17. | **EXHIBIT "O"**- Copy of the letter dated 24.03.2023. | **299 – 303** |
| 18. | **EXHIBIT "P"**- Copy of the order dated | **304 – 306** |

| | | |
|---|---|---|
| | 25.03.2021 in SLP (C) no. 25047 of 2018 passed by the Hon'ble Supreme Court. | |
| 19. | **EXHIBIT "Q" COLLY-** Copies of the objections dated 20th March 2023 and 23rd March 2023. | **307 -326** |
| 20. | **EXHIBIT "R"-** Copy of the representation dated 21st March 2023. | **327 – 332** |
| 21. | **EXHIBIT "S"-** Copy of the objections of the Petitioners dated 24.03.2023 and 27.03.2023. | **333 – 343** |
| 22. | **EXHIBIT "T"-** Copy of the newspaper articles dated 30th April 2023. | **344 – 347** |
| 23. | **EXHIBIT "U"-** Copy of the email dated 4th May 2023. | **348** |
| 24. | **EXHIBIT "V"-** Copy of the objections dated 8th May 2023 submitted at the PMC hearing. | **349 – 350** |
| 25. | **EXHIBIT "W"-** Copy of the minutes of the | **351 – 357** |

| | | |
|---|---|---|
| | public hearing held on 8th May 2023. | |
| 26. | **EXHIBIT "X"**- Copy of the manual transcript of the public hearing held on 8th May 2023. | **358 - 360** |
| 27. | **EXHIBIT "Y" (COLLY)** - Copy of The Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act 2023 and the Statement of Objects and Reasons. | **361 – 363** |
| 28. | **EXHIBIT "Z"**- Copy of the legal notice dated 7.09.2023. | **364 – 371** |
| 29. | **EXHIBIT "AA"**- Copy of the objections sent to MSTA dated 13.05.2023. | **372 – 376** |
| 30. | **EXHIBIT "BB"**- Copy of the letter dated 28th June 2023. | **377 – 378** |
| 31. | **EXHIBIT "CC"**- Copy of the letter dated dated 21st August 2023. | **379 – 389** |
| 32. | Affidavit in Support on behalf of Petitioners | **390 – 429** |

| | | |
|---|---|---|
| | 1 to 8 in accordance with Rules 4 ,5, 6, and 7 of the Bombay High Court Notification No. 1603 of 2010. | |
| 33. | Vakalatnama | **430 - 440** |



A

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO. ___ OF 2023**

**DIST:- PUNE**

Shalvi Pawar & Ors. )...Petitioners

Vs.

Pune Municipal Corporation & Ors. )...Respondents

**SYNOPSIS**

The present Petition pertains to the gross illegalities on the part of the Respondent No. 1 in (a) obtaining Environmental Clearance for the Pune Riverfront Development Project from the State Environmental Impact Assessment Authority by erroneously stating that no tree would be felled in the process, (b) proposing the felling of age-old trees thereby completely obliterating the natural riparian forests and biological diversity areas which are natural habitats of endemic flora and fauna including migratory birds. (c) carrying out the survey of the affected trees in an illegal manner (d) enabling the Commissioner, who has also been the Administrator since 1st March 2022, and the Project Proponent to function as the Chairperson of the Tree Authority to unilaterally grant approval for the project.

B

## CHALLENGE

The Petition seeks to challenge Maharashtra Act No. XLIII of 2023 which amends the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 by deleting Section 6A as well as the first, second and third provisos of sub-section (3) of Section 8 and sub-section (5B) taking away the authority of the Maharashtra State Tree Authority (MSTA) to decide Applications for the felling of two hundred or more trees of age five years or more and heritage trees and instead permitting the Tree Authority to decide such applications. The Petitioners also seek to challenge the wide-sweeping powers being enjoyed singularly by the Commissioner/ Administrator as the Chairperson of the Tree Authority by granting unilateral permissions for cutting trees with absolutely no guidelines and safeguards.

## LIST OF DATES

| SR. NO. | DATE | PARTICULARS |
|---|---|---|
| 1. | 03.03.2022 | The State Government through the Urban Development Department vide its order dated 03.03.2022 appointed the Commissioner of the Respondent Municipal Corporation as the Administrator of the Corporation. |

C

| | | |
|---|---|---|
| 2. | 01.03.2023 | The Respondent PMC published a public notice in local newspapers Indian Express, Pune and Lokmat, Pune, which did not contain any information related to the number of trees, location, project etc. |
| 3. | 20.03.2023;<br>23.03.2023;<br>24.03.2023 | Objections were sent by the Petitioners and other citizens to the Respondent PMC and the State Forest Dept, State Water Resources Dept, District Biodiversity Committee to the proposed cutting of 3110 trees and transplanting of 4429 trees. |
| 4. | 8.05.2023 | The Respondent PMC held a public hearing where the Chairperson of the Tree Authority was absent. The Respondent PMC failed to record the objections raised by the Petitioners. |
| 5. | 6.06.2023 | The Respondent PMC sent its proposal to the Maharashtra State Tree Authority for approval of the felling of trees for the project. |
| 6. | 30.06.2023 | The Maharashtra State Tree Authority held its meeting and the proposal was sent back to the Commissioner to provide answers to certain issues. |
| 7. | 25.08.2023 | Vide Maharashtra Act No. XLIII of 2023, the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 was amended. |

D

| | | |
|---|---|---|
| 8. | Presently | Without clarifying the objections raised by the Petitioners and other citizens, the process of felling/transplanting of trees has begun. |
| | | Hence this Petition |

**I.POINTS TO BE URGED**

1. That there is no urgency in the present project that warrants the Commissioner/Administrator of the Respondent Pune Municipal Corporation who is also the Project Proponent to act as the Chairperson of the Tree Authority, giving him extensive powers to approve the felling of trees.
2. That the Commissioner/Administrator has failed to consider the advice and recommendations of any nominated expert members while deciding the Application for felling 3110 trees and transplanting 4429 trees.
3. That no survey of the affected trees has been conducted in accordance with the law.
4. That Maharashtra Act No. XLIII of 2023 amending the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 seeks to undo all the protective provisions of the 2021 Amending Act and is ultra vires Article 14 and 21 of the Constitution of India and the Principal Act.

E

5. That the proposal for felling and removal of trees in the riverbanks of a river will cause significant and irreversible damage to the environment and result in the loss of natural biological biodiversity, loss of habitats for flora and fauna and adversely impact the cultural and historical significance attached to rivers for the citizens of Pune.

**II.ACTS AND LAWS RELIED UPON**

1. The Constitution of India, 1950.
2. Maharashtra Municipal Corporation Act, 1949.
3. The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975.

**III.AUTHORITIES/ CASE LAWS CITED**

To be relied upon at the time of arguments.

**MADHVI GOMATHIESWARAN/ SHREYA MOHAPATRA**

Advocates for the Petitioner



1

[redacted]

IN THE HON'BLE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. _____OF 2023

**DISTRICT: PUNE**

In the matter of Articles 14, 21 and 226 of the Constitution of India;

AND

NOTARY * GOVT. OF INDIA *

2

In the matter of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975;

AND

In the matter of the Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act, 2023;

AND

In the matter of the judgment dated 20th September 2013 of this Hon'ble Court in PIL No. 93 of 2009

3

AND

In the matter of Order dated 18th, 19th, 20th and 23rd April 2018 passed by this Hon'ble Court in PIL No. 119 of 2017 with PIL 46 of 2015;

AND

In the matter of the Application of the Pune Municipal Corporation to cut 3110 trees and transplant 4429 trees for the Riverfront Development Project in Pune under the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975

4

1. Shalvi Pawar )

   Age: 26 years )

   Address: L-602, Laburnum Park, )

   Magarpatta City, Pune 411028. )

   Annual Income: 3,00,000 )

   PAN No: CQLPP2706D )

2. Tanmayi Shinde, )

   Age: 22 years )

   Address: Sr. No. 24, Paschima Resi, B3/1, )

   Vitthalwadi, Sinhgad, )

   Road, Pune – 411051 )

   Annual Income: NIL )

   PAN No: MDFPS8221K )

3. Aakash Agrawal, )

   Age:23 )

   Address:D-101, Gate No. 2, Phase 1, )

   Gangadham, Marketyard, Pune – 411037. )

   Annual Income: Rs. 85,000 )

   PAN No: DCWPA0114A )

5

4. Anagha Purohit, )

Age: 26 years )

Address: B-203, The Legend, )

Bibvewadi, Pune-411037. )

Annual Income- Rs. 3,00,000 )

PAN No: CUGPP6516A )

5. Samruddhi Kondekar, )

Age: 26 years )

Address:C4/501, Lake Town, )

Bibwewadi, Pune 411037. )

Annual Income: Rs. 1,20,000 )

PAN No: GWWPK1315N )

6. Omkar Ganu, )

Age: 23 years )

Address: 11 A-1Damodar Nagar Kai. )

Narayan Jagtap Marg-Canol Road, )

Near Mahadev Nagar Hingane, )

Khurd Sinhagd Road, )

Anandnagar Pune, Maharashtra 411051. )

Annual Income: 3,50,000 )

6

PAN No: BSJPG0188F )

7. Jahnavee Palsodkar, )

Age: 21 years )

Address:G-701, Rohan Garima, )

Shivaji Housing Society, )

Senapati Bapat Road, )

Behind Hotel JW Marriott, Pune-411016. )

Annual Income: NA )

PAN No: GPUPP0838C )

8. Khushi Goyal, )

Age: 24 years )

Address:A/1 Sushma Apartment, )

585/21 Salisbury Park, )

Suryakant Khatu Road, )

Gultekdi, Market Yard, Pune 411037. )

Annual Income: Rs. 1,20,000 )

PAN No:BXNPG3100Q )...Petitioners

VERSUS

7

1. Pune Municipal Corporation )
   Through its commissioner )
   Pune Municipal CorporationMain Building, )
   Near. Mangla Theatre, Shivajinagar, )
   Pune- 411 005. )

2. The Chairman, Tree Authority, )
   Through the Commissioner/Administrator, )
   Pune Municipal Corporation, )
   Main Building, Shivajinagar )
   Pune 411 005. )

3. The Secretary , Environment and )
   Climate Change Department, )
   In his capacity as Chairperson of )
   Maharashtra State Tree Authority, )
   15th Floor, New Administrative Building, )
   Mantralya, Mumbai - 400 032. )
   psec.env@maharashtra.gov.in )

4. Director – Environment and )
   Climate Change Department, )

8

5th Floor, New Administrative Building, )

Mantralaya, Mumbai - 400 032. )

5. District Collector Pune, )

Chairman District Bio-Diversity Committee)

New Collector Office, Pune - 411 001. )

6. Chief Conservator of Forests - Pune Division)

Van Bhavan, Bhamburda,Van Vihar, )

Gokhale Nagar, Pune 411016. )

7. Chief Engineer , Pune Division, )

Water Resources Department )

Sinchan Bhavan, )

Mangalwar Peth,Pune 411 001. )

8. Urban Development Department, )

Government of Maharashtra, )

Through the Principal Secretary – I, )

4th Floor, Madam Cama Road, )

Mantralaya, Mumbai – 400032. )

9

9. Ministry of Environment, )
Forests and Climate Change, )
Through the Joint Secretary, )
2nd Floor, Agni Block, )
Indira Paryavaran Bhawan, )
Jorbagh Road, New Delhi – 110 003. )
Contact Number: 91-11-20819220 )
Email address: secy-moef@nic.in ) ...Respondents

**TO**

**THE HON'BLE CHIEF JUSTICE AND OTHER PUISNE JUDGES OF THIS HON'BLE COURT.**

**THE HUMBLE PETITION OF THE PETITIONERS ABOVE NAMED**

**MOST RESPECTFULLY SHEWETH:**

1. The Petitioners are all young students and professionals residing in Pune each of whom are active participants in environmental conservation movements. The Petitioners

NOTARY GOVT. OF INDIA

10

each are aged between 18 and 26 years, and have been engaged in using their voices and efforts to understand, and oppose the devastating environmental consequences of the Riverfront Development Project proposed by the Respondent Pune Municipal Corporation in Pune. The young generation is experiencing climate change-related anxiety as they witness extreme climate events such as the Pune floods of 2019 and 2020, which caused significant loss of life; increased air pollution, which has made Pune a non-compliant city in terms of air quality emission norms; the urban heat island effect caused by the loss of green cover and open spaces; and extreme temperatures in a city once known for its pleasant climate.

2. The Petitioner No. 1 is presently a researcher in the field of environmental sustainability after having completed a course in nature conservation and sustainable development and having graduated in management studies. The Petitioner No. 1 has been working at a think-tank to gain experience and contribute to climate change-oriented policies and projects.

11

3. The Petitioner No. 2 The Petitioner No. 2 is a young student and currently is enrolled in a post-graduate programme in Journalism and Mass - Communication in IGNOU, and formerly worked with an environmental NGO in Pune where she focused on projects pertaining to the conservation of rivers. The Petitioner No. 2 is a SBI Youth For India Fellow for the year 2023-2024. The Petitioner No. 2 has been volunteering with various environmental and other organisations for the past 5 years and has completed her graduation in Geography.

4. The Petitioner No. 3 is a student currently pursuing a course in Sustainable Management of Natural Resources and Nature Conservation from the Ecological Society, Pune. The Petitioner No. 3 worked in the field of sales earlier and has also studied subjects of finance and commerce. The Petitioner No. 4 currently volunteers in projects involving environmental conservation and animal rights activities.

5. The Petitioner No. 5 is an Architect, currently working at an NGO based in Pune. The Petitioner No. 5 has completed a post-graduation course in ecological conservation and

12

restoration, and will soon be pursuing a course on social and ecological development to work as a professional in this sector. The Petitioner No. 5 is a freelance social media marketing manager and content writer based in Pune. The Petitioner No. 5 has a postgraduate degree in Fashion Business and Management, where she studied the need for sustainability in the fashion industry amidst climate crisis. The Petitioner No. 5 is also in the progress of pursuing another post-graduation degree in the field of Psychology.

6. The Petitioner No. 6 is an Environmental Engineer (B.Tech) by Profession based in Pune. The Petitioner 6 was recognized as an Ashoka Young Changemaker in 2021 for his contribution to the Environmental Movement. He has been active in the field of environmental conservation for the last 8 years working in solid waste management, Plastic waste management and river rejuvenation. The Petitioner No. 6 is a trustee of a Pune based NGO which works with more than 150 schools. He is passionate about philosophy as well and currently pursuing M.A. in Philosophy from Indira Gandhi National Open University.

13

7. The Petitioner No 7, a postgraduate student in integrated Biotechnology and Bioinformatics, is deeply committed to converting the findings from my research into policies and actions that have a real-world impact passionate about plant biology, bioremediation, ecology, and environmental biology. Petitioner No. 7 works as a research editor for a youth-led climate education and advocacy organisation and has authored articles on environmental issues for them, with a view to making scientific and climate change information available to everyone, regardless of their experience.

8. The Petitioner No. 8 is a founder of a vegan hospitality consultancy & training firm, which encourages sustainability and conservation in the food industry. All the Petitioners have made several representations regarding their objections to the felling/ transplanting of 7539 trees.

9. The Respondents No.1 is the Pune Municipal Corporation, through its Commissioner. The Respondent No. 1 is the proponent of the environmentally destructive Riverfront Development Project in Pune. The Respondent No. 2 is also the Commissioner of the Pune Municipal Corporation and

14

is presently the Administrator and the Chairperson of the Tree Authority Pune. He has been the sole member since. The Respondent No. 3 is the Secretary of the Environment and Climate Change Department of the Government of Maharashtra. The Respondent No. 4 is the Director of the Environment and Climate Change Department of the Government of Maharashtra. The Respondent No. 5 is the District Collector of Pune. The Respondent No. 6 is the Chief Conservator of Forest, Pune Division. The Respondent No. 7 is the Chief Engineer, Pune Division of the Water Resources Department Government of Maharashtra, the Respondent No. 8 is the Urban Development Department of the Government of Maharashtra through its Principal Secretary, the Respondent No. 9 is the Ministry of Environment Forest and Climate Change of the Central Government.

10. Aggrieved by the surreptitious, malafide, perverse and illegal manner in which the Respondent Pune Municipal Corporation has abused the powers vested within it under the proviso to Section 3(1), 3(3) read with the second part of sub-section (4) of Section 3 of the Maharashtra (Urban

15

Areas) Protection and Preservation of Trees Act, 1975 (hereinafter referred to as the **"Trees Act, 1975"**) and contrary to the directions issued in Rohit *Manohar Joshi v. Tree Authority & Ors.* [PIL No. 119 of 2017] with *Zoru Darayus Bathena v. Municipal Corporation of Greater Mumbai and Ors.*, [PIL No. 46 of 2015] (hereinafter referred to as **"PIL No. 119 of 2017 with PIL No. 46 of 2015"**) by this Hon'ble Court, the Commissioner submitted a proposal to cut 3110 trees and transplant 4429 trees for the Riverfront Development Project in Pune. The Commissioner who is now the administrator (Respondent No. 2), as chairperson of the Tree Authority has sought to place the proposal of the Chief Engineer (Projects) Department of the PMC before him for obtaining his permission. In his capacity as Chairperson, he is seeking to act as both the project proponent and the Tree Authority thereby displaying a clear conflict of interest. This has been done without following the procedure under the law in the absence of the Tree Authority and without the aid and assistance of the Expert Committee which was set up pursuant to the directions in PIL No. 93 of 2009 and by order dated 18, 19, 20 and 23rd April 2018 in PIL No. 119

16

of 2017 with PIL No. 46 of 2015. By amendment dated 16th July 2021 to the Trees Act, 1975, the Maharashtra State Tree Authority was set up to inter alia conserve heritage trees and to decide applications referred to it by the Tree Authority for felling of more than two hundred trees of age five years or more. However, surprisingly this vital protection has been further amended by Maharashtra Act No. XLIII of 2023 by deleting clauses (iii) and (iv) of Section 6A as well as the first, second and third provisos of sub-section (3) of Section 8 and sub-section (5B). The Petitioners seek to challenge the Amendment Act of 2023 that takes away the power of the Maharashtra State Tree Authority (MSTA) and instead allows the Tree Authority to decide these applications.

**BRIEF DESCRIPTION OF THE RIVERFRONT DEVELOPMENT PROJECT**

11. The Pune River Rejuvenation Project is a massive urbanisation project proposed by the Respondent No. 1 Pune Municipal Corporation along the riverbanks of the Mula Mutha River in Pune, which essentially calls for the

17

concretisation of the Mula-Mutha river banks of Pune through the construction of cement embankments, allegedly in *"order to cope"* with the *"unhygienic, neglected and encroached"* upon riverfront banks due to *"unplanned surrounding development"*.

12. While the project was pitched by the Respondent Pune Municipal Corporation to be one intended to protect low-lying areas from flooding, it has become evident to the citizens of Pune, the project actually involved the concretisation of the river banks through the construction of such embankments, despite the fact that it is well-known fact that concretisation of river banks is deeply destructive to riparian environments and increases the propensity of floods across the river banks that are cemented.

13. The Mula and Mutha Rivers originate in the Sahyadri ranges and flow across Pune city. The two rivers further meet at their confluence, thereby melding into the Mula-Mutha river confluence, which further drains itself into the Bhima River. The total length of these three rivers traversing through Pune is 44 km approximately with

18

22.2km of this stretch being the Mula River, 10.4 km being the Mutha River and 11.8 km being the Mula Mutha River. The riverbanks of the Mula, Mutha and Mula-Mutha confluences are embedded across a majority of the stretches with thick foliage and canopies of tree coverage which constitute forests as per the order of the Hon'ble Supreme Court of India dated 12.12.1996 in the matter *T.N Godavarman v Union of India* wherein it was held that the word "forest" must be understood according to its dictionary meaning.

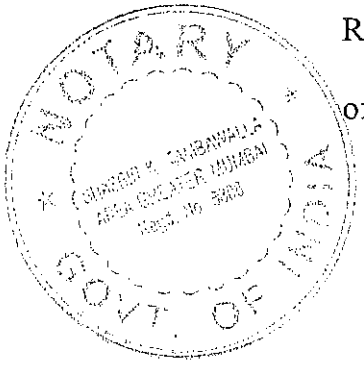
14. The Salim Ali Bird Sanctuary at Yerwada, Pune, is located at the banks of the Mutha river and spans across 22 acres of land. The bird sanctuary is home to over 100 species of birds, some of which are endangered species as per the list of the International Union for the Conservation of Nature ("**IUCN**"). The riverbank within the sanctuary constitute riverine wetlands, and is the habitat for exotic birds such as Black-headed Ibis, Jungle Mynas, Ruddy Shelduck, resident Indian Spot-billed Duck, Gadwall, Green-winged Teal, Northern Shovelers and Woolly-necked Storks.

19

15. The ecologically sensitive island of Naik Bet, also situated at the banks of the Mutha and spanning across 62.76 acres of land, is a habitat to a wide variety of birds and other forms of biodiversity. It is submitted that the Riverfront Development Project of the Respondent PMC not only provides for the concretisation of the riverbanks by constructing embankments across the Salim Ali Bird Sanctuary and Naik Bet, but the Respondent PMC has also announced its plans to cut 3110 trees and transplant 4429 trees for the Riverfront Development Project. A copy of the satellite maps showing the affected areas of the Riverfront Development Project and the proposed trees to be cut for the project has been annexed hereto and marked as **Exhibit "A".**

## PROCEEDINGS BEFORE THE HON'BLE NGT

16. It is submitted that throughout the planning procedure of the project, the Respondent No. 1 Pune Municipal Corporation made it clear in all of its documentation that the proposed Riverfront Development Project did not require the felling of any trees at all. The EC granted to the Riverfront



20

Development Project came to be challenged by some environmentalists in Pune before the Hon'ble National Green Tribunal (**"NGT"**) vide Appeal No 12/2020 on the grounds that, *inter alia,* there were several infirmities in the details submitted in the Environmental Impact Assessment (**"EIA"**) report of the project. It is submitted that the said Appeal 12/2020 came to be finally disposed of by the NGT by directing the Pune Municipal Corporation to make a fresh application for an amended Environmental Clearance (**"EC"**) incorporating permissions for the additional aspects of the project that had not been considered in the EIA report, the Appraisal procedure of the project and the EC. The Hon'ble NGT further directed that the Respondent Pune Municipal Corporation must obtain a revised /amended EC prior to proceeding any construction activity.

17. The Hon'ble NGT further upheld its judgment dated 29th November 2022 vide an order dated 4th January 2023 passed in an Execution Application where the Hon'ble NGT once again directed that no new Work Order would be issued by respondent No.1 – Pune Municipal Corporation for raising construction of any kind till the amended EC has been

21

obtained. The order of the Hon'ble NGT was later upheld by the Hon'ble Supreme Court. Vide an order dated 31st May 2023 in OA 80 of 2023, the Hon'ble NGT has stayed any tree cutting by the Respondent PMC for the purpose of the Riverfront Development Project. A copy of the order of the Hon'ble NGT has been annexed hereto and marked as **Exhibit "B".**

## I. ISSUES ARISING FROM THE IMPLEMENTATION OF THE TREES ACT, 1975

18. It is noteworthy that the Trees Act, 1975 was enacted with a view to *"make better provisions for the protections and preservation of trees in urban areas in the State by regulating felling of trees"* in light of *"the growing pace of urbanisation and industrialisation"*, which has, in turn, caused *"indiscriminate felling of a large number of trees in the urban area of the State of Maharashtra"*. Section 7 of the Act provides for the duties of the Tree Authority one of which is the protection and preservation of all trees in all lands within its jurisdiction.

22

*19.* This Hon'ble Court in PIL No. 119 of 2017 with PIL No. 46 of 2015 in its order dated 18th, 19th, 20th and 23rd April 2018, while referring the statement and objects of the Trees Act, 1975 held that:

> *"Thus, essentially the Trees Act has been enacted after taking a note of disturbance of ecological balance due to indiscriminate felling of trees in the urban areas of the State. The entire object seems to protect the existing trees and to encourage planting of more and more trees in urban areas." Only with the object of preservation of trees that the Trees Act seeks to regulate felling of trees. The object is not to allow felling of large number of trees."*

The Court again emphasised the importance of the duty of the Tree Authority not merely to allow the felling of trees, but to encourage planting of additional trees and preserving existing trees. It was held that:

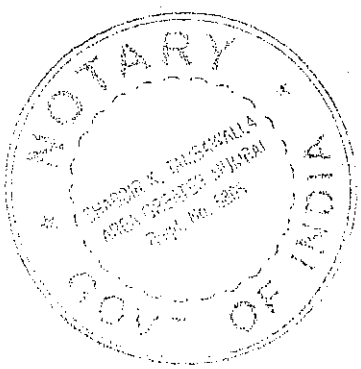
> *"Thus, apart from the objects set out in the objects and reasons, the extensive provisions referred above clearly show that the object of the Trees Act is to*

23

*provide protection to existing trees and for encouraging planting of additional trees. Granting permission for cutting the trees or transplanting the trees is only a small part of the function of the Tree Authority. In fact, if Section 7 is perused, it holds the Tree Authority responsible for protection and preservation of all trees in all lands within its jurisdiction."*

Hereto annexed and marked as **Exhibit "C"** is a copy of the order dated 18, 19, 20 and 23rd April 2018 in PIL No. 119 of 2017 with PIL No. 46 of 2015 passed by this Hon'ble Court.

20. This Hon'ble Court recognized that any action which affects the ecological balance and has a disastrous effect on the environment/ climate amounts to violation of the fundamental rights of citizens under Article 21 r/w Article 48A of the DPSP. The court's ruling established that Article 51A places a positive duty to safeguard and enhance the natural environment, particularly emphasizing the preservation of trees. Furthermore, it emphasized that the decision-making processes of the Tree Authority should be scrutinized in light of these principles.



24

21. In pursuance of this object, the scheme of the Trees Act, 1975 provides for the constitution of a "Tree Authority" within the territorial jurisdiction of every urban local authority [municipal council/ municipal corporation/special planning authority or development authority] within the State. It is the function of the Tree Authority, to, *inter alia,* take necessary steps to protect and preserve trees and assess, study and adjudicate any and all applications for cutting of trees within its jurisdiction upon an application being made to that effect by any party.

22. As per Section 3(1), 3(2) and Section 3(3) of the Trees Act, 1975, the Tree Authority is to have the following constitution:

A. Chairman - the Commissioner/Administrator of the Municipal Corporation

B. Members, of which the total number cannot be less than 5 and not more than 15 persons from amongst its members;

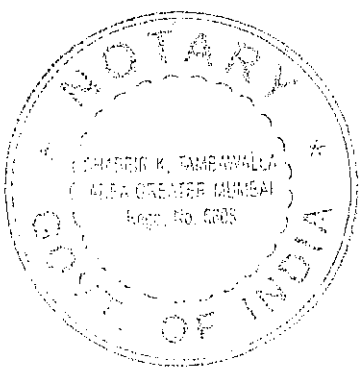
C. Nominated expert members from Non Government Organisations, including retired Government

25

Officials having *"special knowledge or practical experience in the field of planting, preserving and conserving trees"*. The total number of NGO expert nominated members shall not exceed the total number of other members of the Tree Authority. The object underlying the provisions of Section 3(3) is that Civil Society organisations with special knowledge or practical expertise in the preservation of trees, should be co-opted as non-official representatives.

23. Rule 3 of the Maharashtra Urban Areas Protection and Preservation of Trees Rules, 2009 (hereinafter referred to as the **"Trees Rules"**) further provides additional qualifications required to be fulfilled to nominate a representative of a non-official organization. The rule reads as follows:

*"For being nominated as a representative of non-official organization on the Tree Authority, the person shall be an active member of a non-official organization registered with the Social Forestry Department of the Government, shall have an interest*



26

*in tree plantation, tree conservation, tree protection, etc., and shall possess a rich experience of at least ten years in the field."*

24. In addition to the conditions prescribed under Section 3(3) of the Trees Act and Rule 3 of the Trees Rules, this Hon'ble Court in PIL No. 93 of 2009 provided further requirements. The court held that:

*"The nominated members should belong to independent NGOs and PMC has stated that not more than one person shall be appointed from the same NGO. As regards the nominated members, wider representation needs to be given to diverse cross Sections of NGOs with a special knowledge or expertise in plantation and preservation of trees with a minimum experience of at least five years. Care shall be taken to obviate a situation which had occurred in the past whereby all the nominated members belonged to same NGO. While nominating the non-official members, preference shall be given to qualified persons with a degree or diploma in agriculture/forestry/ horticulture with an expertise of*

27

*five years in plantation/ preservation/ transplantation of trees and/or in environment protection. PMC has stated that preference would be given to those NGOs who have a national presence."*

25. It is noteworthy that in its judgment in the matter *Deepak Balakrishna Vahikar v State of Maharashtra* [PIL 93/2009] (hereinafter referred to "***Deepak Balakrishna***"), while lamenting about the issues arising when the Pune Municipal Corporation had not co-opted the necessary members of civil society with expertise in tree planting and preservation, the Hon'ble Bombay High Court held that,

> *"The Tree Authority is not an authority that has been constituted for the destruction of trees. The primary object of the Tree Authority is to ensure the preservation and protection of the trees, the plantation of trees and the enhancement of the tree cover. Evidently, however, this purpose has been defeated. The object of the Act has been defeated by the failure of the Pune Municipal Corporation to co-opt members of civil society on the Tree Authority. The object underlying the provisions of Section 3(3)*

NOTARY OF INDIA

28

*is that civil society organizations with special knowledge or practical expertise in the preservation of trees, should be co-opted as non- official representatives. It is an unfortunate reflection on the state of affairs in the Pune Municipal Corporation that not a single non-official organization has been co-opted in the Tree Authority at present. In consequence, the entire work of the Tree Authority is manned by municipal corporators.*

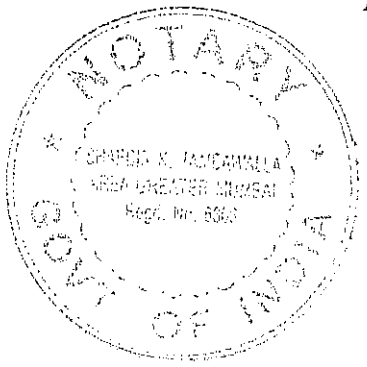
It is submitted that the operation of the Tree Authority without nominated expert members is not only inconsistent with the object and purpose of the Trees Act, 1975 but is also a breach of the judgment of this Hon'ble Court. A copy of the judgment dated 20th September 2013 of this Hon'ble Court in the matter of *Deepak Balakrishna* has been annexed hereto and marked as **Exhibit "D".**

26. The principles outlined above underscore the critical importance of involving non-governmental organizations (NGOs) in the decision-making process. However, in this case, since the Commissioner of the Corporation is acting

29

as the administrator of the Corporation, as per the proviso to Section 3(1) read with the second part of sub-section (4) of Section 3 of the Trees Act, 1975, the Commissioner/Administrator of the Corporation is singularly acting as the Tree Authority, without any expert nominated member, or indeed any other member of the Tree Authority present as a participant of the Commissioner's decision making process while adjudicating an application for cutting trees, particularly such a large number of trees.

27. In the present case, on account of the fact that the State Election Commission has declared that due to the Covid-19 pandemic, the elections for the Municipal Corporation of Pune were not possible to hold prior to the term of the councillors and all elected members of the Corporation expiring in 2022, the State Government through the Urban Development Department vide its order dated 3rd March 2022 has opted to appoint the Commissioner of the Respondent Municipal Corporation as the Administrator of the Corporation as per sub section (1 A), (1 B) of sec. 452 A of the Maharashtra Municipal Corporation Act, 1949. The



30

Petitioners crave leave to refer and rely upon the said order dated 3rd March 2022 as and when required.

28. However, the said order does not direct the Commissioner to singularly act as the Tree Authority in all cases. The power of the Municipal Commissioner which could be exercised when the Tree Authority is not functioning is not an unlimited or unfettered power. Such a power can be exercised only in exceptional cases, where there is an emergent situation. Since the Commissioner is not an expert, he cannot singularly take a decision without the aid of experts. In the case of felling of 25 or less trees where the Commissioner exercises powers under sub-section (6) of Section 8, the affidavit filed by the TMC in PIL No. 119 of 2017 with PIL No. 46 of 2015 stated that the Commissioner would always seek assistance of several experts in the field of Horticulture/Botany. It was stated that the Commissioner is bound to consult experts before taking any decision and this statement has been recorded and accepted by this Hon'ble Court. In this case, the proposal submitted by the Project Department of the PMC seeks to fell/transplant 7539 trees, most of which are heritage and old trees. The

31

Commissioner/ Administrator, as the Chairperson, cannot singularly grant permission to fell/transplant such a large number of trees without following the procedure under the law and without ensuring that the trees are protected and preserved. There is no need for cutting the trees. This is being done solely to benefit builders who will benefit from the concretising of the river banks, by making more land available.

29. It is accordingly submitted by the Petitioners that the proviso to Section 3(1) read with the second part of sub-section (4) of Section 3 of the Trees Act 1975 has to be read in consonance with the principles underlying the provisions of Section 3(3) of the Trees Act, 1975, Rule 3 of the Trees Rules and the directions passed in *Deepak Balakrishna.* The same has been discussed in detail in PIL No. 119 of 2017 with PIL No. 46 of 2015 where in this Hon'ble Court observed that a prima facie reading of Section 3(4) reveals that the object of the provision is to ensure that no lacuna is created when the Tree Authority is unable to function in cases of emergencies. The Court recognised that the section was merely an enabling provision and did not imply that the

32

Municipal Commissioners or Chief Officers are entitled to exercise this power in a routine manner and virtually substitute themselves as the Tree Authority. Relying on the Objects and Reasons of the 2015 Amendment and the Affidavit filed on behalf of the State Government, this Hon'ble Court held:

> *"48. We must note here that the said affidavit is filed on behalf of the State Government. Thus, it appears to us that the Commissioners or the Chief Officers are not expected to routinely act as the Tree Authority by virtue of second part of sub-Section (4) of Section 3 and it is only to tackle emergent situations that they can exercise the power of the Tree Authority."*

These findings have not been challenged and would equally apply to cases where permissions are sought from the Administrator as set out in the proviso to Section 3(1).

30. The Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act 2021 as amended on 16th July 2021, was introduced vide Maharashtra Act No. IX of 2021 and published in the Official Gazette. The Amendment introduced Section 6A that facilitated the setting up of the

33

Maharashtra State Tree Authority (MSTA). Since the Tree Authority was unilaterally granting permission for felling heritage trees as well as trees above the age of 5 years in large numbers, it was felt that a serious view should be taken of protecting such trees and the applications need to be scrutinised carefully while granting permissions. Thus, before granting any permissions to fell heritage trees and those above the age of five years and more than 200 in number, the applications were required to be forwarded for consideration to the MSTA. Section 5, 6A and 8 were consequently amended.

31. The Objects and Reasons for the Amendment recognised that despite the introduction of the Trees Act in 1975, the felling of larger number of trees continues to be on the rise, causing significant damage to the environment. This necessitated the introduction of the above provisions to ensure that permissions for felling of certain trees were not given arbitrarily and unilaterally. The Statement of Objects and Reasons reads as follows:

> *"The Maharashtra (Urban Areas Protection and Preservation of Trees Act, 1975 (Mah XLIV of 1975) has been enacted for the purpose of protection and*



34

*preservation of trees in urban areas in the State, by regulating felling of trees and providing for planting of adequate number of new trees in those areas.*

9. *Still there is indiscriminate felling of larger number of trees in the various urban areas of the State due to continuous increase in urbanisation, industrialisation and execution of various infrastructure projects at a rapid pace in such areas. Therefore, there is urgent need to control, minimize and regulate the felling of large number of trees in the urban areas of the State.*

10. *Felling of trees causes considerable damage to the environment, therefore, to prevent the damage caused, to protect the environment, to ensure greater protection to heritage trees, plantation and preservation of trees and to increase green cover of the urban areas, it is proposed to amend sections 2, 3, 7, 8, 18 and 21 of the said Act, suitably and to insert new section*
*6A therein.*

Hereto annexed and marked as **Exhibit "E" (colly)** is a copy of the 2021 Amendment Act and the Statement of Objects and Reasons.

32. In view of the amendment and the addition of Section 6A and other clauses, the Tree Authority is required to send the proposal to MSTA which it did on 6th June 2023. Hereto annexed and marked as **Exhibit "F"** is a copy of the

35

proposal dated 6th June 2023. The said proposal is signed by the Administrator seeking to cut/transplant 7496 trees. No reasons were given for cutting such a large number of trees and more egregiously the proposal was sent by the PMC as the Project Proponent. As soon as the Petitioners came to know about the said proposal, the Petitioners' Advocate sent a legal notice dated 24th June 2023 objecting to the proposal. The Notice highlighted that none of the documents submitted by the PMC such as the Detailed Project Report and the Environmental Impact Assessment stated that any trees would be cut for the project, on the basis of which the Environmental Clearance was granted to them. The Notice stated that the Petitioners and other concerned citizens should be afforded an opportunity to present their objections to the proposal dated 6th June 2023 before the MSTA. Hereto annexed and marked as **Exhibit "G"** is a copy of the notice dated 24th June 2023.

33. The MSTA held its meeting on 30th June 2023, without informing the objectors. In the meeting, the proposal was sent back to the Commissioner calling upon them to answer the following issues reproduced below:

36

***"Deliberation of the MSTA***

*The Maharashtra State Tree Authority after deliberation observed following points:*

1. *Project Proponent to submit a detailed plan regarding a rigorous protocol for the maintenance of the Trees which are transplanted and are to be planted as a part of the Compensatory Plantation.*
2. *PP to submit details of actions taken on more than 800 objections received for the proposed tree cutting the speaking order issued in this regard to be submitted.*
3. *The Project Proponent to submit a detailed report for the Compensatory Plantation of the 65434 Trees as mentioned in the proposal which should include the Name & Area of the land for compensatory plantation, Undertaking for 7 years and maintenance plan for the same."*

Hereto annexed and marked as **Exhibit "H"** is an extract of the relevant portion of the minutes of the meeting held on 30th June 2023. The Respondent PMC accordingly responded with a compliance letter regarding the issues

37

raised. Hereto annexed and marked as **Exhibit "I"** is a copy of the compliance letter dated 31st July 2023.

34. In the present case, it is not just 25 or less trees which are to be considered as under Section 8(6) regarding which the Hon'ble High Court has set out a number of safeguards, but a large number of about 7539 trees, many of which are old and heritage trees which are proposed to be felled/transplanted, thus extending vast and unbridled powers to the Administrator with absolutely no safeguards. The Commissioner has been the Administrator since 1st March 2022 and there was absolutely no urgency in proceeding with such haste. To the surprise and horror of the Petitioners, the Pune Municipal Corporation issued a public notice dated 28th February 2023 under the provisions of the Trees Act, 1975 indicating that it would be cutting 3110 trees and transplanting 4429 trees for the Riverfront Development Project. The public notice was issued in two newspapers only without providing any details, namely the Pune version of the Indian Express as well as the "Lokmat" newspaper, and called for the objections and suggestions to the same to be submitted by the public.

38

35. It is submitted that this process of seeking permission to cut trees for the Riverfront Development Project is inherently untenable in law due to the crucial fact that any such application under the Trees Act, 1975, would be in clear breach of the principles of natural justice, particularly the principle of *"Nemo judex in causa sua"* (nobody can be a judge in their own cause), as presently, the Commissioner of the Respondent Corporation is singularly vested with all the powers of the Tree Authority of the Pune Municipal Corporation under the Trees Act, 1975, while simultaneously being the project proponent of the Riverfront Development Project where the Respondent No. 1 has sought to cut 3067 trees and transplant 4429 trees.

36. The magnitude and scale of the present project necessitates that the advice and recommendations of nominated expert members be considered while determining the application for cutting of trees, including the application of the Corporation itself. However, in this case, the Commissioner of the Respondent Municipal Corporation, is the sole acting member of the Tree Authority and is vested with all the

39

powers of the Authority, while also being the project proponent for a proposal/application to cut 3110 trees and transplanting 4429 trees for the Riverfront Development Project

37. The Petitioners submit that in the event the Municipal Corporations are allowed to arbitrarily invoke the proviso to Section 3(1) read with the second part of sub-section (4) of Section 3 of the Trees Act 1975, they will be free to abuse the powers vested within them under said sections of the Trees Act, 1975 to fastrack and approve major projects involving the cutting of thousands of trees without considering the opinion of expert nominated members.

38. It is submitted that the present project itself demonstrates the arbitrary, mala fide, perverse and high-handed approach of the Commissioner of the Respondent Municipal Commissioner in attempting to approve permissions for the cutting of trees of the Riverfront Development Project. It is humbly submitted that the following actions of the Respondent No. 1 as summarised below show irrefutable proof of the manifest arbitrariness and the perverse and

40

oblique approach of the Respondent No. 1 in relation to the tree cutting application under the Trees Act, 1975 for the Riverfront Development Project:

A. **EXPERT OPINION** - For the Riverfront Development Project, the Respondent PMC has taken the opinions of only two expert members from amongst the six expert members (with a minimum quorum of 3 members) within the erstwhile Tree Authority of the Respondent Pune Municipal Corporation. It is submitted that relying on only two experts for a gargantuan project such as the Riverfront Development Project, spanning several hectares of riparian forests is an unreasonable and malafide act on the part of the Respondent Municipal Corporation, as two expert members alone could not have done justice to analysing the full project. It is submitted that while the said two expert members have made several observations about the eco-sensitive nature of the riverbanks which constitute the project site, and have noted the importance of the trees at the project site, most of which are over 50

41

years in age, a perusal of the dockets uploaded on the website of the Pune Municipal Corporation do not indicate that the two experts have surveyed 7500 affected trees individually.

In a docket dated 2nd March 2023 bearing inward number 2193, the two expert members, in relation to the tree felling application for the Riverfront Development Project from the stretch of Bund Garden road to Mundhwa (on the left side) advised that the affected trees be conserved. They held:

*"A total of 1279 trees are being affected due to the proposed River Rejuvenation Project. These affected trees are providing special habitat for birds on the river bank naturally. There are locations like Salim Ali Bird Sanctuary and Naik Bet that are rich in biodiversity. If the said trees are affected, then it is expected to harm the environment on a large scale. It is recommended to obtain approval of competent authority as per the amended tree act for further*

42

*proceedings. It is advised to conserve the affected trees."*

Hereto annexed and marked as **Exhibit "J"** is a copy of the docket dated 2nd March 2023.

Similarly, in another docket from February 2023 bearing Application Inward No. 11328 in relation to the tree felling application for the Riverfront Development Project from the stretch of Sangamwadi Bridge to Sadalbaba Dargah, the expert members made similar recommendations which are as follows:

*" In the present case, a total of 2941 trees on the stretch from Sangamwadi Bridge to Sadalbaba Dargah and Sangamwadi Bridge to back side of the COEP Engineering College are being affected under the River Rejuvenation Project. These affected trees are providing special habitat for birds on the river bank naturally. There are locations like Salim Ali Bird Sanctuary and Naik Bet that are rich in biodiversity. If the said trees are affected, then it is*

43

*expected to harm environment at a large scale. It is recommended to obtain approval of competent authority as per amended tree act for further proceedings. It is advised to conserve the affected trees."*

A copy of the docket from February 2023 bearing Application Inward No. 11328 in relation to the tree felling application for the Riverfront Development Project from the stretch of Sangamwadi Bridge to Sadalbaba Dargah has been annexed hereto and marked as **Exhibit "K".**

It is therefore submitted that the two experts, based on the eco-sensitive nature of the affected trees and the role played by the trees in providing habitat to endangered birds and other wildlife, have cautioned that cutting the trees as per the proposal of the Pune Municipal Corporation will result in significant environmental destructions, and in fact, officially recommend that the trees be conserved. In contrast to the recommendations of the two expert members, the

44

remarks of the "Department" (in this case the project proponent and the approving authority, both) recommend that each of the affected trees are cut and "removed completely."

B. **SURVEY OF TREES NOT DONE IN ACCORDANCE WITH LAW** - It is submitted that the survey of trees proposed to be cut on certain sections of the riverbanks were carried out by contractors of the project proponents of the riverfront development project, whereas under Section 8(3)(a)(iii) the survey/inspection of the affected tree is required to be personally carried out at site by the Tree Officer unless the applicant submits images of the affected trees in conformity with the Information Technology ("IT") standards prescribed by the Tree Authority. Hereto annexed and marked as **Exhibit "L"** is a copy of the letter dated 3rd January 2021 addressed by the Contractor, containing details of the survey conducted. While carrying out the survey, the tree officer is required to identify heritage trees as well as trees which are of age 5 years or more and

45

while doing so, is required to follow the instructions given by the State Government in circulars 21st September 2021 and 22nd September 2021. By the circular dated 21st September 2021, the State Government has set out a procedure for identifying heritage trees. Under another circular dated 22nd September 2021, the Environment Department has set out the procedure for determining the age of a tree. Various methods for doing this have been set out. Hereto annexed and marked as **Exhibit "M"** are copies of the circulars dated 21st September 2021 and 22nd September 2021respectively.

It is evident for the Riverfront Development Project, the officers of the Corporation have simply verified the information submitted in the proposal for cutting trees and no tree officers were deployed for the purpose of surveying the trees themselves. Further, the project proponent, which is the Pune Municipal Corporation itself has not submitted photographs or other details in a digital format in relation to the affected trees in the public domain. It is submitted that the non-compliance of Section 8(3)(a)(iii) of the

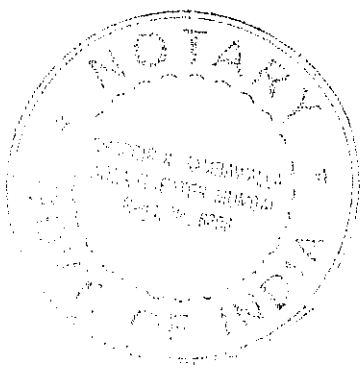
46

Respondent No. 1 is a clear cut example of the mischief that can be caused and abuse of powers that can be undertaken when the project proponent submitting an application for cutting a large number of trees is the same authority that is vested with the power for granting approval to the proposal in question. It is submitted that a survey of each tree is required to be done by qualified officers to ascertain whether a tree is suitable for transplantation, whether it should be permitted to cut, or whether cutting the tree will lead to irreversible ecological destruction. Moreover, the instructions given in the case of *Deepak Balakrishna* have not been followed.

C. **Incomplete information provided in the Proposal-** It is humbly submitted that the dockets uploaded on the website of the Respondent Pune Municipal Corporation for the Tree Cutting Application for the Riverfront Development Project have glaring discrepancies that are easily verifiable. The age of trees mentioned within some dockets span an extreme range which indicates lack of application

47

of mind or no attention to detail in the manner in which data regarding the affected trees are collected. For example, the age of trees mentioned within the same docket for the same site shows 5 years to 20 years, 15 to 30 years for certain species. It is submitted that it is not realistic to presume that the trees present at the same spot have such a wide gap of 15 years in their age. In fact it is submitted that most of the affected trees on the banks of the river are more than 50 years old and accordingly are heritage trees as per the Maharashtra Preservation Tree Act Amendments 2021. However, the dockets incorrectly reflect the mean age of the trees to be 20 years with a view to purposely and deliberately under-report the true extent of environmental destruction that will be caused by the cutting of heritage trees over 50 years of age which play a crucial role in maintaining the fragile riparian ecosystem. A copy of a dockets showing that trees located in the same spot vary in age range of 5 years to 20 years, 15 to 30 years has been annexed hereto and marked as **Exhibit "N".**



48

D. **Notice not given in accordance with law-** It is humbly submitted that the Respondent PMC had published its public notice dated 28th February 2023 regarding the proposal to cut trees for the Riverfront Development project in only a few newspapers in Pune city as required under Section 8(3)(a)(i) of the Trees Act, 1975. The said Public notice does not contain any details of the number of trees to be cut, their location etc, it only refers to the docket online on PMC website. A perusal of the public notice makes it evident that the Respondent Corporation has omitted several important details like number of trees affected and proposed to be cut, the official name of the project proponent, the site locations of the project where trees would require to be cut etc.

E. It is accordingly submitted that the general public of Pune was not informed of such a tree cutting proposal, despite the same having such a tremendous environmental impact by utilising other communication means like official press releases,

49

radio, TV ad by PMC to disseminate such important information.

## III. OTHER EXPERT AND STATUTORY AUTHORITIES NOT CONSULTED

### COLLECTOR

39. It is submitted that malafides of the Respondent PMC and their blatant disregard to the conservation and planning efforts as well as statutory enactments enforcing the same is further evident from how it has failed to take permission from the District Collector for any proposal for the felling of trees in the riverbank, despite being required to under the Maharashtra Land Revenue Regulation of Right to Trees Etc Rules 1967

Rule 2 of the said Rules provides as follows:

*"Cutting of trees prohibited in certain cases ( 1) No tree within thirty meters of the extreme edge of the bank of any water course, spring or a tank shall be except with the previous permission of the Collector"*

50

40. Despite the legal compulsions on the Respondent Pune Municipal Corporation to obtain necessary permission from the Collector, the Respondent Pune Municipal Corporation has not sought permission from the office of the Respondent Collector for its proposal to cut 3110 trees and transplant 4429 trees for the Riverfront Development Project.

41. Similarly, Section 7 of the Maharashtra Irrigation Act, 1976 ("Irrigation Act") designates the Additional Chief Engineer of the State Government to be the Chief Controlling Authority who is responsible for all matters connected with the construction, maintenance and managements of canal and matters incidental or supplemental thereto.

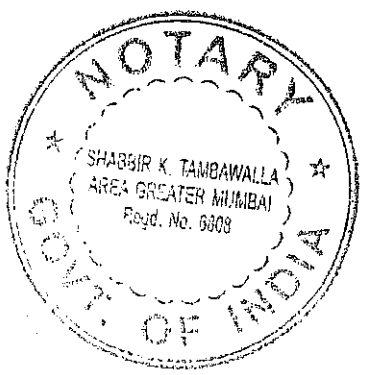
42. The term "canal" is defined under Section 2(3) of the Irrigation Act, Sub-section (d) of Section 2(3) specifies that the term canal would include

> *(d) any part of a river (including its tributaries), stream, lake, natural collection of water or natural drainage-channel, to which the State Government may apply the provisions of section 11, or of which*

51

*the water has been applied or used before the commence- ment of this Act for the purpose of any existing (f) all lift irrigation works constructed, maintained or controlled by the Appropriate Authority ;*

43. Further, Section 93(1)(g) of the Irrigation Act defines the act of voluntarily, without proper authority cutting or in any way injuring or causing the removal, cutting or injury of any tree, bush, grass or hedge intended for the protection of such canal or embankment as an offence, when such act does not amount to an offence of committing mischief within the meaning of the Indian Penal Code. The penalty of such offence is a fine of five hundred rupees or imprisonment for a term which may extend to six months or with both, and in the case of a continuing offence with an additional fine which may extend to fifty rupees for every day during which such offence continues after conviction for the first such offence.



52

44.It is submitted that the Respondent Water Resource Department has not given any approval for the cutting of 3110 trees and transplanting 4429 trees for the Riverfront Development Project. on record. Neither has the Maharashtra State Water Resources Department done a survey of the river. The river channel, riverbed and its flood plains (red line and blue line) are under the jurisdiction of the State Water Resources Department, the natural vegetation offers protection to the river and is essential for its survival as a natural free flowing water body complete with riparian zones, spring discharges, wetlands etc. Letters written to Maharashtra State Water Resources Department have met with no response.It is therefore objectionable that the inspection report and clearance by the State Water Resources Department has not been sought.

**BIODIVERSITY COMMITTEE**

45.It is further submitted that the Respondent Pune Municipal Corporation has also further not sought the opinion of the Biodiversity Committee under the Biological Diversity Act,

53

2022 and its corresponding 2004 Rules despite the fact that the area is rife with exquisite biodiversity .

46. It is submitted that the riparian zones of Mula Mutha rivers are dense biodiversity hotspots as clearly stated by the two experts who have considered an overview of the Riverfront Development Project (at Exhibit "J" and "K" herein). It is submitted that river banks of these locations are habitats for endemic flora and fauna and migratory birds, the Dr Salim Ali Bird Sanctuary and Naik island are known for their unique biodiversity.

47. Letters were written to the District Biodiversity Chairperson (Pune District Collector). A copy of the representation dated 24th March 2022 to the District Biodiversity Chairperson (Pune District Collector) has been annexed hereto and marked as **Exhibit "O".**

48. It is submitted that it is incumbent upon the Respondent Pune Municipal Corporation to make necessary applications to the District Biodiversity Committee to undertake a survey of the proposed trees and affected area

54

and present their report to the State Biodiversity Board under the Biological Diversity Act, 2002.

**ASSISTANT CONSERVATOR OF FORESTS (WILDLIFE)**

49. The Petitioners further submit that the rich foliage and canopy density of the trees across the riverbanks of the Mula, Mutha and the Mula-Mutha canopy density, and the rich biodiversity residing therein, further require the involvement of the Forest Department through the Assistant Conservator of Forests, for any assessment of a proposal to cut the said trees.

50. The said averment of the Petitioners is based on the directions of this Hon'ble Court in the matter of *Deepak Balakrishna*, wherein this Hon'ble Court held as follows:

*"The Tree Authority shall also take into consideration the provisions of the Wildlife Act wherever applicable while considering any application made to it for granting permission under the said Act and the Rules framed thereunder. The Tree Authority will, as far as possible, preserve big, old trees or snags which are required for*

55

*nesting of birds. In this regard, he opinion of local Assistant Conservator of Forests (Wildlife) shall be taken into consideration by the Tree Authority"*

It is submitted that similar directions were also issued by the Hon'ble High Court in Civil Application 96/2014 in PIL 41/2006.

**MAHARASHTRA STATE CLIMATE ACTION ADAPTATION PLAN**

51. It is noteworthy that the Maharashtra State Climate Action Adaptation Plan by The Energy Resources Institute ("TERI)" at Pg. 144 records as follows:

*"9.4 Key recommendations for water resources sector*

• ***Conservation and renaturalisation of rivers and water bodies*** [emphasis supplied]

• *Enhancement of water storage and groundwater recharge*

• *Improvement of water use efficiency*

*9.5 Adaptation action plan for water resources sector*

• ***Retain and conserve the riparian zones and renaturalize existing wetlands in the state.*** [emphasis supplied]

56

• *Enhance native vegetation in these zones and formulate stringent policies to prevent the dumping of debris and waste in these zones.*

• ***Modify the current tree policy to retain the mature trees, mainly around the origin of rivers which can help reduce soil erosion and downstream sedimentation. Hill areas where rivers originate can be declared as eco- sensitive zones and rewilded."*** [emphasis supplied]

It is therefore submitted that the official action plan for the State on how to tackle climate change specifically provides that the natural flow of rivers should be conserved and "re-naturalised", and further provides that mature trees around rivers that help reduce soil erosion and downstream sedimentation should be retained and should not be felled or cut. It is evident that the Riverfront Development Project flies in the face of the Maharashtra State Climate Action Adaptation Plan as it seeks to concretise the river bank and fell thousands of trees that not only are crucial habitat for wildlife and biodiversity but also serve as the most effective form of erosion control on the riverbank.

57

**SUPREME COURT COMMITTEE**

52. The Hon'ble Supreme Court vide its Order dated 25th March 2021 in the matter of SLP (C) no. 25047 of 2018 *(Association for Protection of Democratic Rights Vs. State of West Bengal)* constituted a seven-member Expert Committee under the chairmanship of Dr. M.K. Ranjitsinh and provided it with a 9-point mandate, which is as follows:

*(a) Develop a set of scientific and policy guidelines that shall govern decision making with respect to cutting of trees for developmental projects.*

*(b) These guidelines may specify the species of trees in categories based upon their environmental values considering the age and girth of the trees etc.*

*(c) The guidelines may provide special treatment for geographical area or eco-sensitive area, they may identify areas which need to be regulated and even identify a minimum threshold beyond which the guidelines will apply.*

*(d) The guidelines shall prescribe a mechanism for assessment of both intrinsic and instrumental value of the*

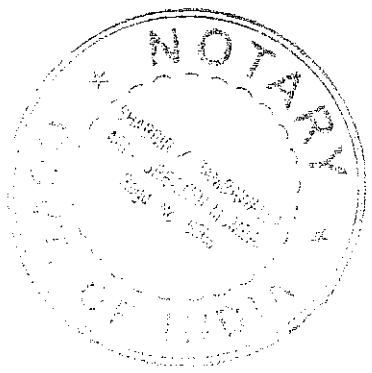
58

*trees, based not only on the value of timber, but also the ecosystem services rendered by the trees and its special relevance, if any, to the habitat of other living organisms, soil, flowing and underground water.*

*(e) The guidelines shall also mandate rules regarding alternate routes/sites for roads/projects, and possibilities for using alternate modes of transport like railways or water-ways.*

*(f) The guidelines shall also prescribe the mode of compensation financial and otherwise, the stage of depositing such compensation and the process that governs the computation and recovery. In this regard, the committee may consider the existing regulatory framework regarding calculation of Net Present Value (NPV) and may suggest necessary modification.*

*(g) In addition, the guidelines shall also specify the manner and mechanism of compensatory afforestation to be carried out using the deposited compensation, consistent with the native ecosystem, habitat and species.*



59

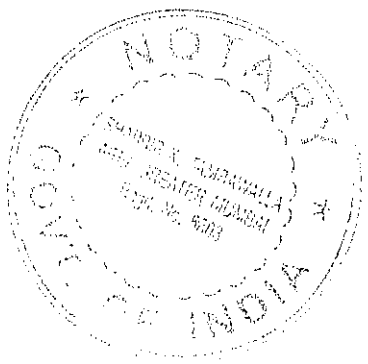
*(h) The Committee may consider the need for any permanent expert body and its proposed structural form.*

*(i) Any other issue incidental to the aforesaid objectives.*

A copy of the order of the Hon'ble Supreme Court of India in the matter of 25047 of 2018 *(Association for Protection of Democratic Rights Vs. State of West Bengal)* has been annexed hereto and marked as **Exhibit "P".**

53. The Supreme Court Committee recommended inter alia, as follows:

*"While scrutinising proposals, the concerned TCA needs to adhere to the mitigation hierarchy of avoidance, reduction and offsetting. It should examine the proposal and look for alternatives with the first objective of avoiding the felling of trees altogether. If that is not possible, then reducing the total number of trees to be felled should bethe next alternative. And only if this, too, is not found feasible, should felling and offsetting be permitted. While accepting that there are limitations to offsetting trees,culturally significant trees, sacred groves, etc. should not be felled.*



60

*There is a lack of knowledge to assess whether to opt for transplantation of existing trees or substituting them with a large number of tall saplings. Presently, science does not have ready answers to enable managers to decide which tree species and of what size can be successfully transplanted and in which season. In our love for trees and not wanting to see them being cut down, transplantation experiments are growing in the country. Many transplantation projects fail to live up to expectations with low survival rates..."*

54. The Committee also cautioned about a "*fait accompli syndrome*" in relation to development projects. The Committee has noted in its report that,

*"It becomes very difficult to stop a development project when it nears the implementation stage.... hence this needs to be done at the planning stage itself when dialogue or consultation can be held with the concerned tree authority to look for alternative solutions.*

*The STCA needs to be taken into confidence during the project formulation stage and the fait accompli syndrome*

61

*currently in vogue, where clearances are a mere formality, must be eschewed."*

55. As such, the Supreme Court appointed Committee has recommended that the default position while assessing tree cutting proposals for development projects must be, from the very inception of the project, that tree felling must be avoided altogether. The Riverfront Development project is a particularly egregious case of the *fait accompli* syndrome cautioned of by the Committee in as much as the project was granted Environmental Clearances on the assumption that the project did not require a single tree to be cut, and it was subsequent to the project being granted necessary approvals that the Respondent Pune Municipal Corporation has claimed that it would require to cut 3110 trees and transplant 4429 trees. After having obtained various clearances and permission through such surreptitious and fraudulent means, the Corporation has created a *fait accompli* situation for the issue of its tree cutting proposal, not only on the grounds that it has already been set in motion through the obtaining of various clearances, but further because of the

NOTARY SUPREME COURT OF INDIA

62

fact that the Corporation itself is both the project proponent and the tree authority.

It is submitted that relevant excerpts of Chapter 2 of the report submitted by the Committee constituted by the Hon'ble Supreme Court of India have been reproduced herein below:

*2.2 Criteria for Identifying Geographical Areas and Eco-Sensitive Sites*

*Biologically Significant Areas (BSAs): These areas include localities where critically endangered and endemic species exist or represent unique ecosystems, rare and relict habitats, key biodiversity areas (KBAs) and important bird areas (IBAs), including the breeding grounds of endangered species. Such areas may also include very small habitats (less than 5 ha in extent) that harbour populations of 'point endemics' i.e., endemic species that are known to have extremely narrow distribution ranges.*

NOTARY

63

56. It is submitted that the large stretches of the riverbanks of the Mula, Mutha and Mula Mutha riverbanks clearly qualify as biologically sensitive areas, accordingly the trees in the area should be subject to a higher degree of protection and should not be permitted to be cut or felled.

**PUBLIC NOTICE ISSUED BY THE RESPONDENT AND OBJECTIONS OF THE PETITIONERS**

57. Subsequent to learning of the proposal of the Pune Municipal Corporation to cut trees for the Riverfront Development Project, on various incidences such as 20th March 2023 and 23rd March 2023 the Petitioners and other concerned citizens submitted their objections to the Chairperson of the Tree Authority of the Pune Municipal Corporation, which incidentally is the Commissioner and presently the Administrator of the Corporation. Copies of the objections dated 20th March 2023 and 23rd March 2023 have been annexed hereto and marked as **Exhibit "Q" (colly).** These are just a few sample copies of objections. The Petitioners crave leaves to refer to rely upon the objections as and when found necessary.

64

58. On 21st March 2023, various members of the Climate Cell Action group formed under the Pune Municipal Corporation addressed a representation to the Chairperson of the Tree Authority, raising their objections to the felling and transplantation of over 7500 trees. A copy of the representation dated 21st March 2023 is marked and annexed hereto as **Exhibit "R".**

59. On 24th March 2023 a large number of objections were submitted against the cutting of trees for the Riverfront Development Project to the Chief Conservator of Forests, Pune and the Pune District Collector, who is also the Chairperson of the District Biodiversity Committee Chairman. On 27th March 2023, the Petitioners submitted their objections to the cutting of trees for the Riverfront Development Project to the Chief Engineer, Water Resources Department Pune. A copy of the objections of the Petitioners dated 24th March 2023 and 27th March 2023 have been annexed hereto and marked as **Exhibit "S"** respectively. On April 29th 2023, over 5000 citizens undertook the Chipko Andolan march in Mula Mutha

65

Riverbed to protest against the proposed tree cutting. Copies of newspaper articles reporting the same is marked and annexed herewith as **Exhibit "T".**

60. The objections of the Petitioners, inter alia, comprised of the following points:

a. The Riverfront development project was allegedly intended to rejuvenate the river by removing waste and restoring the river to its original state with its natural biodiversity and ecology intact. Therefore, a proposal for cutting of trees and transplantation of trees from the riverbanks would be completely contrary to the purported purpose behind the project. If the intention is to preserve and enhance the ecosystem in and around the rivers, it would be axiomatic to preserve the trees already existing by the riverbanks that play a crucial role in preventing soil erosion caused due to the flow of the rivers and the annual flooding caused during monsoon months, providing habitat to wildlife and birds and keeping air pollution in check in these regions. Since the trees

66

and natural foliage form an integral part of the biodiversity, ecology and habitat of flora and fauna, trees are part of the riparian systems and wetlands of the river, therefore any act of felling or removal of tree from such areas will create irreversible damage to the environment.

b. There is presently no functional Tree Authority in PMC. The tenure of the last general body of the Tree Authority was over in February 2022 and since then the Respondent PMC is functioning under state nominated administrator, who coincidentally happens to be the Commissioner of the Corporation. Further, the Trees Act, 1975 under the second part of sub-section (4) of Section 3 provides that in the event the Tree Authority is not constituted or cannot be constituted for any reason, the Commissioner of the Corporation shall act as a Tree Authority. Section 3(1) gives similar power to the Administrator.

c. A validly constituted Tree Authority under the Trees Act, 1975 comprises a minimum of 5 and a maximum

67

of 15 elected representatives and up to an equal number of members of the public NGOs and experts.

d. That the consideration of the proposal to cut and transplant thousands of trees is highly objectionable as there is no properly constituted Tree Authority in Pune.

e. The Tree Authority of Pune Municipal Corporation currently is the state appointed administrator which is the Commissioner of the PMC. It is therefore evident that since the Pune Municipal Corporation, (which is also the project proponent of riverfront development) would essentially be the authority granting approval for the tree cutting, such an obvious conflict of interest and violation of principles of natural justice is highly objectionable.

f. The survey carried out for the sections in the riverbanks were carried out by contractors of the project proponents of the riverfront development project. Whereas under Section 8(3)(a)(iii) of the

68

Trees Act, 1975, the Tree Officer is supposed to personally inspect the trees specified in the application.

g. The public notices issued did not contain any details of the number of trees, location etc, it only refers to the docket online on Pune Municipal Corporation website. This notice has omitted several important details like number of trees,project proponent,locations etc. The general public of Pune was not informed in large of such a large environmental impact proposal by utilising other communication means like official press releases, radio,TV ad by Pune Municipal Corporation to disseminate such important information.

h. The age of trees mentioned in the docket available online shows an extreme range of the age of the affected trees running from 5 years to 20 years and 5 to 30 years for certain species. It was not disclosed how the age of the trees were calculated and why there was such a variance gap so large.

69

i. To the knowledge of the Petitioners, most native trees in the riparian zone are more than 50 years old and therefore should qualify as heritage trees as per the Maharashtra Preservation Tree Act Amendments 2021.

j. As per a recent amendment to the Trees Act, 1975 made vide the Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act, 2021, a newly amended Section 6A(iii) requires that Applications for cutting of more than 200 trees of age 5 years or more should be referred by the Tree Authority to the Maharashtra State Tree Authority for adjudication.

k. However the dockets qualify ages of most trees towards a mean age of 20 years .The Petitioners therefore objected to the underreporting of the real age of trees in the riparian zone of the Mula Mutha.

l. The purpose of such deficient data is to underreport the true age and ecological value of the trees in the riparian zone hence our objection to the same.

70

m. The Pune Municipal Corporation had taken the opinions of only two expert members (one Dr Dhumal and one Dr Jadhav ) for such an environmentally sensitive proposal and large area spanning several hectares of riparian forests. Also there is no confirmation or evidence that these experts have surveyed 7500 trees individually.

n. For a project of such magnitude the Pune Municipal Corporation should have engaged with expert committee order of minimum 6 members.

o. The input and approval of the Maharashtra State Water Resources Department under Maharashtra Irrigation Act, 1976 and the District Collector under the Maharashtra Land Revenue (Regulation of Right to Trees Etc.) Rules 1967 has not been sought, similarly the inputs and approvals from Assistant Conservator for Forests ( Wildlife ) under the Wildlife Protection Act 1972 has not been sought.

74

61. On 4th May 2023, the Petitioners received notice vide an email that public hearings would be held for the issue of tree cutting for the Riverfront Development project across three days, from 8th to 10th May 2023, and persons aggrieved by the Proposal for tree cutting would be granted an opportunity to present their objections verbally during the course of the hearing. A copy of the email intimation provided to the Petitioners of the public hearing has been annexed hereto and marked as **Exhibit "U".**

62. A public hearing was conducted on 8th May 2023. However, only the officers from the Garden Department and Tree Officers from different wards were present but the Chairperson of the Tree Authority was absent. A copy of the objections submitted at the hearing to the PMC Tree Authority by the citizens noting the absence of the Chairperson is marked and annexed hereto as **Exhibit "V"**. The Petitioners submitted various objections to the project both orally and in writing during the hearing, however, when the minutes of the hearing were received, major objections raised by the citizens/residents were left out and

72

therefore the Petitioner No. 2 and another citizen addressed a letter dated 21st June 2023 and 29th June 2023, providing a manually prepared transcript of their objections, prepared on the basis of the audio recording of the hearing provided by the PMC, and requesting that the objections raised by the residents be recorded and the minutes be modified. A copy of the minutes of the public hearing is marked and annexed hereto as **Exhibit "W".** A copy of the manual transcript prepared by the Petitioner No. 2 and another citizen and forwarded to the Respondent No. 2 and the MSTA are marked hereto and annexed as **Exhibit "X".**

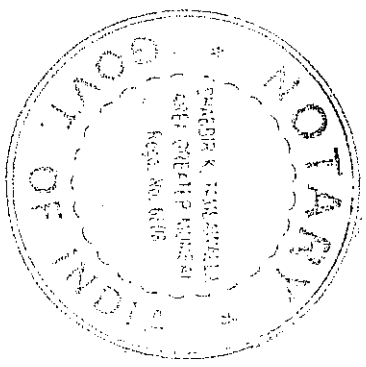
63. The citizens were informed during the hearing by the Pune Municipal Corporation that it would forward its application for tree cutting permissions to the Maharashtra State Tree Authority as required under amended Section 6A(iii).

64. On 25th August 2023 an amendment to the Principal Act was made by the Maharashtra Act No. XLIII of 2023 which deleted the above provisions in blatant contradiction to the principles contained in the Statement of Objects and Reasons of the Trees Act 1975 or the grave problems raised

73

in the Statement of Objects and Reasons of the 2021 Amendment. It completely undid the positive steps taken in the 2021 amendment and cited ease of business as the reason for doing so. An extract from the said Statement of Objects and Reasons reads as follows:

> *"2. With growing pace of urbanization and industrialization in the urban areas in the State, 'Ease of Doing Business' is one of the best way to promote development and attract investors in the State of Maharashtra. The Central Government is also constantly promoting Ease of Doing Business' through decentralization of powers, reducing the number of permits, granting permissions within the stipulated time frame in the various fields.*
>
> *3. In view of this, it is necessary to empower the local tree authority to grant permission for felling of all types of trees without referring the applications to the Maharashtra State Tree Authority. The Government, therefore, considers it expedient to amend sections 6A and 8 of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975, suitably."*



Hereto annexed and marked as **Exhibit "Y" (colly)** is a copy of Amendment Act of 2023 and the Statement of Objects and Reasons. The Petitioners are challenging the Amendment Act of 2023 as being ultra vires Article 21 of the Constitution of India and the Principal Act whose object is the protection and preservation of trees.

65. Without clarifying the objections raised by the Petitioners and other citizens, the PMC has commenced the process of felling/transplanting of trees. On 7th September 2023, the Petitioners' Advocate addressed a legal notice to Respondent Nos. 1 and 2, highlighting the illegal manner in which the Respondents have proceeded with the project. The notice reiterated that the Petitioners must mandatorily be afforded with an opportunity to present their objections before the MSTA. Annexed hereto and marked as **Exhibit "Z"** is a copy of the Notice dated 7th September 2023. A copy of the objections sent to MSTA is hereto annexed and marked as **Exhibit "AA"**.

66. The Petitioners submit that in response to an RTI filed by them they received a copy of the letter dated 28th June 2023

75

from Chief Engineer Projects to Principal Secretary Environment & Climate Change Dept, this letter mentioned the list of trees, number and the locations for the compensatory plantation, here the PMC has provided information stating that compensatory plantation in stretches 9,10,11 will be 12000 numbers on the proposed Riverside upper promenade, 7400 in the Green Belt COEP to Bund Garden and 2000 in Naik Bet, therefore out of the total 69400 trees proposed under compensatory plantation about 21,400 trees will be within the project area of the Riverfront Development Project and the remaining will be planted elsewhere. The environmental damage caused by uprooting age-old endemic trees from the natural riverbanks and riparian zones cannot be compensated by plantation of saplings on the artificial embankments. Hereto annexed and marked as **Exhibit "BB"** is a copy of the letter dated 28th June 2023.

67. Further to the above, the Petitioners submit that in response to an RTI filed by them, they received a copy of a letter dated 21st August 2023 addressed by the Commissioner to SEAC containing details regarding the various locations for

76

the proposed tree plantation for the Mula-Mutha River Rejuvenation Project. The petitioners were shocked and devastated to note that as per this document the project proponent and their external consultants have proposed over 22150 trees to be felled. (11000 trees to be cut and 11150 to be removed & transplanted for the entire 44kms of the Riverfront Development Project) As per the table in the compensatory plantation plan, 30,000 (of the total of 87,400) trees were proposed to be planted within the entire 44km project area of the River Rejuvenation Project and another 2,000 trees were proposed to be planted within Naik Bet. The ecologically sensitive island of Naik Bet is a thickly forested area from which the Respondents have proposed to fell/transplant existing heritage trees, while at the same time, propose to reserve a portion of the same island to replant 2000 trees. The Petitioners submit that most of the native trees that will be felled/transplanted under this project are more than 50 years old. Replacing these heritage trees with saplings on artificially created embankments after completely concretising the riverbanks will completely destroy the riparian ecosystems and cause irreversible damage to the environment. Of the remaining

77

55,400 trees proposed to be planted, sufficient information has not been provided about the location and its proximity to the project area. Hereto annexed and marked as **Exhibit "CC"** is a copy of the letter dated 21st August 2023.

68. Aggrieved by the surreptitious, mala fide, perverse and illegal manner in which the Respondent Pune Municipal Corporation has sought to cut 3110 trees and transplant 4429 trees for the Riverfront Development Project after repeatedly stating in various documents pertaining to the project including the Detailed Project Report and EIA report for the project that it would not cut any trees for the project, the Petitioners have approached this Hon'ble Court on the following amongst other grounds, which are independent of each other and are without prejudice to one another.

**GROUNDS**

A. That the Trees Act, 1975 was enacted with a view to *"make better provisions for the protections and preservation of trees in urban areas in the State by regulating felling of trees"* in light of *"the growing*

78

*pace of urbanisation and industrialisation"*, which has, in turn, caused *"indiscriminate felling of a large number of trees in the urban area of the State of Maharashtra"*

B. That in the matter of *Deepak Balakrishna,* the Hon'ble Bombay High Court expounded on the importance of the Trees Act, 1975. The Hon'ble Bombay High Court held,

> *"Legislation, such as the Trees Act, must, therefore, be interpreted by the Court consistent with the need to ensure sustainable development so that the green cover in urban agglomerations of the State, is not destroyed by rapacious development motivated by human greed."*

C. That in its judgment in the matter *Deepak Balakrishna*, this Hon'ble Court held that,

> *"The Tree Authority is not an authority that has been constituted for the destruction of trees. The primary object of the Tree Authority is to ensure the preservation and protection of the trees, the plantation of trees and the enhancement of the tree*

79

*cover. Evidently, however, this purpose has been defeated. The object of the Act has been defeated by the failure of the Pune Municipal Corporation to co-opt members of civil society on the Tree Authority. The object underlying the provisions of Section 3(3) is that civil society organizations with special knowledge or practical expertise in the preservation of trees, should be co-opted as non- official representatives. It is an unfortunate reflection on the state of affairs in the Pune Municipal Corporation that not a single non-official organization has been co-opted in the Tree Authority at present. In consequence, the entire work of the Tree Authority is manned by municipal corporators.*

D. That the Hon'ble Bombay High Court has made it evident that applications for tree cutting cannot be exclusively decided only by officers of the Municipal Corporation, and must be simultaneously considered by civil society expert members who have a bonafide interest in preserving the environment, in order to ensure that Municipal Corporations will not be free

80

to abuse the powers vested within them under said sections of the Maharashtra (Urban Areas)Protection and Preservation of Trees Act, 1975 to fast-track and approve major projects involving the cutting of thousands of trees without considering the opinion of expert nominated members.

E. That the Commissioner/Administrator cannot seek to singularly act on his own on behalf of the Tree Authority without the assistance of the expert members. The Affidavit filed by the State and TMC reaffirms that the Commissioner is bound to consult experts;

F. That the project envisages cutting a large number of heritage and old trees for which no survey or details have been given;

G. That Section 3(1) of the Trees Act, 1975 provides as follows:

*As soon as may be after this Act is brought into force in any urban area the urban local authority concerned shall constitute a Tree Authority,*



81

*consisting of 1[the Chairperson and other] not less than five and not more than fifteen persons from amongst its members, appointed in such manner and for such period as that authority may determine*

*Provided that, where an administrator by whatever name called is appointed for any municipal corporation or municipal council, he shall during the period of his appointment, act as the Tree Authority and exercise all the powers and perform all the duties of the Tree Authority.*

H. That the second part of sub-section (4) of Section 3 of the Trees Act, 1975 provides as follows:

*"[Notwithstanding anything contained in sub-sections (1) and (2), where, in respect of the area of a Municipal Corporation or, as the case may be, a Municipal Council, the Tree Authority is not constituted or is not able to function for any reason whatsoever, the Municipal Commissioner of such Municipal Corporation or, the Chief Officer of such Municipal Council, shall act as the Tree Authority and shall exercise all the powers and discharge all*

82

*the duties of a Tree Authority in such area, till such Authority is duly constituted or is able to function*

*Provided that, every decision taken by the Municipal Commissioner or the Chief Officer under this section, shall be placed before the general body of such Municipal Corporation or, as the case may be, the Municipal Council, in its immediately next meeting held after such decision.]"*

Section 3(1) does not envisage the Administrator to singularly act on behalf of the Tree Authority by granting large-scale permissions for cutting/transplanting trees.

I. That the Dy. Director of Town Planning filed an affidavit in PIL No. 119 of 2017 with PIL No. 46 of 2015 referring to sub-section (4) of Section 3 reiterating that "these powers have been given to tackle the emergent situations where the Tree Authority is not in existence".

J. That the object of sub-section (1) and the second part of sub-section (4) of Section 3 is to ensure that there

83

is no void created due to the fact that the Tree Authority is unable to function;

K. That there is presently no functional and validly constituted Tree Authority in PMC. The tenure of the last general body of the Tree Authority was over in February 2022 and the Commissioner of the Respondent Corporation is exercising all the powers of the Tree Authority in his capacity as the Administrator from March 2022

L. That the authority granting permission for cutting of trees under the Trees Act, 1975 would be the Commissioner of the Pune Municipal Corporation, which is the project proponent, which is a blatant breach of the tenet of *Nemo judex in causa sua* which forms a cardinal rule in the principle of natural justice;

M. That the power conferred on the Municipal Commissioner/Administrator which is to be exercised when the Tree Authority is not functioning is not an unlimited or unfettered power. Such a power is to be exercised only in exceptional cases. This

84

decision has to be taken with the aid of experts. In the case of *Deepak Balakrishna,* the PMC agreed to constitute an expert committee consisting of at least 6 members to be appointed by the General Body of the PMC with a minimum quorum of three. In the present case, though the opinion of only two experts has been taken, their opinion has not been considered by Respondent No. 2 in his report submitted to the MSTA.

N. That Applications for cutting trees must be processed strictly under the provisions of the Trees Act, 1975 and must be evaluated with a view to preserve trees in urban areas and not to cut them, as mentioned in the preambulatory clauses of "object and reasons" of the Act itself.

O. The survey of the trees is required to be conducted by the Tree Officer, however, the survey has been done by the contractor and the report submitted to the Commissioner has not been made public.

P. That in spite of the fact that the Commissioner of the Respondent Pune Municipal Commissioner has

85

admittedly been the administrator of the Corporation (consequently the sole member of the Tree Authority vested with the entire powers, duties and responsibilities of the Tree Authority) on 1st March 2023, to the surprise and horror of the Petitioners, the Pune Municipal Corporation issued a public notice under the provisions of the Trees Act, 1975 indicating that it would be cutting 3110 trees and transplanting 4429 trees for the Riverfront Development Project.

Q. That presently the Respondent No. 2 Commissioner has failed to consider the advice and recommendations of any nominated expert member including the two expert members while determining the application for cutting 3110 trees and transplanting 4429 trees for the Riverfront Development Project.

R. That the two experts who provided their recommendation to the tree cutting proposal of the Respondent Corporation, based on the eco-sensitive nature of the affected trees and the role played by the trees in providing habitat to endangered birds and

86

other wildlife, have cautioned that cutting the trees as per the proposal of the Pune Municipal Corporation will result in significant environmental destructions, and in fact officially recommended that the trees be conserved. However, though the Respondent Corporation is required to abide by the recommendations of the two expert members, the report of Respondent No. 2 neither deals with the recommendations of the expert members nor the objections of the public;

S. That the Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act 2021 introduced Section 6A that facilitated the setting up of the Maharashtra State Tree Authority (MSTA) since the Tree Authority was unilaterally granting permission for felling heritage trees as well as trees above the age of 5 years. This amendment was specifically carried out because of the increase in the indiscriminate felling of larger number of trees in the various urban areas and was a reflection and extension of the objects and reasons enumerated in

87

the Trees Act, 1975 and to protect such trees. However, the 2023 Amendment made vide Maharashtra Act No. XLIII of 2023, in blatant contradiction to the intent behind introducing the Trees Act, 1975 and the 2021 amendment, deleted this mandate citing the ease of doing business as a reason. However, the object and reasons of the 2023 amendment completely fails to address the issues raised by the previous amendments, thus recreating the same problems that the 2021 Amendment Act aimed to do away with and to protect such trees;

T. That since the Tree Authority was unilaterally granting permissions for cutting trees, an amendment was introduced wherein applications for cutting heritage trees of 5 years or more were to be placed before the MSTA. Though MSTA has asked for further clarifications from Respondent No. 2 to the knowledge of the Petitioners, no such information has been furnished.

U. That the Amendment Act of 2023 seeks to completely undo the protections afforded by the

88

Amendment of 2021 and has deleted all the protective provisions by allowing the Tree Authority to consider applications for felling heritage trees and old trees.

V. That there has been no survey of the affected trees by tree officers under Section 8(3)(a)(iii) of the Respondent No. 1 is a clear example of malafide and perverse actions and *fait accompli* situation that can be undertaken when the project proponent submitting an application for cutting a large number of trees is the same authority that is vested with the power for granting approval to the proposal in question. The Tree Officer is required to carry out a survey of individual trees and identify heritage and old trees in accordance with circulars dated 21st September 2021 and 22nd September 2021.

W. That the dockets uploaded online on the website of the Respondent Corporation along with its proposal for tree cutting for the Riverfront Development Project incorrectly reflect the mean age of the trees to be 20 years with a view to purposely and deliberately

89

under-report the true extent of environmental destruction that will be caused by the cutting of heritage trees over 50 years of age which play a crucial role in maintaining the fragile riparian ecosystem.

X. That an application for felling trees have to be made to the Tree Officer who is to give an advertisement and also affix such notice on a conspicuous part of the tree. The advertisement has to be published in the newspaper having a wide circulation in the concerned urban area as per Section 3(a). It is mandatory to inspect the tree. In the present case, no such inspection has been carried out. The survey report has been prepared by the contractor of the Project Proponent.

Y. That the proviso to Section 3(1) read with the second part of sub-section (4) of Section 3 of the Trees Act, 1975 leave room for a credible occurrence of severe bias on the part of the Municipal Corporation/Authority, through its Commissioner/Administrator to fast-track

90

applications for tree cutting under the Trees Act, 1975 without proper consultation with nominated expert members or compliance of their recommendations.

Z. In the case of *State of Punjab* & Anr. v. *Khan Chand* [(1974) 1 SCC 549], the Apex Court observed that vesting of discretion in the authorities in exercise of power under an enactment would entail contravention of Article 14 if it is arbitrary and unconstitutional discretion without any guidelines. The Hon'ble Court held as follows:

*"It is the absence of any principle or policy for the guidance of the authority concerned in the exercise of discretion which vitiates an enactment and makes it vulnerable to the attack on the ground of violation of Article 14. It is no answer to the above that the executive officers are presumed to be reasonable men who do not stand to gain in the abuse of their power and can be trusted to use "discretion" with discretion. As mentioned on p. 3 of Parliamentary Supervision of Delegated Legislation by John E. Kersell, 1960 Edn.*

91

*"The point is, however, that no one ought to be trusted with power without restraint. Power can be of an encroaching nature, and its encroachments are usually for the sake of what are sincerely believed to be good, and indeed necessary, objectives. Throughout history the most terrible form of tyranny has been the forcing on human beings of what someone believes to be good for them. The imposition of controls on the use of delegated legislative authority, therefore, does not imply a deep suspicion of malevolent intentions. Human nature, being what it is, has to be protected against itself, and where power is concerned the very existence of the possibility of restraint, as we shall see, is a safeguard against abuses in which ends may be used to justify means and the good in intent becomes the evil in effect."*

(emphasis added)

AA. In *State of Tamil Nadu & Ors. V. K. Shyam Sunder & Ors.* [2011 (8) SCC 737], the Hon'ble Supreme Court held that:

92

*"49. In view of the above, the law stands crystallised to the effect that in case the legislature wants to delegate its power in respect of the implementation of the law enacted by it, it must provide sufficient guidelines, conditions, on fulfillment of which, the Act would be enforced by the delegate. Conferring unfettered, uncanalised powers without laying down certain norms for enforcement of the Act tantamounts to abdication of legislative power by the legislature which is not permissible in law. More so, where the Act has already come into force, such a power cannot be exercised just to nullify its commencement thereof."*

BB. Similarly, in *Dwarka Prasad Laxmi Narain v. State of UP & Ors.* [AIR 1954 SC 224] the Hon'ble Supreme Court held as follows:

*"the mischief arises when the power conferred on such officers is an arbitrary power unregulated by any rule or principle and it is left entirely to the discretion of particular persons to do anything they*

93

*like without any check or control by any higher authority. A law or order, which confers arbitrary and uncontrolled power upon the executive in the matter of regulating trade or business in normally available commodities cannot but be held to be unreasonable. As has been held by this court in Chintamon v. The State of Madhya Pradesh: (1950) SCR 759, the phrase "reasonable restriction" connotes that the limitation imposed upon a person in enjoyment of a right should not be arbitrary or of an excessive nature beyond what is required in the interest of the public. Legislation, which arbitrarily or excessively invades the right, cannot be said to contain the quality of reasonableness, and unless it strikes a proper balance between the freedom guaranteed under Article 19(1)(g) and the social control permitted by clause (6) of article 19, it must be held to be wanting in reasonableness"*

CC. That the right to a pollution free environment, with coverage of trees and maintenance of urban forestry has been held to be a part of the rights of

94

citizens under Article 21 of the Constitution by the Hon'ble Supreme Court of India.

DD. That Rule 2 of the Maharashtra Land Revenue Regulation of Right to Trees Etc Rules 1967 provides as follows:

*"Cutting of trees prohibited in certain cases ( 1) No tree within thirty meters of the extreme edge of the bank of any water course, spring or a tank shall be except with the previous permission of the Collector"*

EE. That despite the legal mandate on the Respondent Pune Municipal Corporation to obtain necessary permission from the Collector, the Respondent Pune Municipal Corporation has not sought permission from the office of the Respondent Collector for its proposal to cut 3110 trees and transplant 4429 trees for the Riverfront Development Project.

FF. That Section 7 of the Irrigation Act designates the Additional Chief Engineer of the State

95

Government to be the Chief Controlling Authority who is responsible for all matters connected with the construction, maintenance and managements of canal and matters incidental or supplemental thereto.

GG. That term "canal" is defined under Section 2(3) of the Irrigation Act, Sub-section (d) of Section 2(3) specifies that the term canal would include *(d) any part of a river (including its tributaries), stream, lake, natural collection of water or natural drainage-channel, to which the State Government may apply the provisions of section 11, or of which the water has been applied or used before the commence- ment of this Act for the purpose of any existing (f) all lift irrigation works constructed, maintained or controlled by the Appropriate Authority ;*

HH. That Section 93(1)(g) of the Irrigation Act defines the act of voluntarily, without proper authority cutting or in any way injuring or causing the removal, cutting or injury of any tree, bush, grass or

96

hedge intended for the protection of such canal or embankment as an offence, when such act does not amount to an offence of committing mischief within the meaning of the Indian Penal Code.

II. That despite being guilty of the offence created under the Irrigation Act, the Respondent Corporation has not sought appropriate approval from the Chief Engineer of the Water Resources Department;

JJ. That Respondent Pune Municipal Corporation has also further not sought the opinion of the Biodiversity Committee under the Biological Diversity Act, 2022 and its corresponding 2004 Rules despite the fact that the area is rife with exquisite biodiversity .

KK. That it is incumbent upon the Respondent Pune Municipal Corporation to make necessary applications to the District Biodiversity Committee to undertake a survey of the proposed trees and affected area and present their report to the State Biodiversity

97

Board under the Biological Diversity Act, 2002.

LL. That this Hon'ble Court in the matter of *Deepak Balakrishna* wherein held as follows:

*"The Tree Authority shall also take into consideration the provisions of the Wildlife Act wherever applicable while considering any application made to it for granting permission under the said Act and the Rules framed thereunder. The Tree Authority will, as far as possible, preserve big, old trees or snags which are required for nesting of birds. In this regard, he opinion of local Assistant Conservator of Forests (Wildlife) shall be taken into consideration by the Tree Authority"*

MM. That the Riverfront Development Project flies in the face of the Maharashtra State Climate Action Adaptation Plan as it seeks to concretise the river bank and fell thousands of trees that not only are

98

crucial habitat for wildlife and biodiversity but also serve as the most effective form of erosion control on the riverbank.

NN. The Riverfront Development project is a particularly egregious case of the *fait accompli* syndrome cautioned of by the Supreme Court appointed Dr. M.K. Ranjitsinh Committee in as much as the project was granted Environmental Clearances on the assumption that the project did not require a single tree to be cut, and it was subsequent to the project being granted necessary approvals that the Respondent Pune Municipal Corporation has claimed that it would require to cut 3110 trees and transplant 4429 trees.

OO. That the large stretches of the riverbanks of the Mula, Mutha and Mula Mutha riverbanks clearly qualify as biologically sensitive areas as per the the Supreme Court appointed Dr. M.K. Ranjitsinh Committee accordingly the trees in the area should be subject to a higher degree of protection and should not be permitted to be cut or felled.

99

PP. That it is noteworthy that segmenting of Forest Clearances to avoid a holistic assessment of the environmental consequences of a linear project is impermissible under Guideline 11.2 of the "Handbook of Guidelines for effective implementation of the provisions of the Forest Conservation Act, 1980" issued by the MoEFCC which requires forest clearances to be considered as a whole and not be applied for and granted in a piecemeal fashion.

QQ. Similarly, Guidelines of the MoEFCC dated 19th December 2012 for taking up non-forestry activities in wildlife habitats was issued by the MoEFCC which mandated that project proponents cannot rely on the concept of *fait accompli* and cannot consider that obtaining a singular type of clearance confers rights upon the project proponent and that rights to proceed with the project will vest with them only when all clearances are obtained.

100

RR. That the proposed cutting of 3110 trees and transplanting 4429 trees is of sufficient scale to be assessed on parity with the said Guidelines of the MoeFCC for afforestation.

SS. That no details were provided by the Respondents regarding the process of transplantation and afforestation.

TT. That the issues raised in the present Petition pertains to the Trees Act, 1975, which does not fall within the enactments mentioned in Schedule I of the National Green Tribunal Act, 2010, hence this Hon'ble Court is the appropriate forum to hear the present Petition and adjudicate the issues raised therein.

69. The Petitioners shall rely upon the documents referred to and relied upon hereinabove.

101

70. The Petitioners submit that sources of information disclosed in the Petition are documents lawfully received by Petitioners and the judgments of various courts. The Petitioners undertake to disclose necessary information as and when called upon by this Hon'ble Court.

71. The Petitioners state that thorough research has been conducted in the matter raised through the Petition and all the relevant material in respect to such has been annexed to the Petition.

72. The Petitioners have filed the present Public Interest Litigation Petition in public interest and there is no personal gain, private motive or oblique reason for filing this Public Interest Litigation.

73. The Petitioners submit that the entire litigation costs, including advocate's fee and other charges are being borne by the Petitioners. The Petitioners have submitted their PAN card details with the Petition.

102

74. The Petitioners undertake to pay costs as ordered by this Hon'ble Court, if it is ultimately held that this Petition is frivolous or has been filed for extraneous considerations or that it lacks bona-fide.

75. The Petitioners submit that if the ad-interim reliefs are not granted grave loss, harm injury and prejudice will be caused to the general public and if granted, no grave loss, harm, injury, or prejudice will be caused to the Respondents.

76. The impugned Government Resolution was issued by the State Government of Maharashtra and the Petitioners reside in Pune City. Hence this Hon'ble Court has the jurisdiction to hear the present Public Interest Litigation.

77. There is no delay or laches in this petition.

78. The Petitioners have affixed the required court fees of Rs. _____ to this Petition.

79. No caveat with regard to the subject matter of this petition has been received by the Petitioners from the Respondents till date.

103

**PRAYERS**

The Petitioners therefore pray as under:-

a. That this Hon'ble Court be pleased to issue a Writ of Declaration or any other appropriate writ, order or direction declaring the Maharashtra Act No. XLIII of 2023 which received the assent of the Governor on 25th August 2023 as ultra vires Article 14 and 21 of the Constitution of India and the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975;

b. This Hon'ble Court be pleased to issue a Writ of Mandamus or any other writ, order or direction in the nature of Mandamus, directing the Respondent No. 1 to cancel the project which requires the felling/transplanting of trees.

c. That this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other writ, order or direction in the nature of a Mandamus restraining the Respondent No. 2 from giving any permission for the cutting/ transplanting of trees for the River Front Development Project and from

104

taking any action on the proposal dated 6th June 2023 sent by the Project Department;

d. This Hon'ble Court be pleased to issue a Writ of Mandamus or any other writ, order or direction in the nature of Mandamus, directing the Respondent No. 1 and 2 to forthwith cease and recall any process it has undertaken for applying for permission for cutting and transplanting trees under the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 for the Riverfront Development Project in Pune City;

e. Pending hearing and final disposal of the Petition to stay the operation and implementation of Maharashtra Act No. XLIII of 2023;

f. Pending hearing and final disposal of the Petition restraining the Respondent No. 2 from giving any permission for the cutting/ transplanting of trees for the River Front Development Project and from taking any action on the proposal dated 6th June 2023 sent by the Project Department;

105

g. Pending hearing and final disposal of the Petition direct the Respondent No. 1 and 2 to forthwith cease and recall any process it has undertaken for applying for permission for cutting and transplanting trees under the the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 for the Riverfront Development Project in Pune City;

h. For the grant of ad-interim relief in terms of prayer (e), (f) and (g) above.

i. For such further and other reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.

j. For the costs of this petition.

Advocate for the Petitioners

Petitioner No.1
(Shalvi Pawar)

106

T.A.Shinde

Petitioner No.2

(Tanmayi Shinde)

Aakash

Petitioner No. 3

(Aakash Agrawal)

Petitioner No. 4

(Anagha Purohit)

Kondekar

Petitioner No. 5

(Samruddhi Kondekar)

Petitioner No. 6

(Omkar Ganu)

Petitioner No. 7

(Jahnavee Palsodkar)

KSA Goyal

Petitioner No. 8

(Khushi Goyal)

**VERIFICATION**

I, Shalvi Pawar, Petitioner No.1 age 26, residing at L-602, LaburnumPark, Magarpatta City, Pune 411028, the Petitioner No. 1 herein, do hereby state and solemnly declare that what is stated

107

in Paras Nos. 1 to 25 is true to our own knowledge and what is stated in the remaining Paras. Nos. 26 to 79 is stated on information and belief and I believe the same

to be true.

Solemnly declared at Mumbai )

On this 3rd day of ~~September~~ Oct 2023 ) Petitioner No.1

(Shalvi Pawar)

Identified by me,

**MADHVI GOMATHIESWARAN/ SHREYA MOHAPATRA**

Advocates for the Petitioners

Before me,

BEFORE ME

S. K. TAMBAWALLA
ADVOCATE, HIGH COURT
B-23, Taheri Manzil
Nesbit Road, Mazgaon
Mumbai - 400 010

3/10/23

NOTARY & REGISTERED
Sr. No. 15348 dt. 3/10/23

Exhibit - A

108



109


COEP to Bund Garden
Legend
Feature 1
RANJEET NAGAR रणजीत नगर
JAI JAWAN NAGAR जाइ जवान नगर
SALWE NAGAR सान्वे नगर
YERWADA VILLAGE येरवडा गाव
WAKADEWADI वाकडेवाडी
Mula River
Mula Mutha River
BUND GARDEN बंड गार्डन
VASWANI NAGAR
LUMBINI NAGAR लुंबिनी नगर
RAJIVGANDHI NAGAR SLUM राजीवगांधी नगर स्लम
Naik Bet
GALAXY SOCIETY गॅलेक्सी सोसायटी
SANGAMVADI संगमवाडी
CORPORATION COLONY कॉर्पोरेशन कॉलनी
PATIL ESTATE पाटिल इस्टेट
Chatrapati Shivaji Maharaj Nagar
CENTRAL EXCISE COLONY सेंट्रल एक्साइज कॉलनी
Malewadi मालेवाडी
PURANDAR VASAHAT पुरंदर वसाहत
Google Earth
700 m
N

110




True Copy

Advocate

Exhibit - B

111

Item No.5 (Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL**
**WESTERN ZONE BENCH, PUNE**

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

**ORIGINAL APPLICATION NO.80 OF 2023 (WZ)**
**WITH**
**I.ANO.131/2023 IN O.A. NO.80/2023**

Sarang Yadwadkar & Anr. .... Applicants

Versus

Pune Municipal Corporation & Ors. ....Respondents

Date of Hearing : 31.05.2023

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

Applicants : Mr. Ritwick Dutta, Advocate with the applicants

**ORDER**

1. From the side of the applicants, learned counsel Mr. Ritwick Dutta has appeared along with the applicants and has filed additional documents, which are taken on record. The learned counsel states that the copies of the said documents have been served upon the respondent No.1.

2. The service affidavit has been filed as per which the service has been effected on respondent No.1 – PMC.

3. From the side of respondent No.1 – PMC, learned counsel Mr. Raghvendra Kulkarni has appeared and states that two weeks' time may be granted to file the reply-affidavit. The same is allowed. As soon as the reply-affidavit is filed before this Tribunal by respondent No.1, copy of the same shall be served on the learned counsel for the applicants in advance.

4. When we enquired from Mr. Raghvendra Kulkarni, learned counsel as to whether the trees are going to be felled, he gave reply in the negative

[NPJ]

112

saying that the Maharashtra Tree Authority has been applied for grant of permission for felling the trees and till the said permission is granted/obtained, no felling of the trees would be done. We direct respondent No.1 – PMC not to fell any tree till the next date of hearing i.e. 31.07.2023.

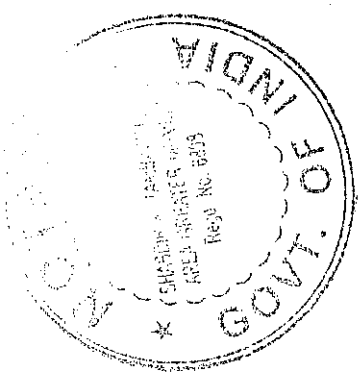
5. Place the matter before us for next consideration on 31.07.2023.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

May 31, 2023
O.A. NO.80/2023 (WZ)
npj

[NPJ]




True Copy

Advocate

Exhibit - C 113



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 119 OF 2017

Rohit Manohar Joshi. ... Petitioner.
V/s.
Tree Authority, Thane and others. ... Respondents.

Ms Gayatri Singh, Senior Advocate with Mr.Ankit Kulkarni i/b. Kranti L.C. for the petitioner.
Mr.Ram S. Apte, Senior Advocate i/b. Mr.J.G.Reddy for the respondent Nos.1 to 3.
Mr.S.U.Kamdar, Senior Advocate with Ms R.A.Salunkhe, AGP for the respondent No.4- State of Maharashtra.
Mr.T.N.Subramanian, Senior Advocate with Mr.Saket Mone, Mr.Suneet Tyagi, Ms.Jayshree R., Mr.Vishesh Kalra, Mr.Subit Chakrabarti and Ms.Neha Joshi i/b. Vidhi Partners for the respondent No.5.
Mr.Siddharth Chandrashekhar Wakankar for the respondent Nos.6 to 11.
Mr.Satyajeet A. Rajeshirke for the respondent No.12.
Ms Manjiri Sharad Parasnis and Mr.Shivraj R. Patil for the respondent Nos.13 to 15.
Mr.Kishor S. Patil and Mr.Rajeev Matkar for the respondent No.16.
Mr.S.M.Oak i/b. Mr.Sagar Anant Joshi for the respondent Nos.18 to 22.

WITH
ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION NO.46 OF 2015

Zoru Darayus Bhathena. ... Petitioner
V/s.
Municipal Corporation of Greater Mumbai and others. ... Respondents

Ms.Sonal i/b. Ms.Pushpa Thapa for the Petitioner.
Mr.A.Y.Sakhare, Senior Advocate with Mr.Joel J. Carlos, Mr.J.J.Xavier,

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

116



Ms Geeta Joglekar, Ms Preeti Purandare for the respondent Nos.1 and 2.
Mr.S.U.Kamdar, Senior Advocate with Ms.Geeta Shastri, Addl.GP and Mr.Amit Shastri, AGP for the respondent Nos.3 and 6.
Ms.P.H.Kantharia, GP with Ms.Deepali Patankar, Asst. to GP for the State in Chamber Summons (L) No.253 of 2016.
Ms.Jaya Bagwe for the respondent No.4.
Mr.G.W.Mattos for the respondent No.7.
Mr.Prathamesh Seth i/b Mr.Joseph Fernandes for the applicant in Notice of Motion No.227/2018.

**CORAM : A.S.OKA AND RIYAZ.I.CHAGLA, JJ.**

**DATED : 18th, 19th, 20th and 23rd April 2018.**

**ORAL ORDER :** (Per A.S. Oka, J.)

1. The issues involved in these petitions concern the provisions of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act,1975 (for short `the Trees Act'). As held by a Division Bench of this Court by the Judgment and Order dated 20th September 2013 in PIL No.93 of 2009 (Deepak Balkrishna Vahikar and another vs. State of Maharashtra and others), the object of enacting the Trees Act is not to encourage destruction of trees but to encourage growth of trees in urban areas of the State.

2. In both the petitions, there is a challenge to the constitutional validity of the of the amendment to the Trees Act made by the Maharashtra Act No.XIII of 2017 by adding sub-Section (5) to Section 8 of the Trees Act. The name of the said enactment is the Maharashtra (Urban Areas) Protection and Preservation of Trees Amendment Act,2016 (for

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:36 :::

short `the Amendment Act'). It is not in dispute that the said Amendment Act was brought into force with effect from 1st April 2017.

3. Before we reproduce the submissions made across the bar, we must note here that in both the petitions, Rule has been issued and the petitions have been admitted for final hearing. We have extensively heard the parties on the prayer for interim relief. As far as the PIL N.119 of 2017 is concerned, there was an earlier order directing that the petition will be disposed of finally at the stage of admission. However, after the said order was passed, by amendment, the petitioner therein has incorporated a prayer for challenging the constitutional validity of certain provisions introduced by the Amendment Act. In view of subsequent amendment, the petition cannot be heard finally at admission stage and therefore, we have heard the learned counsel for the parties on the prayer for interim relief.

4. Clause (a) of Section 2 of the Trees Act defines "preservation of trees" as including planting of new trees and other operations for survival and propagation of the trees. The definition of "tree" is very wide in clause (d) of Section 3. It means any perennial woody plant, whether in the seeding or sappling stage or fully grown stage, and includes shrubs whose branches spring from the ground level. Therefore, the Trees Act is applicable to a plant in the seeding stage or at sappling stage and its applicability is not confined only to trees as understood in popular sense. Moreover, the definition of the phrase "to fell a tree" under clause (c) of Section 2 is wide enough to include burning, cutting or act of in any way

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:22 :::

damaging a tree. Thus, even if death of a tree is caused by use of a chemical, such act is covered by the definition and therefore, the restrictions on felling of trees imposed by the Trees Act covers such act as well. The Act provides for appointment of a Tree Officer. Firstly, we must refer to Section 3 of the Trees Act as it existed prior to the date on which Amendment Act came into force. Section 3 before coming into force of the Amendment Act reads thus:

> **"3. Establishment and Procedure of Tree Authority**
> (1) As soon as may be after this Act is brought into force in any urban area the urban local authority concerned shall constitute a Tree Authority, consisting of the Chairman and other not less than five and not more than fifteen persons from amongst its members appointed in such manner and for such period as that authority may determine:
>
> Provided that, where an administrator by whatever name called is appointed for any municipal corporation or municipal council, he shall during the period of his appointment, act as the Tree Authority and exercise all the powers and perform all the duties of the Tree Authority.
>
> (2) In the case of urban local authority specified in column (1) of the table below the Chairman of its Tree Authority shall be the person specified against it in column (2) thereof.

| Name of the urban local authority (1) | Chairman of its Tree Authority (2) |
|---|---|
| 1 A Municipal Corporation | The Commissioner of the Corporation |
| 2 A Municipal Council | The President of the Council |

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:40:26 :::

| | |
|---|---|
| 3 A Special Planning Authority constituted under Section 40(1)(a) of the Maharashtra Regional and Town Planning Act,1966 | The Chief Executive Officer of the Special Planning Authority |
| 4 A New Town Development Authority constituted under Section 113(2) of the Maharashtra Regional and Town Planning Act,1966 | The Chief Executive Officer of the New Town Development Authority |
| 5 A New Town Development Authority declared under Section 113(3A) of the Maharashtra Regional and Town Planning Act,1966 or a Special Planning Authority appointed under Section 40(1)(b) of that Act | The Managing Director of the Corporation or company declared to be the New Town Development Authority. |

(3) Every Tree Authority may nominate representatives of non-official organizations who have special knowledge or practical experience in the field of planting and preservation of trees, as members of the Tree Authority, but the number of such nominated members shall not exceed the number of members appointed under sub-Section (1). These members shall be nominated in such manner and for such period as may be prescribed.

(4) Any vacancy in the Tree Authority shall be filled as soon as may be by the authority competent to appoint the member in whose place fresh appointment is to be made.

Notwithstanding anything contained in sub-Sections (1) and (2) where, in respect of the area of a Municipal Corporation or, as the case may be, a Municipal Council, the Tree Authority is not constituted or is not able to function for any reason whatsoever, the Municipal Commissioner of such Municipal Corporation or, the Chief Officer of such Municipal Council, shall act as the Tree Authority and shall exercise all the powers

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/08/2018 17:43:36 :::

and discharge all the duties of a Tree Authority in such area, till such Authority is duly constituted or is able to function : Provided that, every decision taken by the Municipal Commissioner or the Chief Officer under this Section, shall be placed before the general body of such Municipal Corporation or as the case may be, the Municipal Council, in its immediately next meeting held after such decision."

(underlines supplied)

5. Section 4 reads thus:

"**4. Meeting of Tree Authority.**

(1) The Tree Authority shall meet at least once every month at such place and time as the Chairman may decide but, forty-five days shall not intervene between its two consecutive meetings.

(2) The quorum to constitute a meeting of the Tree Authority shall be one-third of the total number of its members including the nominated members, if any.

(3) The nominated member shall have the right to vote at a meeting of the Tree Authority.

(4) Save as otherwise provided by or under this Act, the rules of procedure for the meeting of the urban authority shall mutatis mutandis apply to the meetings of the Tree Authority.

6. The other relevant Section is Section 8. Before coming into force of the Amendment Act, Section 8 read thus:

"**8 Restrictions on felling of trees and liability for planting and preservation of trees.**

(1) On and after the date on which this Act is brought into force in any urban area, notwithstanding any custom, usage, contract or law for the time being in force, no person shall fell any tree or cause any tree to be felled in any land,

::: Uploaded on - 25/05/2013 ::: Downloaded on - 21/09/2023 17:49:26 :::

whether of his ownership or otherwise, situated within that urban area, except with the previous permission of the Tree Officer.

(2) If any person, including an officer of the urban local authority or an officer of the State Government or the Central Government, proposes to fell a tree, he shall apply in writing to the Tree Authority for permission in that behalf. The application shall be accompanied by the description of the tree and a site plan, indicating the position of the tree required to be felled and the reasons therefor.

(3) (a) On receipt of such application, the Tree Authority shall cause the Tree Officer to personally inspect the tree and hold enquiry and submit a report to the Tree Authority and submit a report to the Tree Authority within a period of thirty days from the date of receipt of such application. Adequate public notice shall be given by the Tree Officer by advertising in local newspapers as well as by affixing a notice on a conspicuous part of the tree that is required to be fell. Thereafter, the Tree Authority may give permission with or without conditions or refuse it within a period of sixty days from the date of receipt of the application. However, no tree shall be fell until fifteen days after such permission is given:

Provided that, no such permission shall be refused if, in the opinion of the Tree Authority, the tree is dead, or diseased or wind-fallen, or it constitutes a danger to life or property, or obstructs traffic; and if any objection is received against such permission, the matter shall be placed before the Tree Authority for reconsideration, and a decision shall be taken within two weeks after giving a hearing to the person who has raised the objection.

(b) A report of permissions granted by the Tree Authority for felling trees shall be submitted at least once in six months to the concerned urban local authority in whose jurisdiction the Tree Authority is functioning.

::: Uploaded on - 26/03/2018 ::: Downloaded on - 21/09/2018 17:43:26 :::

(4) If the Tree Authority fails to inform the applicant of its decision within sixty days, from the date of receipt of the application by it, or if the receipt of the application has been acknowledged by it within this period, from the date of acknowledgement of the receipt of the application, the permission applied for shall be deemed to have been granted.

(5) Where permission to fell a tree is granted Tree Authority may grant it subject to the condition that the applicant shall plant another tree of the same or other suitable local species on the same site or other suitable place within thirty days from the date the tree is felled, or such extended time as the Tree Officer may allow in this behalf."

(underlines supplied)

7. The constitution of Tree Authorities is dealt with in sub-Section (1) of Section 3 which provides that the Tree Authority shall consist of the Chairman and other not less than five persons and not more than 15 persons from amongst the members of the Urban Local Authority. In these two cases, the Urban Local Authorities are the Municipal Corporation of Greater Mumbai and the Municipal Corporation of City of Thane. In a case where the Urban Local Authority is a Municipal Corporation, the Municipal Commissioner is the Ex-officio Chairman of the Tree Authority. Sub-Section (3) of Section 3 empowers the Tree Authority to nominate representatives of non government organizations, who have special knowledge or practical experience in the field of planting and preservation of the trees, as the members of the Tree Authority. Only embargo on the appointment of the nominated members is that total number of such nominated members shall not exceed the number of members appointed under sub-Section (1) of Section 3. As

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

provided in sub-Section (3) of Section 4, the nominated members so appointed under sub-Section (3) of Section 3 have a right to vote at the meeting of the Tree Authority and for calculating the quorum of the meeting, even the number of nominated members is required to be taken into consideration.

8. As far as the appointment of the nominated members under sub-Section (3) of Section 3 is concerned, there is a provision made in the Maharashtra Urban Areas Protection and Preservation of Trees Rules, 2009 (for short `the said Rules') framed in exercise of the rule making power under the Trees Act. Rule 3 thereof reads thus:

> "3 For being nominated as a representative of non-official organization on the Tree Authority, the person shall be an active member of a non-official organization registered with the Social Forestry Department of the Government, shall have an interest in tree plantation, tree conservation, tree protection, etc., and shall possess a rich experience of at least ten years in the field."
>
> (underline supplied)

9. Thus, in addition to the qualifications prescribed by sub-Section (3) of Section 3 of a nominated member being a representative of a non-official organization who has a special knowledge or practical experience in the field of planting and preservation of trees, Rule 3 prescribes additional qualifications. First of such additional qualification is that for being nominated as a representative of non government organization, a person has to be an active member of the organization and that the said organization must be registered with the Social Forestry Department of the State Government. Further, it is provided that the

::: Uploaded on - 25/05/2013 ::: Downloaded on - 21/09/2023 17:43:29 :::

122



candidate should have an active interest in tree plantation, tree conservation,tree protection etc and should possess experience of 10 years in the field. In addition to the qualifications of the nominated members prescribed under sub-Section (3) of Section 3 of the Trees Act and Rule 3 of the said Rules, there are directions issued by this Court in the aforesaid decision in PIL No.93 of 2009. The said decision in general deals with the provisions of the Trees Act, the constitution of the Tree Authority and the manner in which the Tree Authority will exercise its power. Paragraph 20 of the said decision is relevant for our consideration which reads thus :

> "20. That leaves the Court with two aspects to be considered namely (i) the Constitution of the Tree Authority; and (ii) the procedure to be followed. As regards the constitution of the Tree Authority, under Section 3(2), only the members of the urban local authority as defined in Section 2(g) can constitute the Tree Authority. For the constitution of the Tree Authority, the minimum required strength is five members while the maximum permissible is fifteen. PMC has stated that the total number of members should be fixed at seven and that those corporators who are Science Graduates would be preferred. A membership of seven non-official members is, in our view, fair and proper having regard to the need of making the functioning of the Tree Authority of manageable proportion. Under Section 3(3), total number of nominated members cannot be exceed the number of corporators, who constitute the Tree Authority. Hence, the nominated members would also be restricted to seven. The nominated members should belong to independent NGOs and PMC has stated that not more than one person shall be appointed from the same NGO. As regards the nominated members, wider representation needs to be given to diverse cross Sections of NGOs with a special knowledge or expertise in plantation and preservation of trees with a minimum experience of at least

::: Uploaded on - 25/06/2013 ::: Downloaded on - 21/09/2023 17:49:26 :::

five years. Care shall be taken to obviate a situation which had occurred in the past whereby all the nominated members belonged to same NGO. While nominating the non-official members, preference shall be given to qualified persons with a degree or diploma in agriculture/forestry/ horticulture with an expertise of five years in plantation/ preservation/ transplantation of trees and/or in environment protection. PMC has stated that preference would be given to those NGOs who have a national presence."

(underlines supplied)

10. In paragraph 20, the Division Bench observed that all nominated members should not belong to the same NGO. The Division Bench also directed that while nominating the non-official members, preference should be given to qualified persons with a degree or diploma in agriculture/ forestry/horticulture with experience of 5 years in plantation/ preservation/ transportation of trees and/or environment protection. The said directions are binding as of today.

11. As there is a challenge to the provisions of the Amendment Act, it will be necessary to make a reference to the Amendment Act and in particular Section 3 of the Amendment Act which reads thus:

**3. Amendment of Section 8 of Mah.XLIV of 1975.**

In Section 8 of the principal Act,—

(a) in sub-Section (2), for the words "Tree Authority" the words "Tree Officer" shall be substituted ;

(b) in sub-Section (3),—

(i) for clause (a), the following clauses shall be substituted, namely :—

::: Uploaded on - 23/03/2013 ::: Downloaded on - 21/09/2023 17:49:28 :::

"(a) On receipt of such application, the Tree Officer shall,—

(i) give public notice by advertising it in at least one local newspaper ;

(ii) affix such notice on the conspicuous part of the tree that is to be felled ;

(iii) personally inspect the tree; and

(iv) hold an inquiry.

The Tree Officer shall, after expiry of the period of submission of objections and suggestions which shall not be less than seven days, submit his report along with objections or suggestions, if any, received to the Tree Authority or an officer mentioned in sub-Section (6), as the case may be :

Provided that, the Tree Officer shall submit his report within a period of twelve days from the date of receipt of the application :

Provided further that, no personal inspection of the trees by the Tree Officer shall be required, if the applicant submits images and details of the trees to be felled, by using Information Technology enabled system developed by the urban local authority which suffices the requirement of submission of report by the Tree Officer :

Provided also that, no such permission shall be refused if, in the opinion of the Tree Authority or the Officer, as the case may be, the tree is dead, or diseased or wind-fallen, or it constitutes a danger to life or property, or obstructs traffic; and if any objection is received against such permission, the matter shall be placed before the Tree Authority or the Officer, as the case may be, for reconsideration, and a decision shall be taken within two weeks after giving a hearing to the person who has raised the objection.

(a-1) The Officer referred to in sub-Section (6) or the

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

Tree Authority, as the case may be, shall allow the application, with or without conditions or, may refuse it, within a period of forty-five days from the date of receipt of the application.";

(ii) in clause (b), for the words "six months" the words "three months" shall be substituted;

(c) in sub-Section (4),—

(i) for the words "If the Tree Authority fails to inform" the words "subject to the provisions of sub-Section (5), if the Tree Authority fails to inform" shall be substituted;

(ii) for the words "sixty days" the words "forty-five days" shall be substituted;

(d) for sub-Section (5), the following sub-Section shall be substituted, namely :—

"(5) Where permission to fell a tree is granted or deemed to have been granted under sub-Section (4), the applicant shall plant twice the number of trees to be felled of the same or other suitable local species on the same site and if required at other suitable places as decided by the Authority. The number of trees to be planted on the same site and that on other suitable place along with location of such suitable place shall be mentioned in the permission to be granted by the Authority. The trees shall be planted within fifteen days from the date the tree is felled, or such extended time as the Tree Officer may allow in this behalf :

Provided that such extended time granted shall not exceed fifteen days.";

(e) after sub-Section (5), the following sub-Section shall be added, namely :—

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:43:29 :::

"(6) Notwithstanding anything contained in this Act, if the number of trees proposed to be felled is twenty-five or less, in such cases all the functions and powers of the Tree Authority shall be exercised by the Municipal Commissioner of Municipal Corporation or the Chief Officer of Municipal Council or the Chief Executive Officer of the Authority as the case may be.".

(underlines supplied)

12. In substance, in both the petitions, the challenge is to the sub-Section (6) added in Section 8 of the Trees Act by the Amendment Act. In both the petitions, there is a challenge to the constitutional validity of the said provision on the ground of violation of Articles 14 and 21 of the Constitution of India.

13. On this background, we must make a reference to the submissions canvassed across the bar.

## THE SUBMISSIONS OF THE PETITIONERS

## PIL NO. 119 OF 2017 FILED IN RESPECT OF THE TREE AUTHORITY OF THE THANE MUNICIPAL CORPORATION.

14. In support of PIL No.119 of 2017, the learned senior counsel for the petitioner invited our attention to the manner in which the Tree Authority has been constituted for the urban area of the Thane Municipal Corporation and in particular the manner in which nominated members under sub-Section (3) of Section 3 have been appointed. She invited our attention to various documents on record to show the kind of decision making process adopted by the Tree Authority for appointing nominated

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

members. The second submission of the learned counsel for the petitioner is that the Tree Authority could not have appointed invitee members or special invitees. Her submission is that the appointment of nominated members under sub-Section (3) of Section 3 ought to have been made in accordance with the qualifications prescribed by sub-Section (3) of Section 3 and Rule 3 of the said Rules as well as the guidelines laid down in the aforesaid decision of the Division Bench of this Court. Her submission is that the entire process is vitiated by illegality.

15. Her submission is that as the Tree Authority is not lawfully constituted, it cannot be allowed to function. She pointed out that in the meeting of the Tree Authority held on 17th October 2017, about 21 proposals for felling/transplantation of trees were considered and permissions were granted in the same meeting for transplantation of 3,789 trees and cutting of 1,537 trees. Her submission is that apart from the fact that the Tree Authority is not validly constituted, without application of mind, such large number permissions were granted only in one meeting. Her submission is that the proceedings of the meeting held on 17th October, 2017 stand vitiated.

16. She has also made extensive submissions on the appointment of the Tree Officer. She pointed out that the person who has been appointed as a Tree Officer is a Garden Inspector and he is one of the junior most officers in the hierarchy of officers working in the garden department. Her submission is that even going by the stand taken by the Municipal Corporation, the Tree Officer (third Respondent) is not qualified

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2020 17:49:26 :::

128



to hold the post as sub-section (2) of section 5 requires that he should not be below the rank of Assistant Municipal Commissioner. She invited our attention to Section 5 of the Trees Act. She urged that the third respondent's substantive post is not of the rank of an Assistant Commissioner. Her submission is that considering the important role assigned to the Tree Officer under the provisions of the Trees Act and considering the fact that the third respondent cannot hold said post, interim relief ought to be granted by directing appointment to be made of a person who is qualified to hold the post of Tree Officer.

17. As regards the power of the Municipal Commissioner under sub Section (4) of Section 3, she submitted that the power which is conferred on the Municipal Commissioner which could be exercised when Tree Authority is not functioning is not an unlimited or unfettered power. She submitted that such power is to be exercised only in exceptional cases, where there is an emergent situation. She submitted that when an application for grant of permission for felling of trees goes before the Tree Authority, it is considered by experts in the field who are its members and therefore, a decision is taken on the application after participation of the experts in the field. Whereas the Municipal Commissioner is not at all an expert in the field. She has made submissions in support of the said proposition by relying upon decisions of the Apex Court in the cases of ***Kishansing Tomar V. Municipal Corporation of the City of Ahmedabad & Ors.***[1] and ***K.B. Nagur, M.D. (Ayurvedic) V. Union of India***[2]. She also

1 2006 (8) SCC 352
2 2012 (4) SCC 483.

::: Uploaded on - 15/05/2013 ::: Downloaded on - 21/09/2023 17:49:26 :::

invited our attention to the decision of the Apex Court in the case of ***State of Tamil Nadu and Ors. Vs. K. Shyam Sunder and Ors.***[1]. She extensively relied upon a decision of a Division Bench of this Court dated 28th September, 2013 to which we have already made a reference.

18. Referring to sub-Section (6) of Section 8 which is the subject matter of challenge in the Petition, she submitted the classification sought to be made by the said provision is arbitrary and it has no nexus with the purpose or object sought to be achieved. Her submission is that there is no difference between an application which seeks permission to cut more than 25 tress and one which seeks permission for cutting of less than 25 tress. Her submission is that such a classification is violative of Article 14 of the Constitution of India being arbitrary. She relied upon the decisions of the Apex Court in the case of ***Subramaniam Swamy Vs. Director of Central Bureau Investigation & Anr***[4] and ***Shayara Bano Vs. Union of India***[5]. Her submission is that sub-Section (6) confers an unguided and arbitrary power on the Municipal Commissioner who by no stretch of imagination is an expert in the field. She submitted that there are no guidelines introduced along with introduction of sub-Section (6) of Section 8 laying down the parameters within which the Municipal Commissioner will exercise the powers. Her submission is that incorporation of such unfettered and unregulated powers without proper guidelines makes sub-Section (6) of Section 8 open to attack on the ground of violation of 14 of the Constitution of India. Her submission is

1 2011 (8) SCC 737.
4 (2014) 8 SCC 682.
5 (2017) 9 SCC 1

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

130



that the exercise of power in such arbitrary manner by the Municipal Commissioner under sub-Section (6) of Section 8 will violate fundamental rights of the citizens under Article 21 of the Constitution of India. Her submission is that considering the object of enacting the Trees Act, sub-Section (6) of Section 8 is *ultra vires* the provisions of the Trees Act. She also pointed out that even rule making power has not been exercised providing for guidelines for exercise of the power under sub-Section (6) of Section 8. The petitioner is relying upon the decisions of the Apex Court in the case of ***Dwarka Prasad Laxmi Narain Vs. State of U.P. and two Ors.***[6], ***S.G. Jai Singhani Vs. Union of India***[7], and ***B.B. Rajwanshi Vs. State of UP and Ors.***[8]. She also pointed out that there is a distinct possibility of gross abuse of the provisions of sub-Section (6). If a person wants to fell more than 25 trees, he can make two or more separate applications with a view to take undue advantage of sub-Section (6) of Section 8. She would, therefore, submit that the provision of sub-Section (6) of Section 8 cannot be allowed to operate and deserves to be stayed.

PIL NO. 46 OF 2015

19. The learned counsel appearing for the Petitioner in support of Public Interest Litigation No.46 of 2015 has made submissions confined to the challenge to sub-Section (6) of Section 8 as the challenge in this PIL is confined only to the validity of sub-Section (6) of Section 8 of the Trees Act. Her submission is that the classification sought to be made by sub-

6 AIR1954 SC 224
7 AIR1967 SC 1247
8 (1988) 2 SCC 415.

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

Section (6) by carving out a category of applications seeking permission to cut not more than 25 trees is not based on any intelligible *differentia.* Her submission is that such a provision which is very vague and ambiguous is open to misuse as there is a complete absence of guidelines. She submitted that the provision does not clarify whether such a proposal has to be in respect of entire stretch of road or entire project. Inviting our attention to the affidavit-in-reply filed by the State Government, she submitted that sub-Section (6) makes no difference between small projects and big projects. She pointed out that the power under sub-Section (6) of Section 8 is being misused. She submitted that when the Municipal Commissioner exercises the power of the Tree Authority under sub-Section (4) of Section 3, his decisions are required to be tabled before the General Body of the Municipal Corporation. She submitted that as far as sub-Section (6) of Section 8 is concerned, there is no such requirement. She also pointed out that the Tree Authority consists of the members of the Urban Local Authority (in the present case elected Municipal Councillors) who are aware about the local factual situation and who can express the views of the citizens. Moreover, the members of the civil society who are experts in the field are also a part in the Tree Authority. She pointed out that there is no remedy of appeal against the exercise of power under sub-Section (6) of Section 8. An order passed under the said provision permitting cutting of trees can be acted upon immediately. Inviting our attention to the statements of objects and reasons of the Amendment Act, she submitted that sub-Section (6) of Section 8 has no nexus to the objects sought to be achieved by the Amendment Act. She pointed out that before the Amendment Act, sub-Section (1) of Section 4

::: Uploaded on - 21/09/2023 ::: Downloaded on - 21/09/2023 17:49:26 :::

132



provided that the Tree Authority shall meet at least once in every month and 45 days shall not intervene between the two consecutive meetings. Inviting our attention to Section 2 of the Amendment Act, she pointed out that now there is a mandate that the Tree Authority must meet every fortnight and the period of 45 days has been brought down to 21 days. The submission is that now the Tree Authority will have to meet frequently once in a fortnight and therefore, sub-Section (6) of Section 8 serves no purpose at all. She also extensively relied upon the decision of this Court of 20th September 2013. She also invited our attention to the said Rules which prescribe additional qualifications for the nominated members under sub-Section (3) of Section 3. She pointed out that the Tree Authority consists of two sets of members, the first set represented by the elected Councillors and the second set is of the members of NGO who are the experts in the field. She also pointed out that there is no material placed before the Court to show that the tree cover in the urban areas of the State has improved during last two decades. She relied upon various decisions including the decision of the Apex Court in the case of ***State of Punjab and Another Vs. Khan Chand***[9] which holds that it is the duty of the Court to declare the provision of an enactment to be the unconstitutional when the Court is satisfied that the same is unconstitutional. She also relied upon a decision of the Apex Court in the case of ***Health for Millions Vs. Union of India***[10]. She submitted that there is no possibility of any project being held up as the Tree Authority is supposed to meet once in every fortnight. She submitted that sub-Section (6) of Section 8 is liable to be struck down.

9 (1974) 1 SCC 549.
10 (2014) SCC 496

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

133



THE SUBMISSIONS OF THE RESONDENTS

20. The learned Senior Counsel appearing for the State Government invited our attention to the objects and reasons of the Amendment Act and submitted that the provision of sub-Section (6) of Section 8 has been enacted to avoid unnecessary delay. He submitted that there is nothing arbitrary about the figure of 25. He submitted that before the Commissioner entertains an application under sub-Section (6) of Section 8, the procedure prescribed under Section 8 has to be followed in its entirety and only difference is that the report by the Tree Officer is placed before the Municipal Commissioner instead of the Tree Authority. He submitted that this Court can always pass an order directing that the permissions granted by the Municipal Commissioner under sub-Section (6) of Section 8 shall not be implemented for a reasonable time of about two weeks from the dates of its publication so that the citizens who are aggrieved by it can always challenge the same. He submitted that a power under sub-Section (4) of Section 3 conferred on the Commissioner can be used only to tackle an emergent situation. He submitted that in view of the presumption in favour of constitutionality of an enactment, no interim relief can be granted.

21. The learned senior counsel appearing for the Mumbai Municipal Corporation has submitted that a Municipal Commissioner has to work in various areas such as education, town planning, etc. He is able to deal with various subjects as the experts in the field are always available on the establishment of the Mumbai Municipal Corporation. He

::: Uploaded on - 26/03/2013 ::: Downloaded on - 21/09/2023 17:49:26 :::

submitted that whenever the Commissioner exercises powers under sub-Section (6) of Section 8, he can always seek assistance of several experts in the field of horticulture/Botany who are available with the Municipal Corporation. He submitted that the procedure which is followed in the case of applications which are ultimately placed before the Tree Authority has to be followed in case of an application where the prayer relates to not more than 25 trees. He relied upon a chart showing the procedure followed for issuing a permission for removal of trees which is annexed to the affidavit dated 18th April, 2018 of Shri Sahebrao Panditrao Gavit, the Superintendent of Gardens. He submitted that instead of placing all the proposals before Tree Authority, the proposals where the prayer is confined to 25 or less number of trees are being placed before the Commissioner. He stated that the Commissioner is bound to consult experts before taking any decision. A list of such experts is annexed to the same affidavit as Annexure 'B'. He invited our attention to the statements made in the affidavit of Shri Sahebrao Panditrao Gavit which explain the statements made in paragraphs 10 and 11 of the affidavit filed by Shri Jitendra Pardeshi, Superintendent of Gardens and Tree Officer dated 13th April 2018. He submitted that powers will be exercised under sub-Section (6) of Section 8 by the Municipal Commissioner for 25 trees per project and/or per defined plot as per the sanction of Competent Authority or Planning Authority and proposals for more than 25 trees per defined plot or project will be referred to the Tree Authority. He further stated that in case of public projects like Metro Rail, widening of nalla , river etc., the proposals submitted section-wise will be considered.

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

22. The learned senior counsel relied upon various decisions of the Apex Court in the cases of ***Welfare Association, A.R.P. Maharashtra and Anr. Vs. Ranjit P. Gohil and Ors.***[11], ***Government of Andhra Pradesh and Ors. Vs. P. Laxmi Devi (Smt.)***[12], ***Sushil Kumar Sharma Vs. Union of India***[13], ***Consumer Action Group and Anr. Vs. State of T.N. And Ors.***[14], ***Rajbala & Ors. Vs. State of Haryana & Ors.***[15], *and* ***Bhavesh D. Parish and Ors. Vs. Union of India & Anr.***[16]. He submitted that moreover mere violation of Article 14 is no ground to challenge constitutional validity of an enactment. He submitted that the operation of statutory provisions cannot be stayed by granting interim order and such interim order of stay of operation of statutory provisions can be granted only when the Court is fully satisfied that a particular enactment or Rule is *ex facie* unconstitutional. There also, the Court has to consider the factors such as balance of convenience, irreparable injury and public interest. He submitted that the apprehension expressed about the abuse or misuse of sub-Section (6) of Section 8 has no basis. He states, on instructions, that the Municipal Commissioner will consult the experts in the field who are available with the Municipal Corporation before taking any decision. He stated that the decision taken by the Municipal Commissioner can be suspended for seven to eight days from the date of its publication, so that every aggrieved party can always challenge the same. We accept the statement as the statements of the Municipal Commissioner of Mumbai which will continue to bind him till disposal of the PIL.

---

11 (2003) 9 SCC 358
12 (2008) 4 SCC 720
13 (2005) 6 SCC 281
14 (2000) 7 SCC 425
15 (2016) 2 SCC 445
16 (2000) 5 SCC 471

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

23. The learned senior counsel appearing for the Municipal Corporation of City of Thane adopted the aforesaid submissions. He stated that the Municipal Commissioner is bound to consult the experts in the field before exercising the powers conferred under sub-Section (6) of Section 8. He also stated that the order can remain suspended for reasonable period to enable aggrieved parties to challenge the same. He submitted that large number of experts in the field of botany and horticulture are available on the establishment the said Municipal Corporation for consultation. We accept these statements as the statements of the Commissioner of the said Corporation which will continue to bind him till the disposal of PIL.

24. The learned senior counsel appearing for the Respondent No.5 in PIL No.119/2017 submitted that the proposals submitted by the said respondent were sanctioned on 17th October 2017 after undergoing the entire procedure. He submitted that it is only in the light of the ad-interim order that the said respondent has made a statement that it would seek refund of the amount deposited with the Municipal Corporation. He submitted that as of today, the said respondent has not taken refund. He submitted that entire machinery under the said Act cannot remain suspended and thus, if the Court is satisfied that the Tree Authority is not properly constituted, this Court should direct the constitution of the Tree Authority within a time bound period. He submitted that in PIL No.119 of 2017, there is no challenge to the constitutional validity of sub-Section (4)

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:43:23 :::

of Section 3 which permits the Municipal Commissioner to discharge the powers and duties of the Tree Authority when for any reason, the Tree Authority is not able to function. He submitted that in view of the ad-interim order passed by this Court, the Tree Authority is not able to function and therefore, the Commissioner can exercise the powers under sub-Section (4) of Section 3. He submitted that after the new Tree Authority is constituted, a direction be issued for immediately placing the application of the fifth respondent before the newly constituted Tree Authority. He submitted that no embargo can be put on the powers of the Commissioner which he could legitimately exercise under sub-Section (4) of Section 3.

25. We have also heard the learned Senior Counsel appearing for the intervenor in Civil Application No.21/2018 who has adopted the aforesaid submissions made by the learned Senior Counsel appearing for the Respondent No.5. He submitted that the proposal submitted by the Applicant has been already sanctioned. The learned counsel appearing for the Respondent No.5 pointed out that said Respondent is implementing a public project. He also pointed out that substantial number of trees have been planted in the City of Thane. The learned counsel for the members of the Tree Authority of Thane opposed the petition. It was pointed out that there is nothing wrong with the appointment of special invitees as they have no voting rights. It was also pointed out that there is no challenge to the appointment of members under sub-Section (1) of Section 3.

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

138



CONSIDERATION OF SUBMISSIONS

THE ROLE OF TREE AUTHORITY AND ITS CONSTITUTION

26. We have given careful consideration to the submissions. It will be necessary to make a reference to the statements of objects and reasons of the Trees Act, the relevant part of which reads thus:-

> "Greenary in the cities is rapidly giving way to jungles of cement and concrete blocks. **With the growing pace of urbanisation and industrialisation, there has been indiscriminate felling of large number of trees in the urban areas of the State of Maharashtra. This has resulted in disturbing the ecological balance with disastrous effect of environment particularly the climate in the cities and their surrounding areas. It has thus become necessary to provide for protection for the existing trees and for encouragement to planting more trees in the urban areas.** This Bill accordingly seeks to make better provision for the preservation of trees in urban areas in the State, by regulating felling of trees and providing for planting of adequate number of new trees in those areas and to provide for matters connected therewith. The following paragraphs indicate in brief the important provisions made in the Bill....."

27. The statement of objects and reasons specifically notes the factual position that indiscriminate felling of large number of trees due to urbanisation and industrialisation in the urban areas in the State of Maharashtra has resulted in disturbing ecological balance with disastrous effect on the environment and particularly the climate in the cities and surrounding areas. The object of the Trees Act is to provide protection to the existing trees and to encourage planting more trees in the urban areas.

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

It is emphasized that the Trees Act seeks to make better provisions for preservation of trees in urban areas in the State, by regulating felling of trees and providing for planting of adequate number of new trees in those areas. Thus, essentially the Trees Act has been enacted after taking a note of disturbance of ecological balance due to indiscriminate felling of trees in the urban areas of the State. The entire object seems to protect the existing trees and to encourage planting of more and more trees in urban areas. Only with the object of preservation of trees that the Trees Act seeks to regulate felling of trees. The object is not to allow felling of large number of trees.

28. Before we advert to the provisions of Sections 3, 4 and 8, it will be also necessary to make a reference to the other relevant provisions of the Trees Act. Under sub-Section (1) of Section 9, there is a power conferred on the Tree Officer to direct the owner or occupier of the land requiring him to plant such tree or trees at such places in the land as may be specified in the order. Sub-Section (1) of Section 12 provides for adoption of trees. Section 11 provides that when an order under Section 8 is made, it will be the duty of the owner or occupier of the land who is directed to plant trees to see that the trees grow properly and are well preserved. He is expected to submit a report to the Tree Officer once in six months about the condition of the trees. Moreover, it imposes a duty upon such owner or occupier to preserve all other trees existing on the land on the date of coming into force of the Trees Act in the urban areas in which the land is situated. Sub-Section (1) of Section 12 provides for grant of permission by the Tree Authority to an individual or a body to

::: Uploaded on - 25/09/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

adopt any tree for the period specified therein. Section 19 is a salutary provision which starts with a non-obstante clause. The section, thus, overrides the other laws in force. It provides that any officer or any authority of the Urban Local Authority, who is empowered to give any permission for development of a land, shall not give such permission, except with the approval of and subject to the conditions, if any, imposed by the Tree Officer in regard to the preservation or plantation of trees on such land. Therefore, even if cutting or trimming of trees for making development on a land is not required, a development permission cannot be granted by the Planning Authority except with the approval of and subject to conditions imposed by the Tree Officer with the object of preservation or plantation of trees on such lands. This provision overrides the provisions of the Municipal Laws such as the Maharashtra Municipal Corporations Act, 1949, the Mumbai Municipal Corporation Act, 1888 and the Maharashtra Regional and Town Planning Act, 1966. Section 20A confers a power on any Tree Officer or any Police Officer to use such force as may be reasonably necessary to prevent the felling or destruction of any tree or for the protection of any tree. Thus, apart from the objects set out in the objects and reasons, the extensive provisions referred above clearly show that the object of the Trees Act is to provide protection to existing trees and for encouraging planting of additional trees. Granting permission for cutting the trees or transplanting the trees is only a small part of the function of the Tree Authority. In fact, if Section 7 is perused, it holds the Tree Authority responsible for protection and preservation of all trees in all lands within its jurisdiction. The Tree Authority is also under an obligation to carry out census of the existing trees in all lands

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2022 17:49:26 :::

within its jurisdiction once before December, 1996 and thereafter once in every five years. It is not clear whether this important function has been discharged by the Tree Authorities of both the Municipal Corporations. One of its functions is to organize flower, fruit, vegetable, tree or plant shows. Its another function is grant of advice and technical assistance to any person seeking such advice or assistance in any matter connected with planting, protection and preservation of trees. Its duty is also to undertake the schemes or measures to achieve the objects of this Act. On conjoint reading of the provisions of the Trees Act with its objects and reasons, it is very clear that power under Section 8 conferred on various authorities is to ensure that there are restrictions/ regulations on felling of trees so as to improve green cover of the urban areas. We have already made an extensive reference to the decision of the Division Bench of this Court dated 20th September 2013, which essentially deals with the City of Pune which notes that due to expansion of the said City by leaps and bounds during last two decades, there is a fast depletion of green cover. We must take a judicial notice of the fact that the said observation will equally apply to the cities of Mumbai and Thane as well as several other Metropolitan cities in the State. Perhaps, it is in the light of the provisions of the Trees Act and objects and reasons that the Division Bench in paragraph 26 of the decision held thus:-

> "26. We now direct that the PMC shall take necessary steps to effectuate this order to ensure that the census of trees adopting modern technology in a digitized frame work with geo-tagging is duly completed. All steps shall be taken to ensure that the constitution of the Tree Authority is carried out in terms as indicated to the Court. **Above all, we would seek to emphasize that the Tree Authority is not an**

::: Uploaded on - 25/05/2013 ::: Downloaded on - 21/09/2023 17:49:26 :::

142



**authority for the destruction of trees but for the preservation of trees and the enhancement of the fast depleting green cover in the urban areas of the State."**

(emphasis added)

29. It is only in the light of this legal position that the provisions of the Trees Act will have to be interpreted. Now, we turn to the provisions of Section 3 of the Trees Act. As far as the qualifications of nominated members under sub-Section (3) of Section 3 are concerned, the same can be found at three places. The first is the statute itself [sub-Section (3) of Section 3] which provides that the Tree Authority can nominate representatives of non-official organizations, who have special knowledge or practical experience in the field of planting and preservation of trees, as the members of the Tree Authority. The number of such nominated members shall not exceed the number of members appointed under sub-Section (1) of Section 3 who are councillors of the Municipal Corporation. We have already reproduced the provisions of Rule 3 of the said Rules of 2009 which provide for additional qualifications in addition to what is provided in sub-Section (3) of Section 3. It provides that nominated member shall be an active member of a Non Government Organization (NGO) registered with Social Forestry Department of the State Government. It imposes condition of a minimum experience of 10 years in that field. The decision dated 20th September 2013 which is referred earlier provides for experience of five years which does not take the note of Rule 3. However, said decision categorically lays down that all nominated members should not be from the same non-official organization. The fact that Rule 3 provides that a non-official

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

organization must be registered with Social Forestry Department indicates that the NGO must have some connection with the activity of tree plantation or tree conservation or tree protection etc. Thus, the object of sub-Section (3) of Section 3 and Rule 3 seems to be that the Tree Authority should have an assistance of the persons who are having not only mere experience in the field but those who have special knowledge or practical experience in the field of plantation or preservation of trees who are representatives and members of NGO which is registered with Social Forestry Department. Thus, the object of the qualifications laid down is to ensure that a Tree Authority must have expert members in the field of tree planting and conservation and protection of trees. As stated earlier, grant of permissions for cutting the trees appears to be a very small part of the larger duties and functions entrusted to the Tree Authority generally under Section 7 and particularly under various other Sections of trees Act.

30. Thus, it goes without saying that if the provisions of sub-Section (3) of Section 3 and/or Rule 3 and/or aforesaid binding directions of this Court are not implemented in its true letter and spirit, the very object of appointing nominated members will be completely frustrated. We have already noted the statement of objects and reasons in which the State has accepted that there has been indiscriminate felling of large number of trees in the urban areas in the State of Maharashtra which has resulted in disturbing ecological balance with disastrous effect on environment particularly the climate in the cities and surrounding areas. It is not the stand taken by the State Government that between 1975 and

::: Uploaded on - 25/05/2013 ::: Downloaded on - 21/09/2023 17:49:26 :::

2018, there is any improvement in the situation. Any action which affects ecological balance and which has disastrous effect on the environment including the climate amounts to violation of fundamental rights of the citizens under Article 21 of the Constitution of India. The said right is to live in a pollution free atmosphere. Article 48A which is a part of the directive principals of such policy are also relevant which reads thus:-

> ***"48A. Protection and improvement of environment and safeguarding of forests and wild life.*** *– The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country."*

31. At this juncture, we may also refer to part 4A of the Constitution of India which incorporates Article 51A which are fundamental duties of the citizens. The fundamental duty as provided in clause (g) thereof is to protect and improve natural environment which includes trees. It is in the light of this legal position that we must examine to challenge to the appointment of nominated members under sub-Section (3) of Section 3 of the Tree Authority of the Thane Municipal Corporation and the appointment of the special invitees. While we do so, we must note here that we are examining the decision making process adopted by the Tree Authority for appointing the nominated members.

<u>THE PROCESS OF APPOINTMENT OF MEMBERS UNDER SUB-SECTION (3) OF SECTION 3 OF THE TREE AUTHORITY FOR THANE.</u>

32. The details of the process adopted are on record. It appears that on 19th June 2017, the Commissioner who is the *ex-officio* Chairman

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

of the Tree Authority published a public notice inviting applications for being appointed as nominated members. On 20th June 2017, the appointment of six members as required by sub-Section (1) of Section 3 was made by the Municipal Corporation by a General Body resolution. As far as the nominated members are concerned, it appears that on 6th July 2017, a Committee of three persons was constituted to scrutinize the applications received for seeking appointments under sub-Section (3) of Section 3. A copy of the minutes of the meeting of the said Committee has been placed on record along with an affidavit filed by Shri Kedar Ramakant Patil, the Tree Officer of the Municipal Corporation. The minutes of the meeting dated 14th July, 2017 are at page 198 (of PIL 119 of 2017). It records that 37 applications were received out of which only 9 were held eligible. The names of eligible applicants who were not recommended by the Committee are :-

1) Sou. Seema Hemchandra Hardikar
2) Shri Prakash G. Berde
3) Shri Anand Bharat Patil
4) Kum. Ankita Amol Jamdar
5) Shri Santosh Tawde.

The Committee recommended only 4 eligible applicants whose names read thus:-

1) Shri Chandrahas Govind Tawde
2) Shri Sudesh Suresh Kharkar
3) Sou. Namrata Sushant Jadhav

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

146



4) Shri Bharat Ganpat Padwal

33. No reasons whatsoever have been assigned by the Committee for holding other 28 candidates as ineligible. The Committee has not given reasons as to why only nine applicants were held to be eligible. No reasons are assigned for recommending only 4 candidates out of total 9 eligible candidates. It appears that the said report of the Committee was placed before the Tree Authority in its meeting held on 9th October, 2017. In the minutes of the meeting, there is a reference to the constitution of Scrutiny Committee and its recommendations. The Tree Authority appointed following persons as nominated members who are parties to the PIL:-

1) Sou. Seema Hemchandra Hardikar
2) Shri Prakash G. Berde
3) Shri Anand Bharat Patil
4) Shri Chandrahas Govind Tawde
5) Shri Santosh Tawde
6) Sou. Namrata Sushant Jadhav

34. The Scrutiny Committee had recommended 4 names which we have reproduced earlier. There are no reasons assigned or recorded in the minutes as to why the recommendations of the Scrutiny Committee were not accepted in its entirety inasmuch as out of 4 candidates recommended by the Scrutiny Committee only 2 were appointed by the Tree Authority. The minutes do not refer to any scrutiny of the applications made during the course of the meeting of the Tree Authority.

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

147



There is no material on record to show that both the Scrutiny Committee and the Tree Authority have made any effort to record any conclusions as to why a particular applicant satisfies eligibility conditions. No effort is made to consider relative merits and demerits of the 9 eligible candidates. The record shows that there was no application of mind by the Tree Authority. The matter does not rest here. The Scrutiny Committee had found one Sou. Ankita Amol Jamdar as eligible whose application at Exhibit 'I' shows that she had secured MSc Degree in Botany from Mumbai University. She had claimed that she stood first in the said examination. No reasons have been assigned either by the Scrutiny Committee or the Tree Authority for discarding the candidature of said candidate. However, in the Affidavit of Shri Patil, the Tree Officer, in paragraph 15, he has stated that the Tree Authority did not appoint her as the quota of 33% of women was already over. This approach, to say the least, is very shocking. There is no such reservation provided in law. We are really on the entire decision making process and the approach of the Tree Authority. To the recommendations of the Scrutiny Committee, there is a chart annexed. We are referring to the chart not with a view to record any final finding on the eligibility of any candidate. The chart shows that in case of the 6 nominated members, it is specifically recorded that the NGOs of which the said candidates are member have not been registered with the Social Forestry Department. The word "No" appears in the second column against their names. The second column has a title "must be an active member of NGO registered with Social Forestry Department". No particulars of registration are mentioned therein. As far as one candidate is concerned, the name of the NGO is Lions Club. Another candidate is

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:40:35 :::

shown as a member of "Shrirang Sahniwas Ganeshsotsav Mandal" (the name suggests that this organization holds Ganesh Festival).

35. Even without going into the specific issue of eligibility of each and every candidates which could have been adjudicated upon as sufficient material available on record, *ex facie,* it appears to us that the entire process of nominating members under sub-Section (3) of Section 3 has been completely vitiated due to non application of mind. Hence, the Tree Authority which has such nominated members is not at all a lawfully constituted Tree Authority and therefore, it cannot be allowed to function pending the final hearing of PIL.

APPOINTMENT OF SPECIAL INVITEES

36. Now we turn to the one more challenge in PIL No.119 of 2017 of appointment of special invitees to attend the meetings of the Tree Authority. On 9th October 2017, Tree Authority of Thane passed an order appointing five persons as special invitees who are entitled to attend all the meetings of the Tree Authority but they will have no right of voting. Perusal of the chart accompanying recommendations/ report of the Scrutiny Committee shows that four out of five of the special invitees were held ineligible by the Committee for appointment under sub-Section (3) of Section 3. The fifth special invitee had not even applied for being nominated as a member under sub-section (3) of Section 3. Appointing such persons as special invitees amounts to giving back door entry to the

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

said persons who by their status as special invitees are entitled to participate in the proceedings of meetings. Neither the Act nor the said Rules provide for appointing such permanent special invitees. This is nothing but a gross abuse of powers by the Tree Authority. On 9th October 2017, when special invitees were appointed, the Tree Authority was fully aware that four out of five of them were not held as ineligible by the Scrutiny Committee. Therefore, the act of appointing special invitees appears to be ex-facie illegal. Suffice it to say that for the reasons which are recorded above, the appointment of special invitees is nothing but a complete abuse of power.

DECISION MAKING PROCESS IN THE MEETING OF THE TREE AUTHORITY HELD ON 17TH OCTOBER 2017

37. On 17th October, 2017, when the Tree Authority met in presence of the special invitees, as many as 21 proposals have been considered in one meeting and permission was granted to cut 1,537 trees and to transplant 3,789 trees. The procedure requires the Tree Officer to make an inquiry and to submit a report to the Tree Authority. The Tree Authority ought to have considered the report in each and every case and come to a conclusion after due application of mind. After minutes of the meeting are perused, we find that absolutely no reasons have been recorded for granting such large number of permissions in one meeting. Careful perusal of the minutes will show that it is not recorded that the reports submitted by Tree Officer were perused by the Tree Authority. The Tree Authority seems to have completely ignored the provision of Section 8 and completely forgotten object of creating Tree Authority. Apart from

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

150



the fact that constitution of Tree Authority is *ex facie* vitiated, considering the manner in which the decisions were taken in the meeting dated 17th October 2017, it is necessary to pass an interim order preventing parties from acting upon the permissions granted in the said meeting. A very strong *prima facie* case is made out about the illegality of the decisions taken in the said meeting. We must also note here that even assuming that constitution of the Tree Authority of the Thane Municipal Corporation was lawful, the decision making process adopted in the meeting dated 17th October 2017 is completely vitiated due to non consideration of reports and non-application of mind.

38. We may note here that the learned Senior Counsel appearing for the Respondent Nos.1 to 3 in the said PIL (PIL No.119 of 2017) has tendered across the bar a letter dated 20th February 2018 addressed to him by the Municipal Commissioner of Thane Municipal Corporation and *ex-officio* Chairman of the Tree Authority in which he has stated that "we are inclined to dissolve the present Tree Authority constituted under Section 3(1) and Section 3(3) of the Trees Act and also inclined to dissolve the members which are being taken as Special Invitee Members. Further once the body will be dissolved as aforesaid, we will take further steps to reconstitute the Tree Authority *de novo*".

39. Under sub-Section (1) of Section 3, Urban Local Authority (in the present case "the Municipal Corporation") is required to constitute a Tree Authority consisting of not less than 5 and not more than 15 persons from amongst its members. Thereafter, the Tree Authority is

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:40:26 :::

required to nominate representatives of non-official organizations. One of the submissions canvassed across the bar by the learned counsel representing the members appointed under sub-Section (3) of Section 3 and special invitees is that the decision to reconstitute the Tree Authority will have to be taken by the Municipal Corporation and, thus, the decision will have to be taken only by the General Body.

40. The Chairman of the Tree Authority who is the Municipal Commissioner has come to a conclusion that there is a need to *de novo* constitute the Tree Authority. We have recorded a *prima facie* finding that the process of appointment of members under sub-Section (3) of Section 3 stands vitiated. Considering the scheme of the Trees Act, it is mandatory for the Urban Local Authority to constitute a Tree Authority in accordance with the provisions of the Trees Act. This mandatory obligation cannot be ignored by the Municipal Corporation. Under sub-Section (1b) of Section 63 of the Maharashtra Municipal Corporations Act, 1949, it is the mandatory duty of the Municipal Corporation to take measures for urban forestry, protection of the environment and promotion of ecological aspects. Therefore, the Municipal Corporation cannot create a situation where there is no lawfully constituted Tree Authority. We, therefore, propose to direct the Municipal Commissioner to place the subject of the reconstitution of the Tree Authority before the next General Body Meeting of the Municipal Corporation so that the Municipal Corporation can take appropriate decision on the reconstitution of the Tree Authority in the light of the findings recorded by this Court and the stand taken by the Municipal Commissioner. We are sure that the General Body is aware of

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

152



the mandate under of Section 3 of the Trees Act as well as sub-Section (1b) of Section 63 of the said Act of 1949. The Municipal Corporation will have to ensure that the Tree Authority is lawfully reconstituted so that there is no void. Even otherwise, it is the legal obligation of the Municipal Corporation to so.

PROCEDURE UNDER SECTION 8

41. Now, we turn to the other relevant provisions for dealing with the other arguments. Before we deal with sub-Section (4) of Section 3, it will be necessary to consider Section 8. sub-Section (1) imposes a complete embargo on felling of trees and causing any tree to be felled except with the previous permission of the Tree Officer. Considering the definitions in clauses (c) and (d) of section 2, a permission is mandatory for burning or cutting trees or for damaging trees in any manner. This will include the act of causing destruction or damage to trees by using any chemical and material. Sub-Section (2) of Section 8 requires an application to be made for seeking a permission of the Tree Authority. Sub-Section (2) makes it very clear that even the State Government, Central Government and an Urban Local Authority cannot indulge in felling of trees without seeking permission. For the sake of completion, we may also note here that the form of application to be made under sub-Section (2) of Section 8 is Form–C which is appended to the said Rules. We must note that by the Amendment Act, sub-Section (2) of Section 8 has underwent an amendment and now the application under sub-Section (2) is required to be addressed to the Tree Officer. Clause (a) of sub-

::: Uploaded on - 23/05/2018 ::: Downloaded on - 21/03/2020 17:18:20 :::

153



Section (3) as amended by the Amendment Act requires the Tree officer to give a public notice of such application by an advertisement in at least one local newspaper and by affixing such notice on the conspicuous part of the tree. He is required to personally inspect the tree and hold an enquiry. Further part of clause (a) of sub-Section (3) shows that the public notice is for inviting objections to the application. The period for submitting objections and suggestions has to be of 7 days. Thereafter, the Tree officer is under an obligation to submit his report along with objections and suggestions, if any, received by him to the Tree Authority or the Officer mentioned in sub-Section (6), as the case may be. Proviso to clause (a) of sub-Section (3) mandates that such a report shall be submitted within a period of 12 days from the date of receipt of such application. Thus, after receipt of the application, it is mandatory for the Tree officer firstly to give public notice by advertising it in at least one local newspaper. The object of publishing the advertisement is to enable the citizens to file objections and suggestions. It is obvious that the Tree Officer has to apply his mind and ensure that the advertisement is published in the newspaper having a very wide circulation in the concerned urban area. If the advertisement is published in a newspaper which does not have a very wide circulation, there cannot be a compliance with the mandatory requirement of clause (a) of sub-Section (3). The second obligation is of affixing notice on the tree to be felled. The third obligation is to personally inspect the tree which can be dispensed with by virtue of second proviso provided the applicant submits images and details of the trees to be felled, by using Information Technology enabled system developed by the Urban Local Authority which suffices the

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:25 :::

requirement of the submission of a report by the Tree officer. Thus, unless the second proviso is applicable, requirement of inspecting the tree is mandatory. The second proviso will apply provided there is an Information Technology enabled system developed by the Urban Local Authority which suffices the requirement of submitting a report by the Tree Officer. The last requirement is of holding an enquiry.

42. It is obvious that along with the report which is required to be submitted mandatorily by the Tree Officer, he must produce the material to show that he has complied with the requirements under clause (a) of sub-Section (3). As he is under a mandate to hold an enquiry, the report must naturally include his conclusions on holding the enquiry. Thereafter, it is for the Tree Authority or the Officers mentioned in sub-Sections (4) or (6) to take appropriate decision of either of allowing or rejecting the application within 45 days from the date of receipt of the application.

43. Thus, it follows that before considering the application, it is the responsibility of the Tree Authority or the officers mentioned in sub-Sections (4) or (6) to ensure that the Tree Officer has complied with the requirements of sub-Section (3) of Section 8. It is only thereafter that the application can be considered on merits.

SUB-SECTION (4) OF SECTION 8

44. In PIL No.119 of 2017, there are some submissions made on

::: Uploaded on - 25/05/2018 ::: Downloaded on - 24/09/2023 17:49:26

the basis of sub-Section (4) of Section 8 which is a deeming provision. As far as the said submission is concerned, we will be guided by the aforesaid judgment and order dated 20th September 2013 wherein the Division Bench has already dealt with the issue of applicability of sub-Section (4) of Section 8. In paragraph 11, the Division Bench held thus :

> "11. Section 8(4) provides for a deeming permission. **But it is equally well settled that where a statutory provision stipulates that an application would be deemed to be granted after a stipulated period, it must, be complete in all respects and must comply with the law.** The legislature could not possibly have intended a deeming provision to apply even though a legal obligation is not fulfilled. We also take serious note of the failure of the members of the Tree Authority to dispose of applications within the stipulated period of sixty days. **We hereby place the members of the Tree Authority on notice that they shall follow the mandate of the law and take a decision on each application within a period of sixty days, failing which they shall invite an action in exercise of the contempt jurisdiction of this Court, if such dereliction is brought to the notice of the Court."**
>
> (emphasis added)

45. We respectfully follow what the Division Bench has held in the said case with modification that the Tree Authority or the Officer referred in sub-Section (4) of Section 3 or sub-Section (6) of Section 8 must take a decision within a period of 45 days as provided in clause (a-1) of sub-Section (3) of Section 8 introduced by the Amendment Act. While we respectfully propose to follow the directions given in paragraph 11 quoted above, we must note sub-Section (5) of Section 8 as substituted by the Amendment Act which provides that where permission to fell a tree

NOTARY GOVT. OF INDIA
ASHISH K. TAMBAWALLA
AREA GREATER MUMBAI
Regd. No. 6806

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2020 17:43:26 :::

is granted or deemed to have been granted under sub-Section (4), the applicant shall plant twice the number of trees to be felled of the same or other suitable local species on the same site and if required at other suitable places as decided by the Tree Authority. The number of trees to be planted on the same site and on other suitable place along with the location of such suitable place shall be mentioned in the permission to be granted by the Authority. The trees shall be planted within fifteen days from the date the tree is felled, or such extended time as the Tree Officer may allow in this behalf. Thus, even if there is a deemed permission, the Applicant before acting upon the same will have to go to the Tree Authority for seeking directions in terms of sub-Section (5) of Section 8 about the number of trees to be planted on the same site or on other suitable place along with its location.

46. Thus, the deeming fiction will apply only when application made by the applicant is lawful and the procedure as contemplated by clause (a) of sub-Section (3) of Section 8 is duly followed by the Tree Officer. Moreover, before acting upon the deemed permission, directions under sub-Section (5) of Section 8 will have to be sought by the applicant. As stated earlier, if the Tree Officer or the Tree Authority or the concerned officers fail to comply with the time frame provided in clauses (a) or (a-1) of sub-Section (3) of Section 8, it will invite action under the contempt jurisdiction as specified in paragraph 11 above.

::: Uploaded on - 25/06/2013 ::: Downloaded on - 21/09/2023 17:49:26 :::

SECOND PART OF SUB-SECTION (4) OF SECTION 3

47. Before we come to the controversy regarding sub-Section (6) of Section 8, we must note here that certain submissions were canvassed by the learned counsel appearing for the petitioner in PIL No.119 of 2017 on the effect of second part of sub-Section (4) of Section 3 which permits the Municipal Commissioners in the present cases to act as a Tree Authority when the Tree Authority is either not constituted or is not able to function for any reason whatsoever. As pointed out by the learned senior counsel appearing for the fifth respondent, there is no specific challenge in the said PIL to validity of second part of sub-Section (4) of Section 3. However, the submissions made by the petitioner will have to be understood in the context of the fact that a situation is created in case of the Tree Authority of Thane under which there is a possibility of the Municipal Commissioner invoking second part of sub-Section (4) of Section 3 only because of the failure to constitute the Tree Authority in accordance with law. On plain reading of second part of sub-Section (4) of Section 3, we find that the object of the said provision is to ensure that there is no void created due to the fact that the Tree Authority is unable to function and, if there is an emergent situation, the Municipal Commissioner or the Chief Officer, as the case may be, will be in a position to exercise the powers of the Tree Authority. It is only an enabling provision and incorporation of this provision does not mean that the Municipal Commissioners or the Chief Officers are entitled to exercise the power of the Tree Authority under Section 8 in a routine manner and virtually substitute themselves as the Tree Authority. At this stage, we may

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/03/2023 17:40:26 :::

note the objects and reasons set out by the legislature in support of the said part of sub-Section (4) of Section 3 which was brought on the Statute Book by the Act No.XV of 2015. In the objects and reasons, it is observed that it is experienced that for administrative reasons or otherwise, it takes sometime to constitute the Tree Authority or sometimes such Authority though constituted cannot function for many reasons. It is noted that such situations cause delay in execution of the development work particularly in the area of the Municipal Corporations or the Municipal Councils. Thus, the reason given for conferring power under sub-Section (4) of Section 3 of the Trees Act on the Commissioner or the Chief Officer, as the case may be, is to take care of a situation when a void is created for the reason of failure to constitute the Tree Authority or the Tree Authority is unable to function for any reason. To take care of such a situation, now there is a provision of sub-Section (6) of Section 8 under which the Commissioner or the Chief Officer can entertain the applications wherein permissions sought are in respect of not more than 25 trees and can exercise the powers of the Tree Authority. The statement made by the learned senior counsel appearing for the State Government that the power under sub-Section (4) of Section 3 can be exercised only in emergent situations is supported by the affidavit of Shri Sanjay Shantaram Banait, the Deputy Director of Town Planning. In paragraph 5 of the said affidavit, while dealing with the power conferred by the said part of sub-Section (4) of Section 3, Shri Banait has stated thus :

> "5. I say that, it was noticed that the tree authorities could not be constituted for administrative reasons or otherwise even if it was constituted, many times, it may become defunct and this was causing immense delay in executing

::: Uploaded on - 25/05/2013 ::: Downloaded on - 21/03/2023 17:43:28 :::

development work particularly, in the areas of Municipal Corporation or Municipal Council. **Therefore, these powers have been given to tackle the emergent situations where the Tree Authority is not in existence.** (emphasis added)

48. We must note here that the said affidavit is filed on behalf of the State Government. Thus, it appears to us that the Commissioners or the Chief Officers are not expected to routinely act as the Tree Authority by virtue of second part of sub-Section (4) of Section 3 and it is only to tackle emergent situations that they can exercise the power of the Tree Authority.

CHALLENGE TO SUB-SECTION (6) OF SECTION 8

49. Now, we come back to Section 8 and in particular sub-Section (6) which confers powers of the Tree Authority on the Municipal Commissioner or the the Chief Officer or the Chief Executive Officer, as the case may be. There are various submissions made in support of the challenge to the constitutional validity of sub-Section (6). The first submission was based on the fact that in view of the amendment made by the Amendment Act, now it is the mandatory duty of the Tree Authority to hold a meeting at least once in every fortnight, as provided in sub-Section (1) of Section 4 and the interval between two meetings cannot exceed 21 days. Thus, the submission is that in view of mandate of amended Section 4 of the Trees Act, the Tree Authority will be taking decisions by meeting once in every fortnight. Moreover, now the amended Section 8 provides that within a short span of 12 days from the receipt of the application

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:43:28 :::

under sub-Section (2) of Section 8, the Tree Officer is required to submit a report. Clause (a-1) of sub-Section (3) of Section 8 lays down a mandate that the Tree Authority will have to take a decision within 45 days from the receipt of the application. Therefore, now in view of the amendment to Section 8, the applications which are made under sub-Section (2) will be expeditiously decided. When the Tree Authority is not able to function for any reason, the law has already made a provision in the form of second part of sub-Section (4) of Section 3 wherein by way of an emergent measure, a Chief Officer or a Commissioner can exercise the powers of the Tree Authority. It is pointed out that when a Commissioner or a Chief Officer exercises power under sub-Section (4) of Section 3, there is a further requirement of placing the said decision before the General Body of the Municipal Corporation or the Municipal Council, as the case may be, in its immediately next meeting held after such decision. Similar safeguard is not provided in sub-Section (6) of Section 8.

50. One more argument was canvassed regarding unguided power conferred on the Commissioner or the Chief Officer under sub-Section (6) of Section 8. On plain reading of sub-Section (6), we find that there are no procedural safeguards provided. Neither the Trees Act nor the said Rules lay down any parameters or guidelines for the exercise of the drastic power under sub-Section (6) of Section 8 of permitting felling of 25 trees. There is no remedy provided to the affected citizens to challenge the decisions taken under sub-Section (6) of Section 8. The law does not require the Commissioner to consult experts in the field. Thus, prima facie, it does appear to us that the power conferred by sub-Section (6) of

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/03/2023 17:46:23 :::

Section 8 is unguided and arbitrary. To this, the answer of the State Government and the Municipal Commissioners is that under sub-Section (6) of Section 8 the Commissioner acts as the Tree Authority and therefore, the entire procedure which is provided under the provisions of Section 8 has to be followed. In our view, there is a fallacy in this argument. Whenever an application is placed before a Tree Authority, valuable opinion of the experts in the field appointed under sub-Section (3) of Section 3 is always available. In fact, the said experts can always influence the decision making process. Moreover, the decision taken to fell trees is a collective decision of the elected councillors who are answerable to the citizens and the experts in the field who are supposed to be equal in numbers. When the Commissioner exercises the power under sub-Section (6) of Section 8, the law does not mandate that before exercising the power, the Commissioner must take assistance of the experts in the field. Faced with this situation, both the Municipal Corporations have come out with a list of officers on their establishments who are qualified horticulturists or experts in botany and a solemn statement has been made before us that before dealing with the applications under sub-Section (6) of Section 8, the Commissioners will consult the experts in the field. One more statement is made across the bar that adequate publicity will be given to the decisions taken by the Municipal Commissioners by publishing the same on website and in the same manner in which the information about the applications is required to be published. It is also stated that for a reasonable time, the permissions will not be acted upon so that the citizens will have an opportunity to challenge the same. Though the aforesaid statements which

::: Uploaded on - 23/01/2013 ::: Downloaded on - 21/09/2023 17:40:03 :::

162



are in the form of concessions will not affect the legal position as regards the validity of sub-Section (6), nevertheless, these statements will have to be certainly taken into consideration for moulding the prayer for interim relief.

51. There is one more aspect which needs to be dealt with regard to the constitutional challenge. As stated earlier, the power of permitting felling of trees is conferred by the Trees Act on various Authorities as a part of a measure to ensure preservation of trees and planting adequate number of new trees. *Prima facie*, it appears to us that whether 25 trees are to be felled or more than 25 trees are to be felled, the situation is no different. Even one tree can be very old having heritage value which may be providing shed to several citizens. Axiomatically, there is no difference between the situations where somebody wants to fell not more than 25 trees and somebody wants to fell more than 25 trees. When a permission is granted to fell one tree, which may be a very old and huge tree, the same ceases to exist as a result of felling. No doubt, there is a provision for compensatory plantation, but the effect of grant of permission is that the tree is permanently lost. The loss of even a single tree can have adverse impact of the environment. Hence, the object of making a classification based on number of trees appears to be *prima facie* discriminatory and arbitrary.

52. It is in the light of this position that we must make a reference to the decisions relied upon by the parties. While we do so, we

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:36 :::

must record here that possible misuse of statutory provision is no ground to uphold the challenge to the constitutional validity of a legislative provision as the authorities can always be compelled to take steps to avoid possible abuse or misuse of the provisions. Reliance was placed on the decision of the Constitution Bench of the Apex Court in the case of ***Subramanian Swamy*** (supra). In paragraph 49, the Apex Court held thus:-

> "49. Where there is challenge to the constitutional validity of a law enacted by the legislature, the Court must keep in view that there is always a presumption of constitutionality of an enactment, and a clear transgression of constitutional principles must be shown. The fundamental nature and importance of the legislative process needs to be recognised by the Court and due regard and deference must be accorded to the legislative process. Where the legislation is sought to be challenged as being unconstitutional and violative of Article 14 of the Constitution, the Court must remind itself to the principles relating to the applicability of Article 14 in relation to invalidation of legislation. **The two dimensions of Article 14 in its application to legislation and rendering legislation invalid are now well recognised and these are : (i) discrimination, based on an impermissible or invalid classification, and (ii) excessive delegation of powers; conferment of uncanalised and unguided powers on the executive, whether in the form of delegated legislation or by way of conferment of authority to pass administrative orders – if such conferment is without any guidance, control or checks, it is violative of Article 14 of the Constitution.** The Court also needs to be mindful that a legislation does not become unconstitutional merely because there is another view or because another method may be considered to be as good or even more effective, like any issue of social, or even economic policy. It is well

::: Uploaded on - 25/06/2018 ::: Downloaded on - 31/03/2020 17:49:35 :::

settled that the courts do not substitute their views on what the policy is."

(emphasis added)

53. The said decision reiterates the well settled legal position that there can be a challenge to the constitutional validity of statute on the basis of violation of Article 14. It is held that violation of Article 14 will invalidate the statute in two cases. The first case is where there is a discrimination based on impermissible or invalid classification or excessive delegation of powers. Secondly, when conferment of uncanalised and unguided powers is made on the executive to pass administrative orders is without any guidance, control or checks, it is violative of Article 14 of the Constitution of India. In the present case, the submissions made are about irrationality of the classification made on the basis of applications seeking permission for felling of trees upto 25 trees and more than 25 trees. Moreover, the challenge is also on the ground of conferment of uncanalised and unguided power without any control or checks. We have already recorded our prima facie finding on both the aspects in favour of the petitioners.

54. Reliance was also placed on another decision of the Apex Court which is of a Constitution Bench in the case of **State of Punjab and Another Vs. Khan Chand** *(supra),* where majority view is expressed by Khanna, J. In paragraph 8 of the said decision, the Apex Court observed that vesting of discretion in the authorities in exercise of power under an enactment by itself does not entail contravention of Article 14. What is objectionable is the conferment of arbitrary and uncontrolled discretion

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

without any guidelines whatsoever with regard to the exercise of discretion. Paragraph 8 of the said decision is relevant which reads thus:-

> 8. We may state that the vesting of discretion in authorities in the exercise of power under an enactment does not by itself entail contravention of Article 14. **What is objectionable is the conferment of arbitrary and uncontrolled discretion without any guidelines whatsoever with regard to the exercise of that discretion. Considering the complex nature of problems which have to be faced by a modern State, it is but inevitable that the matter of details should be left to the authorities acting under an enactment. Discretion has, therefore, to be given to the authorities concerned for the exercise of the powers vested in them under an enactment. The enactment must, however, prescribe the guidelines for the furtherance of the objects of the enactment and it is within the framework of those guidelines that the authorities can use their discretion in the exercise of the powers conferred upon them. Discretion which is absolute, uncontrolled and without any guidelines in the exercise of the powers can easily degenerate into arbitrariness. When individuals act according to their sweet will, there is bound to be an element of "pick and choose" according to the notion of the individuals. If a Legislature bestows such untrammelled discretion on the authorities acting under an enactment, it abdicates its essential function for such discretion is bound to result in discrimination which is the negation and antithesis of the ideal of equality before law as enshrined in Article 14 of the Constitution. It is the absence of any principle or policy for the guidance of the authority concerned in the exercise of discretion which vitiates an enactment and makes it vulnerable to the attack on the ground of violation of Article 14. It is no answer to the above that the executive officers are presumed to be reasonable men who do not stand to gain in the abuse of their power**

::: Uploaded on - 25/05/2013 ::: Downloaded on - 21/09/2023 17:43:23 :::

and can be trusted to use "discretion" with discretion. As mentioned on p. 3 of Parliamentary Supervision of Delegated Legislation by John E. Kersell, 1960 Edn.

> "The point is, however, that no one ought to be trusted with power without restraint. Power can be of an encroaching nature, and its encroachments are usually for the sake of what are sincerely believed to be good, and indeed necessary, objectives. Throughout history the most terrible form of tyranny has been the forcing on human beings of what someone believes to be good for them. The imposition of controls on the use of delegated legislative authority, therefore, does not imply a deep suspicion of malevolent intentions. Human nature, being what it is, has to be protected against itself, and where power is concerned the very existence of the possibility of restraint, as we shall see, is a safeguard against abuses in which ends may be used to justify means and the good in intent becomes the evil in effect."
>
> (emphasis added)

55. The Apex Court reiterated the settled legal principle that when a discretion conferred on an Authority which is absolute, uncontrolled and without any guidelines, the exercise of such powers can easily degenerate into arbitrariness. The Apex Court observed in the same decision in paragraph 9 which reads thus:-

> "9. It has been observed by this Court in the case of *Shri Ram Krishna Dalmia* v. *Shri Justice S.R. Tendolkar* [AIR 1958 SC 538 : (1959) SCR 279, 299 : (1959) SCJ 147] that a statute may not make any classification of the persons or things for the purpose of applying its provisions but may leave it to the discretion of the Government to select and classify persons or things to whom its provisions are to apply. In determining the question of the validity or otherwise of such a statute the Court will not strike down the law out of hand only because no classification appears on its face or because a discretion is given

::: Uploaded on - 25/03/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

> to the Government to make the selection or classification but will go on to examine and ascertain if the statute has laid down any principle or policy for the guidance of the exercise of discretion by the Government in the matter of the selection or classification. **After such scrutiny the Court will strike down the statute if it does not lay down any principle or policy for guiding the exercise of discretion by the Government in the matter of selection or classification, on the ground that the statute provides for the delegation of arbitrary and uncontrolled power to the Government so as to enable it to discriminate between persons or things similarly situate and that, therefore, the discrimination is inherent in the statute itself. In such a case the Court will strike down both the law as well as the executive action under such law."**
>
> (emphasis added)

The Apex Court has also laid down in what manner scrutiny of legislative challenge is to be made by the Courts. Applying the said test laid down by the Apex Court, we find that unguided powers appear to have been conferred on the Commissioner under sub-Section (6) of Section 8.

56. There are other decisions placed on record to which a brief reference will have to be made. We are conscious of the limitations on the power of writ Court to stay the provisions of an enactment. However, that is a different question which is dealt with in subsequent paragraphs when we will consider the question of moulding the reliefs. In the case of ***State of Tamil Nadu and others Vs. K. Shyam Sunder and others*** *(supra)*, in paragraph 49, the Apex Court held thus :-

> "49. In view of the above, the law stands crystallised to the effect that in case the legislature wants to delegate its power in respect of the implementation of the law enacted by it, it must provide sufficient guidelines, conditions, on

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2022 17:49:28 :::

fulfillment of which, the Act would be enforced by the delegatee. Conferring unfettered, uncanalised powers without laying down certain norms for enforcement of the Act tantamounts to abdication of legislative power by the legislature which is not permissible in law. More so, where the Act has already come into force, such a power cannot be exercised just to nullify its commencement thereof."

57. In the case of ***Dwarka Prasad Laxmi Narain*** (supra), in paragraph-7, the Apex Court has held thus:

"Nobody can dispute that for ensuring equitable distribution of commodities considered essential to the community and their availability at fair prices, it is quite a reasonable thing to regulate sale of these commodities through licensed vendors to whom quotas are allotted in specified quantities and who are not permitted to sell them beyond the prices that are fixed by the controlling authorities. The power of granting or withholding licences or of fixing the prices of the goods would necessarily have to be vested in certain public officers or bodies and they would certainly have to be left with some amount of discretion in these matters. **So far no exception can be taken; but the mischief arises when the power conferred on such officers is an arbitrary power unregulated by any rule or principle and it is left entirely to the discretion of particular persons to do anything they like without any check or control by any higher authority. A law or order, which confers arbitrary and uncontrolled power upon the executive in the matter of regulating trade or business in normally available commodities cannot but be held to be unreasonable.** As has been held by this court in Chintamon v. The State of Madhya Pradesh : (1950) SCR 759, the phrase "reasonable restriction" connotes that the limitation imposed upon

::: Uploaded on - 28/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

a person in enjoyment of a right should not be arbitrary or of an excessive nature beyond what is required in the interest of the public. Legislation, which arbitrarily or excessively invades the right, cannot be said to contain the quality of reasonableness, and unless it strikes a proper balance between the freedom guaranteed under Article 19(1)(g) and the social control permitted by clause (6) of article 19, it must be held to be wanting in reasonableness. It is in the light of these principles that we would proceed to examine the provisions of this Control Order, the validity of which has been impugned before us on behalf of the petitioners."

(emphasis added)

58. Now, we go back to the judgment of the Apex Court in the case of ***Subramanian Swamy*** (supra). In paragraph-58, the Apex Court held thus:

"**58.** The Constitution permits the State to determine, by the process of classification, what should be regarded as a class for purposes of legislation and in relation to law enacted on a particular subject. There is bound to be some degree of inequality when there is segregation of one class from the other. However, such segregation must be rational and not artificial or evasive. **In other words, the classification must not only be based on some qualities or characteristics, which are to be found in all persons grouped together and not in others who are left out but those qualities or characteristics must have a reasonable relation to the object of the legislation. Differentia which is the basis of classification must be sound and must have reasonable relation to the object of the legislation. If the object itself is discriminatory, then explanation that classification is reasonable having rational relation to the object sought to be achieved is immaterial."**

::: Uploaded on - 25/05/2013 ::: Downloaded on - 21/09/2023 17:40:26 :::

(emphasis added)

59. In the present case, prima facie, we have found that the object of classification made of applications seeking relief in respect of not more than 25 trees and applications seeking relief in respect of more than 25 trees is itself discriminatory and arbitrary. In any event, there are arguable questions raised on the issue whether the classification on the basis of the number of the trees to be felled is reasonable.

60. All the decisions which are relied upon by the petitioners as well as by the respondents take a note of well settled principles regarding presumption of constitutionality in favour of the statutory provisions and that the burden of establishing that the same is unconstitutional is on the person who seeks to challenge the same. The learned senior counsel appearing for the Mumbai Municipal Corporation relied upon the decision of the Apex Cort in the case of ***Welfare Association, A.R.P. Maharashtra*** (supra) and, in particular what is held in paragraph-5 thereof which again reiterates the same principle of burden of proof being on the petitioner who challenges the constitutional validity. He also relied upon the decision of the Apex Court in the case of ***Government of Andhra Pradesh v. P.Laxmi Devi*** (supra) and, particularly paragraph- 43 which holds that the Court can declare a statute to be unconstitutional only when there can be no manner of doubt that it is flagrantly unconstitutional and there is no way of avoiding such a conclusion. In the case of ***Subramanian Swamy*** (supra), the Apex Court has reiterated

::: Uploaded on - 25/05/2013 ::: Downloaded on - 21/09/2023 17:49:26 :::

the well settled law that mere possibility of abuse of the provisions of law does not *per se* invalidate legislation.

61. As regards the contention that sub-Section (6) of Section 8 confers unguided and arbitrary power on the Municipal Commissioner, the learned counsel appearing for the Mumbai Municipal Corporation pressed into service the decision of the Apex Court in the case of ***Consumer Action Group*** (supra) and, particularly what is held in paragraph-18 which reads thus:

> **"18.** The catena of decisions referred to above concludes unwaveringly in spite of a very wide power being conferred on the delegatee that such a Section would still not be ultra vires, if guidelines could be gathered from the Preamble, Objects and Reasons and other provisions of the Acts and Rules. In testing the validity of such provision, the courts have to discover, whether there is any legislative policy, purpose of the statute or indication of any clear will through its various provisions. If there be any, then this by itself would be a guiding factor to be exercised by the delegatee. In other words, then it cannot be held that such a power is unbridled or uncanalised. The exercise of power of such delegatee is controlled through such policy. The fast-changing scenario of economic, social order with scientific development spawns innumerable situations which the legislature possibly could not foresee, so the delegatee is entrusted with power to meet such exigencies within the inbuilt check or guidance and in the present case to be within the declared policy. So the delegatee has to exercise its powers within this controlled path to subserve the policy and to achieve the objectives of the Act. A situation may arise, in some cases where strict adherence to any provision of the statute or rules may result in great hardship, in a given situation, where exercise of such

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:43:28 :::

> power of exemption is to remove this hardship without materially affecting the policy of the Act, viz., development in the present case then such exercise of power would be covered under it. All situations cannot be culled out, which have to be judiciously judged and exercised, to meet any such great hardship of any individual or institution or conversely in the interest of the society at large. Such power is meant rarely to be used. So far as decisions relied on by the petitioner, where the provisions were held to be ultra vires, they are not cases in which the Court found that there was any policy laid down under the Act. In *A.N. Parasuraman* [(1989) 4 SCC 683] the Court held Section 22 to be ultra vires as the Act did not lay down any principle or policy. Similarly, in *Kunnathat Thathunni Moopil Nair* [AIR 1961 SC 552 : (1961) 3 SCR 77]. Section 7 was held to be ultra vires as there was no principle or policy laid down."

62. Our attention is also invited to the well known decision of the Apex Court in the case of ***Health for Millions*** (supra) which deals with the power of the Constitutional Courts to grant interim relief of stay of statutory provisions. Paragraph-13 of the said decision reads thus:

> "13. We have considered the respective arguments and submissions and carefully perused the record. Since the matter is pending adjudication before the High Court, we do not want to express any opinion on the merits and demerits of the writ Petitioner's challenge to the constitutional validity of the 2003 Act and the 2004 Rules as amended in 2005 but have no hesitation in holding that the High Court was not at all justified in passing the impugned orders ignoring the well-settled proposition of law that in matters involving challenge to the constitutionality of any legislation enacted by the Legislature and the rules framed thereunder the Courts should be extremely loath to pass an interim order. At the

::: Uploaded on - 25/05/2013 ::: Downloaded on - 21/09/2023 17:49:26 :::

> time of final adjudication, the Court can strike down the statute if it is found to be ultra vires the Constitution. Likewise, the rules can be quashed if the same are found to be unconstitutional or ultra vires the provisions of the Act. **However, the operation of the statutory provisions cannot be stultified by granting an interim order except when the Court is fully convinced that the particular enactment or the rules are ex facie unconstitutional and the factors, like, balance of convenience, irreparable injury and public interest are in favour of passing an interim order."**
>
> (emphasis added)

63. As narrated earlier, the State Government has come out with a suggestion that a direction can be issued to ensure that a permission, if any, granted by the Municipal Commissioner under sub-Section (6) of Section 8 is not implemented for a reasonable time from the date of publication of the said order on the website of the Municipal Corporation as well as in the newspapers so that aggrieved persons get an opportunity to challenge the said decision. Moreover, in the additional affidavit filed by Shri Jitendra Pardeshi, Superintendent of Garden and Tree Officer of the Mumbai Municipal Corporation dated 13th April 2018 several assurances have been given. The said affidavit is clarified by further affidavit dated 18th April 2018 of Shri Sahebrao P Gavit, Superintendent of Garden. We have already quoted paragraph-10 of the affidavit of Shri Jitendra V. Pardeshi dated 13th April 2018 in earlier part of the judgment. In paragraph- 2 and 3 of the affidavit of Shri Gavit, the statements made in paragraphs- 10 and 11 of the affidavit of Shri Jitendra Pardeshi have been explained. Paragraphs- 2 and 3 of the affidavit of Shri Sahebrao Gavit read thus:

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:40:26 :::

"2. I say that Affidavit dated 13th April, 2018 filed by Superintendent of Gardens Shri. Jitendra Pardeshi, wherein in para 10 it is stated that "the said functions and powers will be exercised by the Municipal Commissioner for 25 trees per project and /or per defined plot and per sanction of Competent Authority or Planning Authority. More than 25 trees per defined plot will be referred to Tree Authority as per procedure."

I state that the proposals as stated in the said para refer to private layouts/ defined plots.

3. Paragraph-11 of the said Affidavit, mentions about the Public Projects such as Metro Rail. It is therefore submitted in the said para-11 "that there are Public Projects wherein the proposals are submitted section wise the proposals upto 25 trees will be considered per Section as sanctioned by the concerned Competent Authority."

These statements in the affidavits will continue to bind the Municipal Commissioner till the final disposal of PIL.

64. Though a prima facie case is made out about the invalidity of the provisions of sub-Section (5) of Section 8, as far as the question of staying the operation of sub-Section (6) of Section 8 is concerned, we are of the view that the prayer for interim relief can be moulded so as to avoid possibility of misuse of sub-Section (6) of Section 8 of the Trees Act. Firstly, the Municipal Commissioner will have to take advice of experts available with the Municipal Corporation before taking any decision on the application made under sub-Section (6) of Section 8. The Municipal Commissioner will have to also pass an order on each application recording the names of the experts whose assistance and/or advice is taken by him. It is obvious that the Municipal Commissioner will have to

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

ensure that the exercise of powers under sub-Section (6) of Section 8 is not made for circumventing the provisions of sub-Section (3) of Section 8 with a view to obtain permission for felling more than 25 trees on the same property by making more than one applications seeking relief in respect of 25 trees in each application. It is obvious that pending the final disposal of the petition, the power under sub-Section (6) of Section 8 can be exercised by the Municipal Commissioner only once in respect of every plot which is shown as a separate plot in city survey records or revenue records. In case of a public project which relates to several properties, before dealing with the application made under sub-Section (6) of Section 8, the Municipal Commissioner will have to verify whether the project is divided into separate sections. It is obvious that only one application under sub-Section (6) of Section 8 can be entertained by the Municipal Commissioner for each such section. Moreover, the decision taken by the Municipal Commissioner will have to be published on the website of the respective Municipal Corporations. The entire text of the order will have to be published. Moreover, a public notice of the said decision giving description of the property shall be published in local newspapers having a very wide circulation within the limits of the Municipal Corporation. Considering that the cities of Mumbai and Thane are metropolitan cities, the notice will have to be published in Marathi, Hindi and English newspapers having wide circulation in that particular municipal corporation limits. The notice published in the newspapers must mention that the copies of the decisions have been uploaded on a particular website. The decisions taken by the Municipal Commissioners under sub-Section (6) of Section 8 shall not be implemented for a period of three

::: Uploaded on - 25/05/2013 ::: Downloaded on - 21/09/2023 17:49:26 :::

weeks from the date on which the publication is made on the website and in newspapers whichever is subsequent. This will give an opportunity to the citizens to challenge the decisions taken by the Municipal Commissioner by adopting appropriate proceedings. In case the petitioners in these two petitions wish to challenge such decisions, it will be always open for them to file an application in these pending petitions to challenge such decisions. However, we have to clarify that this embargo of not implementing the decisions will not apply where in the order, the Municipal Commissioner has recorded a specific finding that if a particular tree is not allowed to be felled immediately, it would pose a grave danger to the life or property.

65. Even as regards the orders passed by the Municipal Commissioner by exercising powers under second part of sub-Section (4) of Section 3, we propose to issue similar directions regarding publication so that aggrieved citizens can challenge the said orders.

66. As regards the appointment of the Tree Officer of the Thane Municipal Corporation is concerned, we propose to consider the prayer for interim relief after necessary adjudication is made as directed.

67. We summarize our conclusions as under:

(i) Prima facie, we find merit in the challenge to the constitutional validity of sub-Section (6) of Section 8 of the Trees Act;

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

(ii) As far as power conferred on the Municipal Officers by second part of sub-Section (4) of Section 3 is concerned, we hold that power can be exercised only in case of emergency or in exceptional cases. We hold that the said power does not give any authority to the municipal officers named therein to exercise power under the said provision in a routine manner by substituting themselves in place of Tree Authority. Thus, the said power cannot be exercised in a routine manner and the exercise of power will remain confined to exceptional cases and in case of emergency. We may note here that if exceptional case or emergent case is in relation to less than 25 trees, recourse will have to be taken to sub-Section (6) of Section 8 and not second part of sub-Section (4) of Section 3.

(iii) We hold that the public notice which is required to be published as per clause (a)(i) of sub-Section (3) of Section 8 shall be published in local newspapers having very wide circulation in the entire area of the respective Municipal Corporations. In metropolitan cities, there cannot be adequate compliance of publication of notice in newspapers unless the publication is made in Marathi, Hindi and English newspapers having wide circulation within the limits of such Municipal Corporations;

::: Uploaded on - 25/05/2013 ::: Downloaded on - 21/09/2023 17:49:26 :::

(iv) As regards the Tree Authority of the Thane Municipal Corporation, our conclusion is that *ex facie,* the appointment of members made in accordance with sub-Section (3) of Section 3 by the Resolution dated 9th October 2017 is illegal as the entire process is vitiated by non-application of mind. We also hold that *ex facie,* the appointment of Special Invitees made under Resolution dated 9th October 2017 is completely illegal;

(v) As regards members appointed under sub-Section (1) of Section 3 in respect of the Tree Authority of Thane, as the Municipal Commissioner has already come to the conclusion that the Tree Authority needs to be reconstituted, the Municipal Corporation (its General Body) will have to decide whether the appointment of the members made under sub-Section (1) of Section 3 deserves to be continued in the newly constituted Tree Authority. We leave this issue open as we have made no adjudication on the question of eligibility of those members who have been appointed under sub-Section (1) of Section 3. The Municipal Corporation will consider whether a preference will have to be given to Science graduates while making appointment under sub-Section (1) of Section 3 as agreed by the Pune Municipal Corporation. However, this aspect will have to be gone into by the Municipal Corporation;

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

(vi) We hold that the decisions taken by the Tree Authority of the Thane Municipal Corporation of permitting felling/ transplanting trees in the meeting held on 17th October 2017 is *prima facie* illegal and cannot be implemented till the disposal of the petition. However, if the Tree Authority is hereafter lawfully constituted, the Tree Authority can deal with the said applications decided on 17th October 2017 from the stage at which the said applications were pending on 17th October 2017. We make it clear that we have not made any adjudication on the merits of the said applications. Moreover, the decision dated 17th October 2017 is vitiated for the reason that appointment of members made under sub-Section (3) of Section 3 as well as the Special Invitees is found to be ex facie illegal.

68. In the light of the *prima facie* findings recorded above, we pass the following interim order:

**ORDER**

(i) We direct that till the final disposal of this petition, the resolutions dated 9th October 2017 (Exhibit-H and K in PIL No.119 of 2017) shall not be acted upon in view of the findings recorded as above;

::: Uploaded on - 25/03/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

180



(ii) In view of the above findings, till the final disposal of PIL No.119 of 2017, the existing Tree Authority of the Thane Municipal Corporation shall not take any decision on the applications which may be made under sub-Section (2) of Section 8 of the Trees Act;

(iii) We accept the statement made by the Municipal Commissioner of the Thane Municipal Corporation in letter dated 28th April 2018;

(iv) We direct the Municipal Commissioner of the Thane Municipal Corporation to place the subject of reconstitution of Tree Authority before the first General Body meeting which will be held after this order is uploaded;

(v) The General Body of the Thane Municipal Corporation shall consider whether the members who are already appointed under sub-Section (1) of Section 3 of the Trees Act deserve to continue in the reconstituted Tree Authority. After the said decision is taken of appointing members in accordance with sub-Section (1) of Section 3 of the Trees Act, a fresh process shall be commenced for appointing members in accordance with sub-Section (3) of Section 3 of the Trees Act. This process shall be completed as expeditiously as possible and, in any event, within the period of three months from the date on which the

NOTARY

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

appropriate decision is taken by the General Body of the said Municipal Corporation;

(vi) We make it clear that the newly constituted Tree Authority can start functioning only after the members are appointed in accordance with sub-Section (3) of Section 3 of the Trees Act in the light of observations made in this order as well as in the judgment and order dated 20th September 2013 in the case of ***Dipak Balkrishna Vahikar and another*** (supra);

(vii) In PIL No.119/2017, we restrain the concerned respondents therein from giving effect to the permissions granted in the meeting of the Tree Authority held on 17th October 2017. We make it clear that after the Tree Authority is lawfully constituted, the applications which were granted in the said meeting shall be placed before the Tree Authority and the said applications shall be dealt with from the stage at which the said applications were pending on 17th October 2017;

(viii) We clarify that powers of the Municipal Commissioners conferred by the second part of sub-Section (4) of Section 3 of the Trees Act shall be exercised in accordance with the findings recorded in this order in paragraphs-47 and 48 above;

::: Uploaded on - 25/09/2023 ::: Downloaded on - 21/09/2023 17:49:26 :::

182



(ix) As far as deeming fiction under sub-Section (5) of Section 8 is concerned, the directions issued by the Division Bench of this Court in the case of ***Dipak Balkrishna Vahikar and another*** will apply, subject to what is held in paragraphs-44 to 46 above;

(x) Whenever powers are exercised by the Commissioners of the Municipal Corporations either under the second part of sub-Section (4) of Section 3 or sub-Section (6) of Section 8, the final decision shall not be taken by the Municipal Commissioners without consulting the experts in the field of Horticulture or Botany working on the establishments of the Municipal Corporations. If the services of such experts are not available with the Municipal Corporation, the Municipal Commissioners shall consult appropriate experts in the field. The orders which may be passed by the Municipal Commissioners shall record the name/s of the person or persons whose assistance and advice is taken by the Municipal Commissioners. If the Municipal Commissioners are of the view that a permission to fell a tree or trees is required to be granted on the ground that the tree or trees are posing grave danger to life or property, the orders will specifically record the said reason;

(xi) The powers under sub-Section (4) of Section 3 and sub-

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2020 17:49:26 :::

Section (6) of Section 8 of the Trees Act shall be exercised by the Municipal Commissioner keeping in mind the observations made in this order. The complete text of the order passed by the Commissioners shall be immediately uploaded on the website of the concerned Municipal Corporations. If the Tree Authority is having its own website, the orders shall be also uploaded on the website of the Tree Authority. In addition, a public notice shall be published in the newspapers having a very vide circulation in the Municipal areas as observed earlier giving details of the orders passed by the Municipal Commissioners and also setting out that the decisions taken have been published on the website or websites mentioned therein;

(xii) The decisions taken by the Municipal Commissioners as aforesaid shall not be implemented for a period of three weeks from the date on which the same are published on the websites and newspapers, whichever is later. However, this embargo will not be applicable in relation to the trees in respect of which a specific finding has been recorded that the trees constitute a grave danger to the life or property. In relation to such trees, the orders can be immediately implemented;

(xiii) Needless to add that after such publication is made, the citizens who are aggrieved by the said decisions will be free

::: Uploaded on - 25/05/2013 ::: Downloaded on - 21/09/2023 17:49:29 :::

to adopt appropriate proceedings in accordance with law. If the petitioners in these two PILs are aggrieved by any such orders, they may also file appropriate proceedings in the pending PILs for challenging the decisions of the Municipal Commissioners;

(xiv) As far as Tree Authority of Thane is concerned, we make it clear that we have not recorded any final finding on the issue of eligibility of individual members who are appointed as members either under sub-Section (1) of Section 3 or sub-Section (3) of Section 3 of the Trees Act;

(xv) The prayers for interim relief are disposed of with the above directions;

(xvi) As far as prayer regarding the Tree Officer of Tree Authority of Thane is concerned, before we dispose of the said prayer, we direct the Principal Secretary of the Urban Development Department to apply his mind and to decide whether the Tree Officer was holding a post of the rank not below the rank of Assistant Commissioner before he was appointed as the Tree Officer. The Principal Secretary of the Urban Development Department shall act on the basis of an authenticated copy of this order and submit report to this Court on or before 12th June 2018 for considering the said limited prayer;

::: Uploaded on - 25/05/2018 ::: Downloaded on - 21/09/2023 17:49:26 :::

185

SKN 73 46.15-pil-- (1)

(xvii) The petition shall be listed on 12th June 2018 under the caption of "directions".

(RIYAZ I. CHAGLA, J.) (A.S.OKA, J.)

True Copy

Advocate

::: Uploaded on - 25/06/2018 ::: Downloaded on - 21/09/2023 17:43:26 :::

2013:BHC-AS:22977-DB

Exhibit - D 186



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.93 OF 2009

Deepak Balkrishna Vahikar and another — Petitioners
versus
The State of Maharashtra and others — Respondents

Mr.R.B.Paranjpe with Mr.Vishal V. Kale and Mr.J.D.Khairnar for Petitioners.

Mr.A.B.Vagyani, AGP with Mr.P.B.Darandale, Assistant to G.P. for Respondent State.

Mr.A.A.Kumbhakoni with Dr.Sadhana Mahashabde and Mr.A.P.Kulkarni for Respondents 2 and 3.

Mr.Sunil B. Limaye, Director of Sanjay Gandhi National Park and Professor Jitendra Shah, Research Scientist, GIC, IIT Mumbai are present.

CORAM : DR.D.Y.CHANDRACHUD AND
M.S.SONAK, JJ.

DATE : 20 September 2013

JUDGMENT (PER : DR.D.Y.CHANDRACHUD, J.) :

1. The present Public Interest Litigation has been instituted for the effective implementation of the provisions of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975. In exercise of the powers conferred by the Act, the State Government has framed the Maharashtra (Urban Areas) Protection and Preservation of Trees Rules, 2009.

NOTARY

2. The city of Pune covers an area of 243.48 square kilometers. The city has expanded in the last several decades by leaps and bounds resulting in a reduction in the green cover. As the population has expanded, unregulated development has resulted in a rapid deterioration of green areas in the city. The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (`the Act') provides for the establishment of a Tree Authority in Section 3. The Tree Authority is to consist of a Chairperson who is to be the Commissioner of the Municipal Corporation and not less than five and not more than fifteen persons from amongst members of the Urban Local Authority. Sub-section 3 of Section 3 provides for the nomination of representatives of civil society organizations with a special knowledge or expertise in the planning and preservation of trees. Section 3(3) provides as follows :

> "3. Establishment of Tree Authority :
>
> (1) ... ... ...
> (2) ... ... ...
> (3) Every Tree Authority may nominate representatives of non-official organizations, who have special knowledge or practical experience in the field of planting and preservation of trees, as members of the Tree Authority, but the number of such nominated members shall not exceed the number of members appointed under sub-section (1). These members shall be nominated in such manner and for such period as may be prescribed"

Presently thirteen Corporators have been nominated as members of the tree authority. There is no representative of any non-governmental

organization. There is one tree officer who has been appointed in exercise of the powers conferred by Section 5(1). Section 5(1) empowers an urban local authority to appoint one or more of its officers as tree officers. A tree officer, in the case of Pune Municipal Corporation (`PMC') is a Garden Superintendent. There is one Chief Garden Superintendent who is assisted by one Garden Superintendent and it is proposed to enhance the strength of the latter to two. There are two Assistant Garden Superintendents, four Supervisors and four hundred workmen. The number of Supervisors is proposed to be increased to eight, the number of Horticulture Mistries is proposed to be increased to forty seven, Malis to one hundred and thirty six and the workmen to five hundred and fifty. A proposal has been sent to the State Government for sanction. The area of the PMC is for the purposes of administrative convenience bifurcated into four zones and each one is headed by a Zonal Commissioner of the rank of Deputy Municipal Commissioner. There are seventy six electoral wards which are administered by fifteen ward offices headed by an officer of the rank of Assistant Municipal Commissioner.

3. Section 7 of the Act defines the duties of the Tree Authority as follows :

> "7. Duties of Tree Authority : Notwithstanding anything contained in the relevant Act or in any other law for the time being in force, and subject to any special or general directions given by the State Government, the Tree Authority shall be responsible for:
>
> (a) protection and preservation of all trees in all lands within its jurisdiction;

(b) carrying out a census of the existing trees in all lands within its jurisdiction once before December 1996 and thereafter once in every five years;
(c) prescribing standards specifying the number and types of trees which each plot of land shall have and which shall be planted therein;
(d) development and maintenance of nurseries for the supply of seeds, sapplings and trees to persons who desire to plant new trees or to replace trees which have been felled with the previous permission of the Tree Officer or involuntarily uprooted;
(e) transplanting of trees necessitated by construction of new roads or widening of existing roads or for safeguarding danger to life or property;
(f) organization of flower, fruit, vegetable, tree or plant shows at least once a year and assisting private and public institutions in organizing such shows, and creation of consciousness of importance of trees and vegetation to the human welfare;
(g) grant of advice and technical assistance to any person seeking such advice or assistance in any matter connected with planting, protection and preservation of trees;
(h) planting and maintaining such number of trees as it considers necessary, according to the prescribed standards along the roads in public parks and gardens and on banks of rivers or lakes or sea shores, on hills, open spaces or public places;
(i) undertaking any other schemes or measures for achieving the objects of this Act."

4. Section 8 stipulates that on and after the date on which the Act is brought into force in any urban area, notwithstanding any custom, usage, contract or law for the time being in force, no person shall fell any tree or cause any tree to be felled in any land, whether of his ownership or otherwise, situated within that urban area, except with the previous permission of the Tree Officer. Under sub-section 2 of

Section 8, an application for the felling of a tree has to be submitted to the Tree Authority and must be accompanied by the description of the tree and a site plan indicating the position of the tree required to be felled and the reasons for felling. Under sub-section 3, on receipt of an application, the Tree Officer has to cause the tree to be personally inspected and after holding an inquiry to submit a report to the Tree Authority within a period of thirty days from the receipt of an application. The Tree Officer has to give a public notice in the newspapers and to affix a notice on a conspicuous part of the tree which has to be felled. Thereafter the Tree Authority is vested with the discretion to give permission with or without conditions or to refuse permission within a period of sixty days from the date of receipt of an application. However, no tree is to be felled until fifteen days elapse after the permission is given. The proviso to sub-section 3(a) stipulates that no permission is to be refused if in the opinion of the Tree Authority, a tree is dead, deceased or windfallen, or constitutes a danger to life or property, or obstructs traffic. Sub-section 4 of Section 8 contains a deeming provision under which if the Tree Authority fails to inform the applicant of its decision within sixty days from the receipt of an application, or if the receipt of application is acknowledged within that period from the date of acknowledgement of the receipt of the application, the permission applied for shall be deemed to have been granted.

Section 9 empowers the Tree Officer to require the owner/ occupier of the land concerned to plant adequate number of trees, as prescribed under Section 7(c) of the Act. Similarly, under Section 10,

the Tree Officer has authority of planting a tree in place of a tree which has fallen or has been destroyed. Section 11 stipulates that where any order is made under Sections 8, 9 or 10, it shall be the duty of the owner or the occupier of the land who is directed to plant a tree, to see that the tree grows properly and is well preserved and shall give a report to the Tree Officer once in six months about the conditions of such tree or trees for a period of three years. Section 12 allows the Tree Officer to permit an individual, body corporate or an institution to adopt any tree for a specified period.

5. Section 19 of the Act requires approval of the Tree Officer before permission is granted for the development of land by the urban local authority. Section 19 also imposes a condition to the effect that a completion or occupation certificate in respect of a building shall not be issued unless the authority competent to issue the certificate is satisfied that the condition subject to which the permission for development of the land was given, has been complied with. Section 19 provides as follows :

> "19. Permission for development of land to be given with approval of Tree Officer : Notwithstanding anything contained in the relevant law or any other law for the time being in force :
>
> (a) any authority or officer of the urban local authority, who is empowered to give any permission for development of land, shall not give such permission, except with the approval of and subject to the conditions, if any, imposed by the Tree Officer in regard to the preservation or plantation of trees on such land;



(b) no completion or occupation certificate in respect of any building shall be issued under the relevant law unless the authority competent to issue such certificate is satisfied that the conditions subject to which permission for development of the land as aforesaid was given have been complied with."

6. Section 7(b) requires the carrying out of a census of the existing trees in all lands within the jurisdiction of the authority, once before December-1996 and thereafter once in every five years. Rule 6 requires the Tree Authority to carry out the census of the existing trees within its jurisdiction in Form-A appended to the Rules.

7. Rule 3 stipulates that for being nominated as a representative of non-official organizations on the Tree Authority, a person shall be an active member of a non-official organization registered with the Social Forestry Department of the Government and shall have an interest in tree plantation, tree preservation, tree protection etc. and shall possess a rich experience of at least five years in the field.

8. After the petition was filed before this Court, interim orders were passed from time to time for regulating the felling and cutting of the trees. By an order dated 6 May 2009, a Division Bench of this Court consisting of J.N.Patel and Mrs.Mridula Bhatkar, JJ. issued an ad-interim direction to the Municipal Corporation not to permit felling or cutting of trees within municipal limits without the approval of the Court. Thereafter several orders have been passed by the Court regulating the felling of the trees subject to conditions imposed by the Court. These orders have regulated the felling, cutting and

transplantation of trees within the municipal limits of PMC. The procedure which is followed during the pendency of this petition for dealing with applications, may now be elucidated. An application for felling, cutting or transplantation of the trees is initially processed by the PMC after site visit. An expert committee has been appointed by the PMC and the members of the committee physically inspect the trees in issue and make a recommendation. After receipt of the report of the expert committee, a public notice is issued calling for objections from the general pubic and a notice is pasted on the tree concerned. Objections, if any, are entertained upon which a docket is prepared in respect of every application. This is then placed before the Tree Authority and is also uploaded on the website of PMC. Each applicant has thereafter submitted Civil Applications before this Court, in which orders have been passed. Once an order has been passed by this Court, the Tree Officer or, as the case may be, the Garden Superintendent issues a conditional permission upon due verification of compliance of the conditions imposed by the Court. The Court has been informed that undertakings furnished by the Applicants have been periodically verified by the Tree Officer or the Garden Superintendent. During the course of the last verification carried out by the PMC, notices have been issued in 177 cases. It has been found that undertakings in 94 cases have been complied with whereas a breach has been committed in 83 cases. The Tree Officer/Garden Superintendent is taking follow-up action where a breach has been found. During the pendency of this PIL and as and when interim orders were passed, the Court has, broadly speaking, required each Applicant seeking felling of trees, to plant new trees in

the proportion of 1:3. The conditions which have been stipulated by the Court required the following compliance :

(i) In compliance with the report of the expert committee, three new trees shall be planted for every existing tree to be felled;

(ii) The trees to be planted shall be of local species;

(iii) A plan shall be annexed to the undertaking earmarking the places at which the trees shall be replanted;

(iv) The name of the person/agency which shall carry out the plantation is to be indicated;

(v) The trees which are to be replanted shall not be small saplings, but shall be half grown trees of a sufficient growth which shall ensure their survival;

(vi) The Applicant shall continue to maintain the aforesaid trees after plantation or, as the case may be, uprooting of the trees;

(vii) The Applicant shall not use or develop the property on which the plantation is to be done, in such a manner which will adversely affect the growth or survival of the trees planted/ transplanted thereon; and

(viii) The work of transplantation shall be done by an agency

to be nominated by the Garden Superintendent of the Pune Municipal Corporation or the Deputy Municipal Commissioner concerned and subject to the due supervision of the Garden Superintendent or the Deputy Municipal Commissioner who shall personally verify as to whether the transplantation has been carried out properly with a view to ensuring the survival of the tree or the trees, as the case may be.

9. By an order dated 16 September 2010 this Court directed the PMC to file a comprehensive affidavit in relation to the issues raised in this PIL. The PMC filed its affidavit-in-reply. During the course of the hearing the Court directed PMC to submit a comprehensive scheme for effectively implementing the provisions of the Act and the Rules. A draft scheme has been prepared by PMC which has been improved upon from time to time having due regard to the suggestions which have been received, inter alia, from the parties to the litigation. A final version of the scheme approved by the PMC has been presented to the Court. Before we deal with the salient aspects of the scheme, it will be necessary for the Court to refer to certain issues which have arisen during the course of the proceedings.

10. As noted earlier, Section 8(4) of the Act contains a deeming provision under which permission is deemed to have been granted, where the Tree Authority fails to inform the Applicant of its decision within sixty days of the receipt of an application. In view of this deeming provision, it is mandatory for the Tree Authority to take a decision in respect of every application within the stipulated period. However, it has been pointed out by the PMC before the Court that

the experience is that the members of the Tree Authority fail to take a decision within the stipulated period of sixty days "for reasons that need not be mentioned". Evidently, members of the Tree Authority (which consists of municipal corporators), delay decisions on applications for felling, cutting or transplantation of trees for extraneous reasons so that once the period of sixty days has elapsed, a fait accompli is presented and the application is deemed to have been granted. This is, in the view of the Court, is a sorry state of affairs. The Tree Authority is not an authority that has been constituted for the destruction of trees. The primary object of the Tree Authority is to ensure the preservation and protection of the trees, the plantation of trees and the enhancement of the tree cover. Evidently, however, this purpose has been defeated. The object of the Act has been defeated by the failure of the PMC to co-opt members of civil society on the Tree Authority. The object underlying the provisions of Section 3(3) is that civil society organizations with special knowledge or practical expertise in the preservation of trees, should be co-opted as non-official representatives. It is an unfortunate reflection on the state of affairs in the PMC that not a single non-official organization has been co-opted in the Tree Authority at present. In consequence, the entire work of the Tree Authority is manned by municipal corporators. The applications are not disposed of within the statutory period of sixty days with the result that a developer goes scot-free and can destroy trees virtually at will. Such a state of affairs needs urgent remedial attention by the Court. Article 21 of the Constitution which recognizes the right to live, it is well settled, includes the right to a clean and healthy environment. The protection of the environment is

a fundamental duty under Article 51(A)(d) of the Constitution. Our jurisprudence has now been expanded to incorporate the principles of sustainable development. Sustainable development seeks to draw a balance between the needs of development in the present with the need to preserve and protect the environment in the interests of future generations. The doctrine of public trust recognizes that the environment should be protected for future generations. Legislation, such as the Trees Act, must, therefore, be interpreted by the Court consistent with the need to ensure sustainable development so that the green cover in urban agglomerations of the State, is not destroyed by rapacious development motivated by human greed.

11. Section 8(4) provides for a deeming permission. But it is equally well settled that where a statutory provision stipulates that an application would be deemed to be granted after a stipulated period, it must, be complete in all respects and must comply with the law. The legislature could not possibly have intended a deeming provision to apply even though a legal obligation is not fulfilled. We also take serious note of the failure of the members of the Tree Authority to dispose of applications within the stipulated period of sixty days. We hereby place the members of the Tree Authority on notice that they shall follow the mandate of the law and take a decision on each application within a period of sixty days, failing which they shall invite an action in exercise of the contempt jurisdiction of this Court, if such dereliction is brought to the notice of the Court.

12. Section19 of the Act which is a non-obstante provision, makes it clear that permission for the development of land shall not be given except with the approval of and subject to the conditions imposed by the Tree Officer or the Garden Superintendent in regard to the preservation or plantation of trees on such lands. The provision also stipulates that no completion certificate in respect of a building shall be issued unless the authority competent to issue such a certificate is satisfied that the conditions subject to which permission for development was given have been complied with. In view of these mandatory provisions, the Building Department of the PMC must not issue either a completion or occupation certificate in respect of any building constructed in pursuance of permission for development without the previous approval and sanction of the Tree Officer or, as the case may be, the Garden Superintendent. It has become necessary for the Court to issue these directions since the Building Department of the PMC has issued a circular on 20 December 2011 stating that there is no need to obtain permission/clearance from the Garden Department and that it is for the Building Permission Department to verify the requirements of plantation of trees while granting a completion or occupation certificate. We clarify that though the grant of a completion or occupation certificate lies within the jurisdiction of the Building Permission Department, the issue as to whether the requirements of the Trees Act have been duly fulfilled, is a matter which must fall within the jurisdiction of the Tree Authority or, as the case may be, the Tree Officer/Garden Superintendent. Hence, before granting a completion or occupation certificate, prior approval of the Tree Authority must be obtained.

13. Another dubious method which has recently been followed by developers and builders, is for developing agricultural lands, where a number of trees are situated. An agriculturist applies for permission to remove the trees on the ground that he or she intends to use the land for agricultural purposes, some times for ostensibly converting the use from Horticulture to Agriculture. After obtaining permission for cutting and felling of trees on such grounds, which is generally granted, trees in huge numbers are cut and the land is levelled. Thereafter instead of using the land for agricultural operations, permission is obtained from the Collector for conversion of land from agriculture to non-agriculture. As a result, the builder or developer who is the architect of these dubious methods, puts up plans before PMC seeking building permission. In order to obviate such instances, we are of the view that an undertaking must be taken by the Tree Officer before permission is granted to an Applicant for cutting or felling of trees. The undertaking must specify that upon the grant of permission for cutting or, as the case may be, for felling of trees, the land shall be utilized strictly for agricultural, or as the case may be, horticulture purposes for a stipulated period of at least three years, and any breach or deviation therefrom shall invite a penal consequence under Section 21 of the Act. The Tree Authority shall take necessary action in accordance with these directions for curbing such instances of mischief.

14. Section 7(b) stipulates that one of the duties of the Tree Authority is to carry out a census of the existing trees in all the lands

situated within its jurisdiction. The first census was to be carried out before December-1996 while each subsequent census is to take place once every five years thereafter. In the case of PMC, the last census was initiated in 2007 and took six years for completion in 2013. According to the PMC, this delay took place principally because of the non co-operation of the contractor appointed for the purpose of conducting the census through a tendering process as well as because of the non co-operation of private citizens. During the course of the hearing the Court passed two orders on 29 January 2013 and 21 March 2013. By those orders the PMC was directed to forward copies of the draft scheme prepared for the effective implementation of the Act and Rules to the Chief Conservator of Forests and to the Director of Sanjay Gandhi National Park for their expert suggestions. Accordingly, PMC forwarded copies of the draft scheme and conducted meetings with Mr.Sunil Bhalchandra Limaye, the Director of Sanjay Gandhi National Park and Professor Jitendra Shah, Research Scientist, GIC Lab, IIT, Mumbai. The Court expresses its appreciation to Mr.Limaye and Mr.Shah for their able assistance to the Court by spending time apart from their official duties. These experts were assisted in their work by Mr.Rajendra Jagtap, the Deputy Municipal Commissioner. The Court also expresses its appreciation for his able assistance.

15. The assistance of the experts has been obtained for ascertaining whether a census of trees can be carried out in future by utilizing modern technology and in particular with the help of Radio Frequency Identification Devices (RFID). The modalities which were

used by the PMC for carrying out the census of the trees were largely manual without the aid of modern technology and hence it became necessary to allow these experts to consider measures to adopt modern technology for managing the trees and the green cover. During the course of the meeting between the PMC and the experts referred to above, a conclusion was arrived at that an effective census of trees can be carried out by utilizing the process of geo tagging. By the process of geo-tagging (additional geographical identification meta-data to various media such as geo-tag photograph or media) the latitude and longitude of every tree in an urban agglomeration can be verified, documented and preserved. In the process, a photograph of every individual tree is taken, which is automatically tagged to the Global Positioning System (`GPS'). During the course of the hearing, this Court had observed that PMC can take a lead role in the State of Maharashtra for developing a Geographical Information System (`GIS') based system which includes as its components geo-tagging and the creation of a data base for effective mapping and enumeration of trees.

16. In pursuance of the directions which were issued by the Court, the PMC set up a panel consisting of Professor Jitendra Shah of IIT, Mumbai and the Director of Sanjay Gandhi National Park Mr.Sunil Limaye together with the Additional Municipal Commissioner. A pilot project utilizing geo-tagging was carried out for the census of trees. The pilot project was carried out in four electoral constituencies of Pune city. A comprehensive report on the pilot project emphasizing public participation, has been submitted on 17 September 2013. In addition to the pilot project conducted by the

Expert Committee, the PMC had also entrusted a private agency (Smart Survey, Pune) the task of conducting a pilot project for carrying out a census of trees. This agency conducted the pilot project in respect of certain selected public and private properties. The PMC has, thus, received two pilot project reports, one conducted by a private agency and other by the experts appointed by the Court.

17. As a public authority, PMC is required to follow a tender process when it allows anybody to conduct a census/survey of trees. A prerequisite to the tender process is preparation of the tender document which incorporates all the relevant technical specifications to be adopted by the selected bidder. In the first stage, the PMC has to finalize the technical aspects before proceeding with a formulation of the tender document. PMC has hence proposed to the Court that it will appoint a committee of experts which may include the following :

(i) One or more software expert/s having special skills with mobile application development, such as `Android';

(ii) One or more Botanist/s and/or Horticulturist/s;

(iii) A legal expert; and

(iv) An Urban or Town Planner.

PMC has stated that the committee will hear presentations from software developers/agencies including the aforesaid agency (Smart Survey, Pune) and the experts appointed by the Court for the pilot project before finalizing the technical specifications and the tender

documents. Presently there may be no precedent which will furnish a guide for comprehensive specifications for such a survey with the objectives set out by the Court. Tender documentation requires detailed specifications of the requirements of the local body in technical terms in the proposed GIS/GPS based tree census. The technical specifications may incorporate minimum requirements and desirable requirements in recommending technology and processes for conducting a tree census/survey. The committee must bear in mind several aspects, these being :

(i) Affordaibility : The survey rate per tree should be affordable while providing an incentive to NGOs, academic institutions and other bodies with a view to strengthen public participation;

(ii) Reproducibility : The model should be such that it can be expected to be spread across all cities;

(iii) Flexibility : The model should be sufficiently flexible so that urban agglomeration of different sizes with a different I.T. enabled environment can adopt the system; and

(iv) Scalability : The process should be easy to maintain at a city level while at the same time be scalable for a group of cities or for the State.

18. While finalizing the specifications, the committee would be at liberty to seek written inputs from relevant authorities and may request different stakeholders to submit their presentations. We would expect that this part of the exercise should be completed by the

committee within a period of three months from today. The Court has been informed that after formulation of the basic tender document, PMC will float tenders after following the requisite procedure and thereafter appoint a selected bidder in accordance with law for implementing the project of conducting a tree census by using digitized/paperless process. The tender process shall be completed preferably within a period of four months thereafter. The Court has been informed that in the budget for 2013-14, an amount of Rs.1.20 crores has been earmarked for conducting the aforesaid exercise of a tree census and that for 2014-15, the amount is to be enhanced to Rs.2.00 crores.

19. We clarify that until the completion of the aforesaid digitized tree census, applications for felling/cutting or, as the case may be, transplantation of the trees, shall be dealt with strictly as per the scheme subject to the approval of the Court for the effective implementation of the Act and the Rules. Once the exercise is completed and the entire data in the electronic format is available through web application, the scheme finalized and approved by the Court may be suitably modified so as to take into account the need to make the entire process in a digitized format. During the course of the submissions PMC has indicated that the procedure to be followed, broadly stated, would include the following :

(i) The Surveyor logs in with his login credentials;

(ii) Android application authenticates user and gives access for survey;

(iii) The Surveyor records the requisite details and tree records;

(iv) The data so recorded is electronically (without human intervention so that it is not tampered) transferred from android application to the web server;

(v) On approval of such data by the competent person/authority it gets inserted into the actual database which then becomes open for public access;

(vi) All these activities are stored (data log files) where user login date, time, ip and other details can be seen.

Similarly it has been stated before the Court that the technology to be employed should have the following basic features :

a) The method for recording of the data should be user friendly and even a surveyor who is not an expert in the operation of hand-held machines should be enable to enter the data. The data fields must be easy to understand and easy to operate;

b) Database of trees & properties must be in accordance with the requirements of the Maharashtra Preservation of Trees Act 1975 and amendments of 2009;

c) The latest technology should be used that will automate

the tree census process, and will digitize the tree census data. Every tree surveyed must have a tree identification key. However, it should be possible to capture latitude, longitude and other tree data with or without the availability of the Internet connection. Mapping of each tree should be possible by using GPS locations on Google map or GIS map or GIS application;

d) The application should support all versions of Android mobiles/tablets having compatibility with all screen sizes and various models/makes;

e) It should be possible to store date and time of every data capture for an individual tree, which will make it possible to check the efficiency of an individual surveyor;

f) The transfer of data from the handheld device to the server should be automatic and not manual so that the data so recorded by the surveyor is not tampered;

g) The web application should process and store the data;

h) The Server should be capable of storing unlimited data having unlimited hosting space and bandwidth. Web application should be developed using proven and tested programming tools/languages;

i) Preferably, the Application should be able to generate

notice as required by various provisions of the Act and the rules e.g. to the property owner for plantation of deficit number of trees (Section 7c);

j) The web application should be developed in such a way that, mapping & tracking of special attention trees; like endemic, rare and endangered trees will be possible;

k) Preferably the application should be able to store the observations and suggestions of plant species for plantation in the property based on natural diversity of trees in the area;

l) The web application should be able to calculate annual carbon assimilation rate of trees in the city/ward/sub ward, property/individual tree;

m) The application should be capable of taking geo-tagged pictures for reference (single image/panoramic view/video);

n) Using web application, anyone should be able to see the tree census data;

o) The data so collected and processed must be fully secured, while developing web application, particularly in respect of threats from hackers;

p) The server should be capable of storing unlimited data

and should have unlimited bandwidth;

q) The web application should be capable of generating different reports such as :

i. Property wise data;
ii. Area/ward/pin code data;
iii. Scientific name;
iv. Common name;
v. Flowering season;
vi. Flower colour;
vii. Fruiting season;
viii. Native/exotic trees;
ix. Growth rate;
x. Wild/cultivated trees;
xi. Tree use; and
xii. Tree condition.

20. That leaves the Court with two aspects to be considered namely (i) the Constitution of the Tree Authority; and (ii) the procedure to be followed. As regards the constitution of the Tree Authority, under Section 3(2), only the members of the urban local authority [as defined in Section 2(g)] can constitute the Tree Authority. For the constitution of the Tree Authority, the minimum required strength is five members while the maximum permissible is fifteen. PMC has stated that the total number of members should be fixed at seven and that those corporators who are Science Graduates would be preferred.

A membership of seven non-official members is, in our view, fair and proper having regard to the need of making the functioning of the Tree Authority of manageable proportion. Under Section 3(3), the total number of nominated members cannot exceed the number of corporators, who constitute the Tree Authority. Hence, the nominated members would also be restricted to seven. The nominated members should belong to independent NGOs and PMC has stated that not more than one person shall be appointed from the same NGO. As regards the nominated members, wider representation needs to be given to diverse cross sections of NGOs with a special knowledge or expertise in plantation and preservation of trees with a minimum experience of at least five years. Care shall be taken to obviate a situation which had occurred in the past whereby all the nominated members belonged to the same NGO. While nominating the non-official members, preference shall be given to qualified persons with a degree or diploma in agriculture/ forestry/horticulture with an expertise of five years in plantation/ preservation/transplantation of trees and/or in environment protection. PMC has stated that preference would be given to those NGOs who have a national presence.

21. The scheme envisages that since there are four zones in PMC, each zone should have an independent zonal officer appointed in terms of Section 5 of the Act. While making the appointments, preference would be given to qualified persons with a degree or diploma in agriculture/forestry or horticulture or having an expertise in the field of plantation/preservation or transplantation of trees and in

the area of environmental protection. All the Tree Officers shall work under the Tree Authority and will independently discharge their duties in respect the zone within their jurisdiction. Each Tree Officer will be personally held responsible for following the requisite procedure and for due compliance of the undertakings and conditions imposed on applicants for permission under the Act and Rules. Each Tree Officer will have an independent establishment working under him for the effective discharge of his duties and would be accessible on an official website. In terms of the provisions of Section 5(2), the Commissioner of PMC shall authorize any functional officer not below the rank of an Assistant Municipal Commissioner, as a Tree Officer for a particular zone.

22. PMC has agreed to constitute an Expert Committee consisting of at least six members who may be appointed by the General Body of the PMC from amongst candidates who are selected by a screening committee consisting of the following persons :

(i) The Head of the Department of Environment of the Government College of Engineering or Pune University;

(ii) The Head of the Department of Environment/Horticulture/ Agro Forestry Department of the Government College of Agriculture;

(iii) A nominee of NEERI or the Deputy Director, Social Forestry.

For this purpose PMC has stated that it would invite applications accompanied by a resume from the members of public at large for appointment as members of the expert committee. Wide publicity would be given to such invitation for nominations in the print and electronic media. PMC has assured the Court that the selection process shall be conducted in an open and transparent manner. We also clarify that if a person of eminence has to be appointed to the expert committee, it will be open to the screening committee to shortlist a non-applicant as well who has consented to work as a member of the expert committee. More than one person from the same NGO shall not be shortlisted. The expert committee will work with a minimum quorum of three members.

23. As regards the procedure to be followed for taking a decision on applications for replantation, cutting or, as the case may be, plantation of trees, we accept the proposal of the PMC which is in the following terms :

**"The Proposed Procedure**

1. Every Application either for replanting/cutting of tree shall be addressed to the Tree Authority. However, the same for the administrative convenience be submitted with the Tree Officer of the PMC.

2. The application shall be accompanied by the documents set out at **Annexure-I** in addition to the accompaniments prescribed by the said Act & Rules.

3. The application shall be made in the form prescribed by Rule 9 of the said Rules. The application

shall state self-explanatory reasons keeping in view the provisions of the said Act & the Rules, for replanting/cutting, as the case may be, the tree in issue. The applicant shall state the number and the type of trees situate in the concerned plot in which the tree(s) in issue is/are situate enabling examination of the matter in the light of Section 7(b) of the said Act.

4. The Tree Officer of the concerned zone after scrutinizing the application and after getting the same duly filled in by the applicant, within one week shall personally inspect the tree(s) in issue. A report of such inspection with material particulars in writing shall be prepared, which report will include the actual status of the tree(s) in issue and suggestions as to the proposed action to be taken in that regard, such as cutting/transplantation.

5. The said report along with appropriate recommendation(s) of the Tree Officer will be sent to the expert committee, which will personally inspect the site as & when it deems fit and make its recommendation(s).

6. The Tree Officer shall cause publication of a notice in the local news paper as also on the website/internet inviting objections/suggestions, if any, in regard to the application(s) so made. The copies of these applications shall be supplied well in advance to the nominated NGO-members of the tree authority. The Tree Officer shall also comply with the provisions of Section 8(3)(a) such as affixing the notice on the conspicuous part of the tree.

7. The Tree Officer shall submit to the Tree Authority the entire proposal for its consideration along with objections/suggestions, if any, received in response to the aforesaid public notice.

8. The Tree Authority, in accordance with law shall take a provisional decision on the application, which

shall be intimated to each applicant(s). The Tree Authority shall make every endeavor to preserve the tree in issue and shall prefer transplantation to any other available option.

9. In terms of the provisional decision of the Tree Authority the applicant shall submit appropriate undertaking and/or make appropriate security deposit with the Tree Authority. The applicant shall also comply with other requisite directions/conditions that may be issued/imposed by the Tree Authority. The draft of the undertaking is **Annexure-II**.

10. The Tree Authority shall issue a final order, taking into consideration due compliances made by the applicant. A copy of the final order along with the copy of the undertaking and other requisite papers will be sent to the Tree Officer of the respective zone for his record as also for appropriate action.

11. The Tree Authority shall authorize in every zone at least three agencies for carrying out the work of cutting/transplantation of trees and shall fix as also notify the charges that may be recovered by such an agency from the concerned applicant in that regard. Every applicant who is required to carry out cutting/transplantation shall not get the cutting/transplantation work carried through anybody else than such an authorized agency.

12. Only when it is inevitable the Tree Authority may permit felling of tree(s). However, the same shall be subject to the condition that the applicant plants trees in the minimum proportion of **1:3.** All trees to be so planted shall satisfy minimum following specifications :

a) The height shall not be less than Six feet;

b) The Collar Girth should not be less than Ten centimeters;

c) The age of the sapling should not be less than five years;

d) The species of the sapling should be local or indigenous;

e) Preferably endemic and local trees supplied by the garden department of the Corporation be used for plantation. In case if these are not available, then species recommended by forestry department shall be used for plantation.

13. The Tree Authority shall also consider, while taking any decision, various orders passed by the Hon'ble High Court from time to time on various applications seeking permissions for either felling of trees or for transplantation thereof, in their proper perspective.

14. The Tree officer shall supervise the execution of the order issued by Tree Authority and will accordingly submit monthly reports with the Tree Authority. Every such report shall be submitted by the 10th day of each English calendar month.

15. The Tree Officer shall be personally responsible to supervise the implementation of each and every order of the tree authority as also the compliance of each and every clause of every undertaking submitted by each of the applicants, in so far as his zone is concerned.

16. The Tree Officer shall maintain a register in appropriate format for recording his every personal visit and the aforesaid compliances, which register shall be made available during office hours on all working days for inspection to general public.

17. The Tree Officer shall also be personally responsible for due compliance of every direction(s) issued by the Hon'ble High Court and shall also maintain a similar separate register for recording such compliances, which register shall also be made available

during office hours on all working days for inspection to general public.

18. In case of every new construction that is carried out within the limits of the PMC, the Building Completion Certificate shall not be issued unless the concerned Tree Officer issues a prior certificate to the effect that the orders of the Tree Authority, if any, particularly the conditions imposed by the same, if any, are fully complied by the developer/owner. Tree Officer has to issue the certificate within 60 days.

19. The Tree Officer may be empowered to take a decision of permitting pruning/cutting of such trees by the municipal staff under his personal supervision that on his personal inspection are found by him to be completely dead or that cause an immediate as also imminent danger to human life or property or that obstruct the smooth flow of traffic on any public street.

20. The Tree Authority shall also take into consideration the provisions of the Wild Life Act wherever applicable while considering any application made to it for granting permission under the said Act and the Rules framed thereunder. The Tree Authority will, as far as possible, preserve big, old trees or snags which are required for nesting of birds. In this regard, the opinion of local Assistant Conservator of Forests (Wildlife) shall be taken into consideration by the Tree Authority.

21. The Tree Authority shall regularly maintain its website for publishing the relevant information relating to the tree census as also tree cutting and/or transplantation. The Tree Authority shall display on its website all the requisite information in the form of a docket in respect of each and every application received and/or processed by the Tree Authority in regard to cutting or transplantation of tree(s).

## ANNEXURE-I

Accompaniments of the application

1. A map indicating location of the existing trees in the entire plot in which the tree(s) in issue is situate. The location of the tree(s) in issue to be shown in red colour as against the rest of the trees that are to be shown in green colour. The data of the concerned tree(s) and surrounding trees as far as possible should be in the format prescribed for the census survey.

2. Adequate and appropriate photographs of the tree(s) in issue.

**For removal of trees obstructing the Construction/ other work:**

i) Application under Proforma 'C'.
ii) Commencement Certificate.
iii) Sanctioned plan showing tree(s) in issue in red colour, other trees in green colour and location of proposed tree(s) plantation /transplantation in blue colour.
iv) Adequate and appropriate Photographs of the tree(s) in issue.
v) Appropriate Undertaking.
vi) A certificate of the concerned Architect to the effect that without felling of the concerned tree(s) permissible developmental activity(ies) in terms of the DCR cannot be carried out at the site in issue.

**For pruning of dangerous branches of trees :**

1. Adequate and appropriate Photograph of tree(s) in issue showing dangerous branches, proposed to be removed.

2. Appropriate Undertaking to the effect that only permitted trimmings of dangerous branch will be carried out.

## ANNEXURE-II

Undertaking

I, ..... Age. ... years, do hereby state on solemn affirmation as under:-

1. I have filed the present application for seeking permission for transplantation/felling of ..... trees in terms of the recommendations of the Expert Committee.

2. I hereby undertake that I shall plant ..... local species of trees which shall not be small saplings, but shall be of such age that on plantation they will grow. I undertake not only to ensure their survival but also their growth.

**OR**

I hereby undertake that I shall transplant .....tree(s) in terms of the order of the Tree Authority and shall make every endeavor that these tree(s) not only survive but also grow.

3. I undertake to continue to maintain such tree(s) for a period of two years from plantation/transplantation and that I shall submit a quarterly compliance report in this regard with the concerned Tree Officer.

4. I Undertake to comply with each and every condition and direction issued by the Tree Authority and/or Tree Officer in its true letter and spirit as also with the provisions of the Maharashtra (Urban Area) Protection and Preservation of Trees Act, 1975 and the Rules framed thereunder.

Solemnly affirmed at..... )

This....day of..... )

.....Deponent.

Identified by me."

24. The resolution of the complex issues which have arisen before the Court in the PIL has been made possible as a result of the non adversarial approach adopted by the PMC in the present case. The experts who have devoted a considerable amount of time and offered valuable suggestions must be appreciated by the Court. Both Mr.Sunil B. Limaye, Director of Sanjay Gandhi National Park and Mr.Jitendra Shah, the expert from IIT, Mumbai have devoted a considerable amount of time and effort in ensuring that the pilot project for geo-tagging of trees attains finality, which would help not only the residents of Pune but also of other cities and urban agglomerations of the State. The officers of the PMC who have been associated with the work of the public interest litigation including Mr.Ashok Ghorpade, Garden Superintendent, have given their wholehearted assistance and effort to complete the pilot project. We would request the Commissioner of PMC to take a special note of the appreciation of the work which has been rendered by Mr.Ashok Ghorpade and record the same in his service book.

25. Finally, as we conclude, the Court also expresses its appreciation for the able assistance rendered by Mr.A.A.Kumbhakoni, counsel for the PMC (instructed by the legal adviser Ms.Sadhana Mahashabde), and by all the other learned counsel.

26. We now direct that the PMC shall take necessary steps to effectuate this order to ensure that the census of trees adopting modern technology in a digitized frame work with geo-tagging is duly completed. All steps shall be taken to ensure that the constitution of the Tree Authority is carried out in terms as indicated to the Court. Above all, we would seek to emphasize that the Tree Authority is not an authority for the destruction of trees but for the preservation of trees and the enhancement of the fast depleting green cover in the urban areas of the State.

27. The petition is accordingly disposed of. There shall be no order as to costs.

(DR.D.Y.CHANDRACHUD, J.)

(M.S.SONAK, J.)

MST

True Copy

Advocate

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO. ___ OF 2023**

Shalvi Pawar and Ors )...Petitioners

Vs

Pune Municipal Corporation & Ors )...Respondents

**PUBLIC INTEREST LITIGATION**

On this dated October 2023

**MADHVI GOMATHIESWARAN/ SHREYA MOHAPATRA**

Advocates for the Petitioner

First Floor, Masjid Manor,

16 Homi Modi Street

Fort, Mumbai- 400 023

Email: madhvi.gmth@gmail.com

Mobile: 9677819893

Advocate Code: MAH/2497/2022; MAH/2082/2023

II

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. ___ OF 2023

DIST:- PUNE

Shalvi Pawar and Ors. )...Petitioners

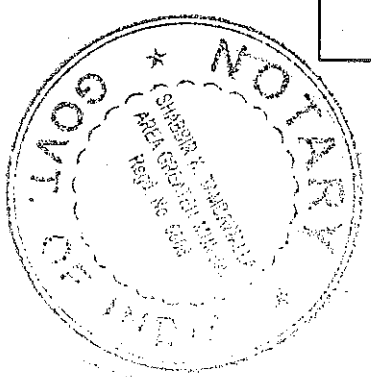
Vs

Pune Municipal Corporation & Ors )...Respondents

**INDEX**

**PART – II – PAGE NO.220 TO 440**


| SR. NO. | PARTICULARS | PG. NO. |
|---|---|---|
| 1. | Synopsis | A – E |
| 2. | Petition | 1 – 107 |
| 3. | EXHIBIT "A"- Satellite maps showing the affected areas of the Riverfront Development Project and the proposed trees to be cut. | 108 – 110 |
| 4. | EXHIBIT "B"- Copy of the order dated 31.05.2023 in OA 80 of 2023 passed by the | 111 – 112 |

| | | |
|---|---|---|
| | Hon'ble NGT. | |
| 5. | **EXHIBIT "C"**- Copy of the order dated 18, 19, 20 and 23rd April 2018 in PIL No. 119 of 2017 with PIL No. 46 of 2015 passed by this Hon'ble Court. | **113 – 185** |
| 6. | **EXHIBIT "D"**- Copy of the judgment dated 20.09.2013 passed in PIL No. 93 of 2009 by this Hon'ble Court. | **186 – 219** |
| 7. | **EXHIBIT "E" (COLLY)**- Copy of The Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act 2021 and the Statement of Objects and Reasons. | **220 – 226** |
| 8. | **EXHIBIT "F"**- Copy of the proposal dated 6th June 2023 sent to the Maharashtra State Tree Authority. | **227 – 229** |
| 9. | **EXHIBIT "G"**- Copy of the legal notice dated 24.06.2023. | **230 – 234** |

| | | |
|---|---|---|
| 10. | **EXHIBIT "H"**- Copy of the extract of the minutes of the meeting held on 30th June 2023. | **235** |
| 11. | **EXHIBIT "I"**- Copy of the letter dated 31st July 2023. | **236 – 238** |
| 12. | **EXHIBIT "J"**- Copy of the docket dated 02.03.2023 bearing inward number 2193. | **239 – 243** |
| 13. | **EXHIBIT "K"**- Copy of the docket bearing Inward No. 11328. | **244 – 277** |
| 14. | **EXHIBIT "L"**- Copy of the letter dated 3.01.2021. | **278 – 281** |
| 15. | **EXHIBIT "M"**- Copy of the circular dated 21.09.2021 and 22.09.2021. | **282 – 292** |
| 16. | **EXHIBIT "N"**- Copy of docket prepared in February 2023. | **293 – 298** |
| 17. | **EXHIBIT "O"**- Copy of the letter dated 24.03.2023. | **299 – 303** |
| 18. | **EXHIBIT "P"**- Copy of the order dated | **304 – 306** |

| | | |
|---|---|---|
| | 25.03.2021 in SLP (C) no. 25047 of 2018 passed by the Hon'ble Supreme Court. | |
| 19. | **EXHIBIT "Q" COLLY-** Copies of the objections dated 20th March 2023 and 23rd March 2023. | **307 -326** |
| 20. | **EXHIBIT "R"-** Copy of the representation dated 21st March 2023. | **327 – 332** |
| 21. | **EXHIBIT "S"-** Copy of the objections of the Petitioners dated 24.03.2023 and 27.03.2023. | **333 – 343** |
| 22. | **EXHIBIT "T"-** Copy of the newspaper articles dated 30th April 2023. | **344 – 347** |
| 23. | **EXHIBIT "U"-** Copy of the email dated 4th May 2023. | **348** |
| 24. | **EXHIBIT "V"-** Copy of the objections dated 8th May 2023 submitted at the PMC hearing. | **349 – 350** |
| 25. | **EXHIBIT "W"-** Copy of the minutes of the | **351 – 357** |

| | | |
|---|---|---|
| | public hearing held on 8th May 2023. | |
| 26. | **EXHIBIT "X"**- Copy of the manual transcript of the public hearing held on 8th May 2023. | **358 - 360** |
| 27. | **EXHIBIT "Y" (COLLY)** - Copy of The Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act 2023 and the Statement of Objects and Reasons. | **361 – 363** |
| 28. | **EXHIBIT "Z"**- Copy of the legal notice dated 7.09.2023. | **364 – 371** |
| 29. | **EXHIBIT "AA"**- Copy of the objections sent to MSTA dated 13.05.2023. | **372 – 376** |
| 30. | **EXHIBIT "BB"**- Copy of the letter dated 28th June 2023. | **377 – 378** |
| 31. | **EXHIBIT "CC"**- Copy of the letter dated dated 21st August 2023. | **379 – 389** |
| 32. | Affidavit in Support on behalf of Petitioners | **390 – 429** |

| | | |
|---|---|---|
| | 1 to 8 in accordance with Rules 4 ,5, 6, and 7 of the Bombay High Court Notification No. 1603 of 2010. | |
| 33. | Vakalatnama | **430 - 440** |

Exhibit - E Colly 220

RNI No. MAHENG /2009/35528

# महाराष्ट्र शासन राजपत्र

## असाधारण भाग आठ

वर्ष ७, अंक १३] शुक्रवार, जुलै १६, २०२१/आषाढ २५, शके १९४३ [पृष्ठे ६, किंमत : रुपये २७.००

असाधारण क्रमांक २८

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act, 2021 (Maharashtra Act No. IX of 2021), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

SATISH WAGHOLE,
I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

---

## MAHARASHTRA ACT No. IX OF 2021.

*(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 16th July 2021.)*

An Act further to amend the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975.

Mah. XLIV of 1975.

Whereas it is expedient to amend the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975, for the purposes hereinafter appearing; it is hereby enacted in the Seventy-second Year of the Republic of the India as follows :—

221



Short title.

**1.** This Act may be called the Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act, 2021.

Amendment of section 2 of Mah. XLIV of 1975.

**2.** In section 2 of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (hereinafter referred to as "the principal Act"), Mah. XLIV of 1975.—

(*1*) clause *(1a)* shall be re-numbered as clause *(1aa)*;

(*2*) before clause *(1aa)* as so re-numbered, the following clause shall be inserted, namely:—

"*(1a)* "heritage tree" means a tree categorised as such by the Tree Authority, in accordance with the norms as may be notified by the Government;".

Amendment of section 3 of Mah. XLIV of 1975.

**3.** In section 3 of the principal Act,—

*(1)* before sub-section *(1)*, the following sub-section shall be inserted, namely :—

"*(A-1)* As soon as may be, after the commencement of the Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act, 2021, the State Government shall constitute the Maharashtra State Tree Authority, by notification in the *Official Gazette*, consisting of officials not below the rank of Secretary to Government."; Mah. IX of 2021.

(*2*) in sub-section *(2)*, in the table, in entry 2, in column *(2)*, for the words "The President of the Council" the words "The Chief Officer of the Council" shall be substituted ;

(*3*) in sub-section *(3)*, for the words "representatives of non-official organisations, who have special knowledge or practical experience in the field of planting and preservation of trees," the words "experts from non-official organisations including retired Government Officials, with an experience in planting, preservation and conservation of trees, for minimum period as may be notified by the Government, from time to time," shall be substituted.

Insertion of new section 6A in Mah. XLIV of 1975.

**4.** In Chapter IV of the principal Act, before section 7, the following section shall be inserted, namely :—

Duties of Maharashtra State Tree Authority.

"**6A.** Notwithstanding anything contained in the relevant Act or in any other law for the time being in force, and subject to any special or general directions given by the State Government, the Maharashtra State Tree Authority shall be responsible for,—

(*i*) monitoring the functioning of the Tree Authority ;

(*ii*) protection and conservation of heritage trees across the State ;

(*iii*) decide applications referred to it by the Tree Authority, regarding felling of more than two hundred trees of age five years or more ;

 222

(*iv*) decide applications referred to it by the Tree Authority, regarding felling of heritage trees ;

(*v*) any other functions related to protection and conservation of trees.".

5. In section 7 of the principal Act,— Amendment of section 7 of Mah. XLIV of 1975.

(*1*) in clause *(b)*, after the words "every five years" the words "by using new technological means such as GIS based tree census or any other modern technology" shall be added ;

(*2*) for clause *(i)*, the following clauses shall be substituted, namely :—

" (*i*) planting number of trees of the same variety or any other local or native variety, in such number equal to the age of the tree being transplanted and carry out such transplantation under the expert guidance only ;

(*j*) ensuring that compensatory plantation is carried out and survival of trees, including the compensatory plantation, in all lands within the jurisdiction of the urban local authority ;

(*k*) ensuring utilisation of tree cess for conservation and preservation of trees ;

(*l*) carrying out any other activity as assigned by the Maharashtra State Tree Authority, from time to time ;

(*m*) deciding which tree is to be categorised as heritage tree, and enumerate heritage trees;

(*n*) ensuring that the land owned by the urban local authority or land owned by the Government is earmarked for the purpose of plantations and ensure such plantations shall be scientific in nature and should be carried out with an objective to preserve local species and improve green cover of the area, to the extent of not less than 33 per cent. ;

(*o*) ensuring pruning and maintenance of trees is carried out in a scientific manner under expert guidence, every year ;

(*p*) ensuring that the compensatory plantation for each of the naturally fallen tree is carried out by the urban local authority ;

(*q*) undertaking any other schemes or measures for achieving the objects of this Act.".

Amendment of section 8 of Mah. XLIV of 1975.

**6.** In section 8 of the principal Act,—

(*1*) in sub-section *(2)*, the following proviso shall be added, namely :—

"Provided that, where the significant number of trees are proposed to be felled, the alternate design alongwith the number of trees required to be felled for respective design shall be submitted alongwith the application.";

(*2*) in sub-section *(3)*,—

(*a*) in clause *(a)*,—

(*i*) in sub-clause (*iii*), the word "and" shall be deleted ;

*(ii)* after sub-clause (*iv*), the following sub-clauses shall be added, namely :—

" (*v*) specifically mention in the advertisement, if the tree to be felled is a heritage tree ; and

(*vi*) determine the age of the tree being felled as per the criteria and method as may be notified by the Government.";

(*b*) after clause (*a-1*), the following provisos shall be added, namely :—

" Provided that, where more than two hundred trees of age five years or more are proposed to be felled, in such cases, the Tree Authority shall refer the matter to the Maharashtra State Tree Authority with its report and recommendations:

Provided further that, where the tree proposed to be felled is a heritage tree, in such cases, the Tree Authority or Tree Officer, as the case may be, shall refer the matter to the Maharashtra State Tree Authority with its report and recommendations:

Provided also that, the Tree Authority or Tree Officer, as the case may be, shall ensure that the development of land or any other project is not sub-divided in smaller parts so as to keep the number of trees to be felled below two hundred.";

*(3)* in sub-section (*4*), the following proviso shall be added, namely :—

"Provided that, the provisions of this sub-section shall not be applicable in case of felling of a heritage tree.";

*(4)* in sub-section (*5*),—

*(a)* sub-section *(5)* shall be re-numbered as clause *(a)*;

*(b)* in clause *(a)*, as so re-numbered, for the words "the applicant shall plant twice the number of trees to be felled" the words "applicant shall plant such number of trees equal to the estimated age of the tree being felled and such trees to be planted shall be of atleast six feet height," shall be substituted;

*(c)* after clause *(a)*, as so re-numbered, the following clause shall be added, namely :—

"*(b)* Tree Officer shall determine the age of the tree being felled as per the criteria and method as may be notified by the Government.";

*(5)* after sub-section *(5)*, the following sub-sections shall be inserted, namely :—

"*(5A)* The applicant and the Tree Authority or Tree Officer shall ensure that, compensatory plantation shall be carried out and the trees planted shall survive for a minimum period of seven years. It shall also be ensured that, the tree mortality during this period shall be compensated by planting equal number of new trees:

Provided that, in case it is not possible for applicant to do the compensatory plantation, the applicant shall deposit an amount not less than valuation of trees being felled. Such valuation shall be based on methodology as may be notified by the Government:

Provided further that, such amount deposited shall be utilized only for the purpose of compensatory plantation, its preservation and compensatory plantation in lieu of the tree mortality during this period.

(*5B*) (*a*) The Tree Authority shall refer the application received for felling of more than two hundred trees of age five years or more to the Maharashtra State Tree Authority.

(*b*) The Tree Authority or Tree Officer, as the case may be, shall refer the application to fell a heritage tree to the Maharashtra State Tree Authority.

(*c*) The Maharashtra State Tree Authority shall either allow the application referred to it under clauses (*a*) and (*b*), by the Tree Authority or Tree Officer, as the case may be, with or without conditions or may refuse it within a period of forty-five days from the date of receipt of the reference from the Tree Authority or Tree Officer, as the case may be.

(*d*) Where the Maharashtra State Tree Authority allows felling of trees, the Tree Authority if considers it necessary to review the decision of the Maharashtra State Tree Authority, it may within a period of fifteen days from the date of communication of the decision, request the Maharashtra State Tree Authority to reconsider the decision with reasons therefor. Such request shall be decided by the Maharashtra State Tree Authority within ten days thereafter.

(*5C*) New trees planted, *in lieu of* the permission to fell a tree granted under sub-section *(5)*, shall be geo-tagged and monitored using latest technologies available.".

7. In section 18 of the principal Act, after sub-section *(2)*, the following sub-section shall be added, namely :— Amendment of section 18 of Mah. XLIV of 1975.

"(*3*) Tree cess collected under the provisions of this section shall be utilised by the urban local authority in such manner as may be directed by the Government, from time to time.

(*4*) The State Government may, issue directions and determine different criteria for utilisation of cess, for different urban local authorities, considering the area of existing green cover and assessment of the need of the area for preservation and conservation of trees.".

Amendment of section 21 of Mah.XLIV of 1975.

8. In section 21 of the principal Act, in sub-section (*1*), for the words "not less than one thousand rupees which may extend upto five thousand rupees" the words "an amount of valuation of tree, using methodology as may be notified by the Government but not more than one lakh rupees" shall be substituted.

ON BEHALF OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, PRINTED AND PUBLISHED BY DIRECTOR, RUPENDRA DINESH MORE, PRINTED AT GOVERNMENT CENTRAL PRESS, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004 AND PUBLISHED AT DIRECTORATE OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATIONS, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004 EDITOR : DIRECTOR, RUPENDRA DINESH MORE.

226

7

STATEMENT OF OBJECT AND REASONS

The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (Mah.XLIV of 1975) has been enacted for the purpose of protection and preservation of trees in urban areas in the State, by regulating felling of trees and providing for planting of adequate number of new trees in those areas.

2. Still there is indiscriminate felling of larger number of trees in the various urban areas of the State due to continuous increase in urbanisation, industrialisation and execution of various infrastructure projects at a rapid pace in such areas. Therefore, there is urgent need to control, minimize and regulate the felling of large number of trees in the urban areas of the State.

3. Felling of trees causes considerable damage to the environment, therefore, to prevent the damage caused, to protect the environment, to ensure greater protection to heritage trees, plantation and preservation of trees and to increase green cover of the urban areas, it is proposed to amend sections 2, 3, 7, 8, 18 and 21 of the said Act, suitably and to insert new section 6A therein.

4. Salient features of the proposed Bill are as under :—

(*a*) to provide for conservation of "heritage tree" ;

(*b*) to provide the constitution of the Maharashtra State Tree Authority and duties thereof ;

(*c*) to provide use of new and modern technological means for carrying out census of the existing trees ;

(*d*) to confer additional duties on the Tree Authorities regarding planting of number of trees, ensuring survival of trees, proper utilization of Tree cess for preservation and conservation of the trees, scientific and compensatory plantation and maintenance thereof ;

(*e*) to provide more detailed procedure for preventing felling of trees and adequate compensatory plantations ;

(*f*) to provide for proper utilization of collected Tree cess ;

(*g*) to provide for increase in penalty for the tree felled in contravention of the provisions of the Act.

5. The Bill seeks to achieve the above objectives.

AADITYA THACKERAY,
Minister for Environment and
Climate Change.

Mumbai,
Dated the 28th June, 2021.

True Copy

Advocate

Exhibit - F 227

पुणे महानगरपालिका
वृक्ष प्राधिकरण कार्यालय
शिवाजीनगर क्षेत्रिय कार्यालय,शिवाजीनगर,पुणे ५
जा.क्र.उकाजा/ क्षे/४२४
दिनांक /०६/०६/२०२३

प्रति,
मा.प्रधान सचिव
पर्यावरण व वातावरणीय बदल विभाग
हुतात्मा राजगुरू चौक,मादाम कामा मार्ग,
मंत्रालय,मुंबई ४०० ०३२

यांजकडे सादर .....

विषय – पुणे महानगरपालिकेच्या नदी सुधार प्रकल्पांतर्गत – स्ट्रेच ९ व स्ट्रेच १० व स्ट्रेच ११ च्या नदीच्या डावी व उजवी बाजूचे वृक्ष पुर्ण काढणे /पुनर्रोपण करणेबाबतच्या प्रस्तावाबाबत.

संदर्भ – १) महाराष्ट्र (नागरी क्षेत्र) झाडांचे संरक्षण व जतन अधिनियम १९७५
२) श्री.श्रीनिवास बोनाला,मुख्य अभियंता (प्रकल्प),पुणे महानगरपालिका यांचा प्रस्ताव जा.क्र.३०११ दि.२६/१२/२०२२ (स्ट्रेच-९ करिता) व जा.क्र. ३१३० दि.४/१/२०२३ (स्ट्रेच १०,११ करिता)
३) मा.महापालिका आयुक्त तथा प्रशासक तथा अध्यक्ष,वृक्ष प्राधिकरण,पुणे महानगरपालिका यांचे मान्यता ठराव क्र.१/७ दि.२/६/२०२३

7-6-23

महोदय,

संदर्भाकित क्र.१ च्या अधिनियमातील तरतूदीनुसार, पुणे महानगरपालिका क्षेत्रामध्ये वृक्ष प्राधिकरण समिती,पुणे महानगरपालिका यांचेमार्फत कामकाज करण्यात येते. त्यानुसार, सदर अधिनियमातील कलम ८ च्या तरतूदीस अधिन राहून वृक्ष छाटणी करणे/वृक्ष पुर्ण काढणे/पुनर्रोपण करणेस परवानगी देण्याची कार्यवाही करण्यात येत आहे.

महाराष्ट्र (नागरी क्षेत्र) झाडांचे संरक्षण व जतन (सुधारणा) अधिनियम,२०२१ मधील कलम ५ (ब)(ब) नुसार, "वृक्ष प्राधिकरण किंवा वृक्ष अधिकारी पुरातन (हेरिटेज) वृक्ष पाडण्याचा अर्ज महाराष्ट्र राज्य वृक्ष प्राधिकरणाकडे निर्दिष्ट करेल." तसेच कलम ४ मध्ये, "पाच वर्षे किंवा त्याहून अधिक वयाची २०० हून अधिक वृक्ष तोडण्याचा प्रस्ताव महाराष्ट्र राज्य वृक्ष प्राधिकरणाकडे पाठविला जाईल." असे नमूद केलेले आहे.

पुणे महानगरपालिकामार्फत नदी सुधारणा प्रकल्प राबविण्यात येत असून, संदर्भ क्र.२ नुसार सादर केलेल्या प्रस्तावानुसार,सदर कामांतर्गत खाली नमूद केल्या प्रमाणे एकूण ७४९६ वृक्ष बाधित होत आहेत.

**सदर माहिती, माहिती अधिकार अधिनियम-२००५, अंतर्गत दिली आहे.**

229

| अ.क्र. | क्षेत्रिय कार्यालयाचे नाव | ठिकाण | स्ट्रेच क्रमांक | बाधित वृक्ष संख्या | वृक्ष पुर्ण काढणे संख्या | वृक्ष पुनर्रोपण करणे संख्या | वृक्ष पुर्ण काढणे/पुनर्रोपण करणेच्या बदल्यात करावयाची भरपाई नविन वृक्षलागवड संख्या |
|---|---|---|---|---|---|---|---|
| १) | नगरोड – वडगावशेरी | बंडगार्डन पुल व मुंढवा | १० व ११ डावी बाजू | १२३६ | ८८६ | ३५० | २९५६१ |
| २) | कै.बा.स.ढोले पाटील | बंडगार्डन पुल ते मुंढवा | १० व ११ उजवी बाजू | १२४५ | ६४३ | ६०२ | ११५५८ |
| ३) | कै.बा.स.ढोले पाटील | संगम पुल ते बंडगार्डन पुल व नाईक बेट नदीची उजवी बाजू | ९ | १९७९ | ४०४ | १५७५ | ९८६८ |
| ४) | येरवडा–कळस–धानोरी | शादल बाबा दर्गा ते बंडगार्डन पुल | ९ | ९५ | १३ | ८२ | ६६२ |
| ५) | शिवाजीनगर – घोले रोड | संगमवाडी पुल ते शादल बाबा दर्गा व सी.ओ.ई.पी.कॉलेजची बाजू | ९ | २९४१ | ११२१ | १८२० | १३७८५ |
| एकूण | | | | ७४९६ | ३०६७ | ४४२९ | ६५४३ |

उपरोक्त प्रस्तावांवर पुणे महानगरपालिका वृक्ष प्राधिकरण खात्याअंतर्गत तसेच मे.उच्च न्यायालय,मुंबई यांच्या आदेशान्वये गठीत करण्यात आलेल्या मा.वृक्ष तज्ञ समितीमार्फत पाहणी करण्यात आलेली असून, त्यांच्या अहवालानुसार, एकूण ३०६७ वृक्ष पुर्ण काढणे व ४४२९ वृक्ष पुनर्रोपण करणेस, नविन स्थानिक जातीचे एकूण ६५४३४ वृक्षांची भरपाई लागवड करण्याच्या अटीवर शिफारस करण्यात आलेली आहे.

सदर प्रकरणी जाहिरात क्र.१/१३३६ दि.२८/२/२०२३ रोजी दै.महाराष्ट्र टाईम्स,दै.लोकमत,दै.इंडियन एक्सप्रेस व ऊर्दू वर्तमानपत्रामध्ये जाहिर प्रकटन प्रसिध्द करून दिनांक १/३/२०२३ ते १३/३/२०२३ या कालावधीमध्ये आक्षेप/हरकती मागविण्यात आलेल्या आहेत. सदर कालावधीमध्ये प्राप्त झालेल्या आक्षेप/हरकतींवर दिनांक ८/५/२०२३ रोजी सुनावणी घेण्यात आलेली आहे.

सदर माहिती, माहिती अधिकार अधिनियम-२००५, अंतर्गत दिली आहे.

229

सदर प्रस्तावामध्ये पुरातन (हेरिटेज) वृक्ष तसेच ५ वर्षे व त्याहून अधिक वयाची वृक्ष संख्या २०० पेक्षा अधिक असल्याने, सदर प्रस्तावास महाराष्ट्र राज्य वृक्ष प्राधिकरण समितीच्या मान्यतेची आवश्यकता आहे.

सदरचे प्रस्ताव महाराष्ट्र राज्य वृक्ष प्राधिकरण यांचे मान्यतेसाठी पाठविणेकरिता संदर्भ क्र.३ नुसार, मा.महापालिका आयुक्त तथा प्रशासक तथा अध्यक्ष, वृक्ष प्राधिकरण समिती,पुणे महानगरपालिका यांची संदर्भ क्र.३ अन्वये मान्यता दिलेली आहे.

सबब ,विषयांकित प्रकरणी खालील नमूद केल्याप्रमाणे मान्यता मिळणेस विनंती आहे.

१) पुणे महानगरपालिकेच्या नदी सुधार प्रकल्पांतर्गत मुळा – मुठा नदीच्या – स्ट्रेच ९ , स्ट्रेच १० व स्ट्रेच ११ च्या डावी व उजवी बाजूचे – ३०६७ वृक्ष पुर्ण काढणे व ४४२९ पुनर्रोपण करणेबाबतच्या प्रस्तावास मा.महाराष्ट्र राज्य वृक्ष प्राधिकरण ,पर्यावरण व वातावरणीय बदल विभाग,महाराष्ट्र राज्य यांची मान्यता मिळणेस.

मा.स.कळावे,

(विक्रम कुमार)
महापालिका आयुक्त तथा प्रशासक,
तथा अध्यक्ष, वृक्ष प्राधिकरण समिती,
पुणे महानगरपालिका

दोन्ही – बंधन शाई ६ . २०१७

सदर माहिती, माहिती अधिकार
अधिनियम–२००५, अंतर्गत दिली आहे.

184

True Copy

Advocate

Exhibit - G 230

RONITA BHATTACHARYA BECTOR

Advocate

**BY EMAIL/RPAD**

To,

24th June 2023

1.Maharashtra State Tree Authority
% Environment and Climate Change Department
Government of Maharashtra
15th Floor, New Administrative Building,
Mantralaya
Mumbai - 400032

2.M/s. Pune Municipal Corporation,
through its Commissioner,
PMC Main Building, Congress House Road
Shivajinagar, Pune-411 005.

पुणे महानगरपालिका
महापालिका आयुक्त कार्यालय
शिवाजीनगर,पुणे-४११००५
लेखनिक
स्वागतकक्ष
दिनांक २६/६/२३
वेळ

3.The Chairman - Tree Authority
Pune Municipal Corporation
PMC Main Building
Shivajinagar
Pune 411 005

**Subject:Legal notice pertaining to Application of the Pune Municipal Corporation dated 06.06.2023 for cutting / transplanting a total of 7496 trees for the Pune River Rejuvenation Project/River front Development Project**

1. I write to you on behalf of my Clients Mr Ravindra Sinha and others

2. My Clients are public-spirited citizens of Pune.

Address: 1st Floor, Masjid Manor Building, 16 Homi Modi Street, Fort, Mumbai 400023,
Mobile No. 9920097464, Email: ronita.b6@gmail.com

231

RONITA BHATTACHARYA BECTOR

Advocate

3. My Clients are aggrieved by the decision of the Pune Municipal Corporation to seek permission to cut/transplant a total of 7496 trees for the River Front Development Project in Pune.

4. Apart from the irreparable damage that will be caused to the ecology of Pune if such trees are permitted to be cut, my Clients are disturbed to see the duplicitous, malafide and illegal manner in which the Pune Municipal Corporation has taken steps to cut the trees in question.

5. Please note that the Pune Municipal Corporation has stated in each of the documents pertaining to the River Front Development Project, such as the Detailed Project Report and the Environmental Impact Assessment **("EIA")** Report, that no trees would be required to be cut for the River Front Development Project. Accordingly, the minutes of the meeting of the State Environmental Impact Assessment Authority **("SEIAA")** where the River Front Development project was discussed and indeed the final Environmental Clearance **("EC")** granted to the project on 16.11.2019 states that no trees would be cut for the project. However as of March 2023 it is evident that the Pune Municipal Corporation had illegally started cutting trees in and around the Kalyani Nagar bridge and behind Kailash Crematorium for the River Front Development project without any clearance for the same.

6. Further it has come to the attention of my Clients that the Pune Municipal Corporation had inexplicably submitted an application to the Maharashtra State Tree Authority to cut 3067 trees and transplant 4429 trees under the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 for the River Front Development Project on 06.06.2023. Based on the information provided to my Clients, it now appears that the Maharashtra State Tree Authority is presently considering the said application submitted by the Pune Municipal Corporation.

Address: 1st Floor, Masjid Manor Building, 16 Homi Modi Street, Fort, Mumbai 400023,

Mobile No. 9920097464, Email: ronita.b6@gmail.com

232

RONITA BHATTACHARYA BECTOR

Advocate

7. It is therefore the position of my Clients that no trees can be cut lawfully for the River Front Development Project since none of the documents analysing the environmental consequences of the project envisage the cutting of a single tree, and therefore do not record the environmental consequences of cutting trees, that too at such a colossal scale. My Clients have submitted these objections, as well as several other grounds for objections, during the course of the public hearing/inquiry held by the Pune Municipal Corporation on 8th-10th May 2023, as well as in writing on 20th-24th March 2023. My Clients have also submitted their objections to the office of the Maharashtra State Tree Authority on 13.05.2023.

8. Please note that a reading of Section 6A(iii) with the proviso to Section 8(3)(a) of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 would require the Maharashtra State Tree Authority to invite my Clients for a hearing to consider the objections submitted by the them to the aforesaid application dated 06.06.2023 of the Pune Municipal Corporation for the cutting of trees for the Riverfront Development Project.You are therefore requested to provide my Clients with an intimation of such a date of hearing when fixed by you. Please note that no clearance/permission for cutting of trees as applied for by the Pune Municipal Corporation can be granted by you without providing my Clients with an opportunity to present their objections for the same before the the Maharashtra State Tree Authority.

9. Without prejudice to the position of my Clients that no permission can be granted to the Pune Municipal Corporation for cutting of trees for the River Front Development Project, my Clients are hereby bringing to your attention that in the event the Maharashtra State Tree Authority decides to grant permission to the Pune Municipal Corporation for cutting trees for the River Front Development project, the said permission cannot be effectuated for a period of 15 days from the date of the clearance being granted.

Address: 1st Floor, Masjid Manor Building, 16 Homi Modi Street, Fort, Mumbai 400023,

Mobile No. 9920097464, Email: ronita.b6@gmail.com

233

RONITA BHATTACHARYA BECTOR

Advocate

10. Please therefore note that in the unfortunate event that the Maharashtra State Tree Authority decides to permit the cutting of trees by the Pune Municipal Corporation for the River Front Development Project, the said permission cannot be acted upon or in anyway effectuated by any party until a mandatory period of 15 days lapses from the date of such a permission being disclosed in the public domain on the website of the Authority.

11. In the judgment of the Hon'ble Bombay High Court in the matter of *Deepak Balakrishna Vahikar v State of Maharashtra* [PIL 93/2009], it was held that the Tree Authority of the Pune Municipal Corporation *"shall regularly maintain its website for publishing the relevant information relating to the tree census as also tree cutting and/or transplantation. The Tree Authority shall display on its website all the requisite information in the form of a docket in respect of each and every application received and/or processed by the Tree Authority in regard to cutting or transplantation of trees(s)."*

12. In another order of the Hon'ble Bombay High Court dated 20.12.2019 in the matter of *Thane Nagrik Prtishtan and Anr v the Mumbai Metropolitan Regional Development Authority and Ors,* PIL 78/2019, the Hon'ble Bombay High Court also made observations on the importance of the public being made aware of the details of an application for tree cutting and the permissions granted therein, particularly with regard to the number of trees and the purpose for which they are sought to be cut.

13. It is further noteworthy that even the Hon'ble Delhi High Court, in the matter of *Bhavreen Kandhari v Shri C D Singh and Ors* in Cont Case (C ) 1149/2022 has directed that tree cutting permissions must be uploaded on the relevant official website within 48 hours of being granted. It is therefore submitted that it is settled law and also a well established practice for tree cutting permissions to be uploaded on the relevant official government websites.

Address: 1st Floor, Masjid Manor Building, 16 Homi Modi Street, Fort, Mumbai 400023,

Mobile No. 9920097464, Email: ronita.b6@gmail.com

234

RONITA BHATTACHARYA BECTOR

Advocate

14. Please note that a failure on the part of the Maharashtra State Tree Authority to intimate my Clients about a date of hearing where they can present their objections to the Application of the Pune Municipal Corporation, as well a failure of the Maharashtra State Tree Authority to upload its decision on its website and otherwise publish its decision in the Public domain and then keep any such clearance in abeyance for 15 days will render the said permission to be bad in law and such a permission can be subjected to legal challenge by aggrieved persons, including but not limited to my Clients.

15. Please note that this notice is being issued without prejudice to my Clients rights and entitlements under the law.

16. A copy of this notice has been retained in my office for further action.

Sincerely,

Advocate Ronita Bhattacharya Bector

Address: 1st Floor, Masjid Manor Building, 16 Homi Modi Street, Fort, Mumbai 400023.
Mobile No. 9920097464, Email: ronita.b6@gmail.com

True Copy

Advocate

Exhibit - H 235

*Minutes of the 8th meeting of Maharashtra State Tree Authority held on 30th June 2023*

Item no.5

Subject – **Proposal for Cutting / Transplantation of 7496 Trees for River Revamp and Road Construction at Stretch 9/10/11 at the left and right banks of the Mula-Mutha River through Pune Municipal Corporation.**

Introduction –
The Project Proponent Garden Superintendents, Pune Municipal Corporation of the 5 Sections presented the project details before the Maharashtra State Tree Authority (MSTA). The proposed project is for the river revamp, and construction at stretch 9/10/11 at the left and right banks of the Mula-Mutha River. In this proposal 3067 Trees are to be cut and 4429 Trees are to be transplanted.

Deliberation of the MSTA
The Maharashtra State Tree Authority after deliberation observed following points:

1. Project Proponent to submit a detailed plan regarding a rigorous protocol for the maintenance of the Trees which are transplanted and are to be planted as a part of the Compensatory Plantation.
2. PP to submit details of actions taken on more than 800 objection received for the proposed tree cutting; the speaking order issued in this regard to be submitted.
3. The Project Proponent to submit a detailed report for the Compensatory Plantation of the 65434 Trees as mentioned in the proposal which should include the Name & Area of the land for compensatory plantation, Undertaking for 7 years and maintenance plan for the same.

Recommendations of the MSTA
After the detailed deliberation with the PP (Pune Municipal Corporation), the MSTA decided to defer the proposal till submission of compliance of above-mentioned points.

Conclusion: Deferred

Chairman



Member Secretary

True Copy

Advocate

Exhibit - I 236

Chief Engineer (Projects) Office
Pune Municipal Corporation,
3rd Floor, Main Building
Shivajinagar, Pune – 411005
Outward No:- 1712
Date:- 31/07/2023

To,
The Principal Secretary
Environment and Climate Change department.
Mantralaya, Mumbai 400032.
Maharashtra.

1st Aug 2023
लिपिक,
प्रधान सचिव कार्यालय,
पर्यावरण व वातावरणीय बदल विभाग,
मंत्रालय, मुंबई-३२

Subject : Proposal for cutting / Transplantation of 7496 trees for River Revamp and Road Construction at stretch 9/10/11 at the left and banks of the Mula-Mutha River Through Pune Municipal Corporation.

Reference: Minutes of the 8th meeting of Maharashtra State Tree Authority held on 30th June 2023

Respected Sir,

The Project Proponent Garden Superintendents, Pune Municipal Corporation presented the project details before the Maharashtra State Tree Authority (MSTA). The proposed project is for the River Rejuvenation at stretch 9/10/11 on the left and right banks of the Mula-Mutha River. In this proposal 3067 no. of trees are to be cut and 4429 no. of trees are to be transplanted.

With reference to the minutes of meeting the Compliance are as follows.

Point 1 - Project Proponent to submit a detailed plan regarding a rigorous protocol for the maintenance of the Trees which are transplanted and are to be planted as a part of the Compensatory Plantation.

Compliance: - We have Submitted the detailed plan with list of locations for tree Transplantation and new plantation as a part of compensatory plantation to MSTA vide our letter no 1200 and 1201, dated 28/06/2023.

237

222

Point 2 - PP to submit details of actions taken on more than 800 objection received for the proposed tree cutting the speaking order issued in this regard to be submitted.

Compliance: - The PMC Tree Authority published the notice in the daily newspaper. After publishing the notice in newspaper, 155 people had submitted their suggestions and objections. Further, PMC Tree Authority informed people about public hearing date to be conducted on 08/05/2023 via Email and whatsapp. 37 people have submitted their suggestions and objections in writing.

We have submitted the details of their suggestions and objections and the say of Pune Municipal Corporation to MSTA vide letter no. 1356, dated 11/07/2023.

Point 3 - The project proponent to submit a detailed report for the compensatory plantation of the 65434 trees as mentioned in the proposal which should include the name & area of the land for compensatory plantation, undertaking for 7 years and maintence plan for the same.

Compliance:- We have submitted the detailed report for the Compensatory Plantation of 65434 trees & plan to MSTA vide letter no. 1200 & 1201, dated 28/06/2023.

Thanking you,

(Srinivas Bonala)
Chief Engineer (Projects),
Pune Municipal Corporation

Enclosed :- Copy of letter on 28/06/2023,11/07/2023

238

Minutes of the 8th meeting of Maharashtra State Tree Authority held on 30th June 2023

Item no 5

Subject – Proposal for Cutting / Transplantations of 3067 trees for River Revamp and Road Construction in Stretch 9/1/A1 on the left and right bank of the Mula-Mutha River through Pune Municipal Corporation.

Introduction –
The Project Proponent Garden Superintendent, Pune Municipal Corporation of the 5 Sections presented the project details before the Maharashtra State Tree Authority (MSTA). The proposed project is for the river revamp, and construction of stretch no. 9/1/A1 on the left and right banks of the Mula-Mutha River. In this proposal 3067 Trees are to be cut and 129 Trees are to be transplanted.

Deliberation on the MSTA
The Maharashtra State Tree Authority after deliberation observed following points:

1. Project Proponent to submit a detailed plan regarding the action protocol for the maintenance of the Trees which are transplanted and are to be planted as a part of the Compensatory Plantation.
2. PP to submit details of actions taken on more than 300 objection received for the proposed tree cutting, the speaking order in this regard to be submitted.
3. The Project Proponent to submit detailed proposal for the Compensatory Plantation for the 3067 Trees as mentioned in the proposal which should include the Name of Area for the land for compensatory plantation, Undertaking for 7 years and maintenance plan for the same.

Recommendations of the MSTA
After the detailed deliberation with the PP (Pune Municipal Corporation), the MSTA decided to defer the proposal till submission of compliance of above mentioned points.

Conclusion: Deferred.

Chairman

6

Member Secretary

True Copy

Advocate

Exhibit-J (1279)
239

Bund Garden bridge to Mundhwa
Stretch No 10 & 11 (Left Side)

Application NO 1831 DT 4/1/23.

Cut - 929

Transplant - 350

Expert Committee

1. Habitat for birds
2. Dr Salim Ali Bird Sanctuary
3. Environmental damage
4. Biodiversity hotspot



240

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 82 | Dagadi pala | *Tridax procumbens* | Herb | Y | Y | Y | Y | Y | Y | Y | Y |
| 83 | Paankanis | *Typha domingensis* | Herb | | Y | Y | | | | | |
| 84 | Kutaki | *Verbascum chinense* | Herb | | Y | | Y | Y | Y | Y | Y |
| 85 | Ashwgandha | *Withania somnifera* | Herb | | Y | | Y | Y | Y | Y | Y |
| 86 | Tulas | *Ocimum sp* | Herb | Y | Y | Y | Y | | | | Y |
| 87 | Nili tilwan | *Cleome rutidosperma* | Herb | Y | Y | | Y | | | | |
| 88 | Pivala tilwan | *Cleome viscosa* | Herb | Y | Y | | Y | Y | Y | Y | Y |
| 89 | Pandhari tilwan | *Cleome gynandra* | Herb | Y | Y | | | Y | | | Y |
| 90 | Jangali Tambakhu | *Nicotiana plumbaginifo* | Herb | Y | Y | | Y | Y | Y | Y | Y |
| 91 | Gorakhmundi | *Sphaeranthus indicus* | Herb | | Y | Y | | | | | |
| 92 | Marsh herb | *Enydra fluctuans* | Herb | | Y | | | Y | | Y | Y |
| 93 | Sahdevi | *Cyanthillium cinereum* | Herb | Y | Y | Y | Y | Y | Y | Y | Y |
| 94 | | *Hygrophila polysperma* | Herb | | Y | Y | | | | | |
| 146 | Saatmodi | *Stemodia viscosa* | Herb | Y | | | | | | | |
| 147 | | Veronica undulata | Herb | Y | | | | | | | |
| 95 | Lavhale | *Cyperus sp.* | Sedges | | Y | Y | | | | | |
| 96 | Umbrella palm | *Cyperus alternifolius* | Sedges | | Y | Y | | | | Y | |
| 97 | Nilumbi | *Phyllanthus reticulatus* | Shrub | Y | Y | Y | Y | Y | Y | Y | Y |
| 98 | Erand | *Ricinus communis* | Shrub | Y | Y | Y | Y | Y | Y | Y | Y |
| 99 | Besharam | *Ipomoea carnea* | Shrub | Y | Y | Y | | | | | |
| 100 | Datir | *Ficus heterophylla* | Shrub | Y | Y | Y | | | Y | Y | |
| 101 | Talimkhana | *Hygrophila auriculata* | Shrub | Y | Y | Y | Y | Y | Y | Y | Y |

SHABBIR K. TAMBAWALLA
AREA GREATER MUMBAI
Regd. No. 6608

241

सदर माहिती, माहिती अधिकार अधिनियम–२००५, अंतर्गत दिली आहे

पुणे म.नगरपालिका
वृक्ष प्राधिकरण
आवक क्रमांक/ २९८३
दिनांक/ ०२/०३/२०२३

नगररोड-वडगांवशेरी, क्षेत्रिय कार्यालय
पुणे महानगरपालिका
जावक क्र./नरोक्षे/ ८२९४
दिनांक ०२/०३/२०२३

नागरिक / संस्था यांचे खाजगी मिळकतीमधील धोकादायक १ ते २५ पुर्वील वृक्ष पूर्ण काढणे / पुनरोपण करण्याबाबतचे निर्देशन (डॉकिट) (zone – १ ) पुरवणी निर्देश पत्र

फेब्रुवारी २०२३

नगररोड –वडगावशेरी क्षेत्रिय कार्यालय

| अ.क्र | अर्ज आ.क्र.व दिनांक | अर्जदाराचे नाव व वृक्षाचे ठिकाण | वृक्षांचे नाव | म.वेढी. (मी) | उंची (मी) | वय वर्ष (अंदाजे) | खात्याचा अभिप्राय | मा.तज्ञ समितीचा अभिप्राय | पुर्ण वृक्ष काढणे संख्या | पुनर्रोपण करणे वृक्षांची संख्या | नकार कळविणे वृक्षांच्या संख्या | अपेक्षित नविन वृक्ष लागवड संख्या | अनामत रक्कम रु. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| १. | वृक्ष प्रा जा .क्र १८३१ ४/१/२३ | श्री. निवास बोनाला पुणे नदी पुनर्जीवन प्रकल्प बंडगार्डेन ते मुंढवा स्ट्रेच १० व ११ )डावी बाजू | १.चेरी -१७६<br>२.उंबर -४४<br>३.पिंपळ -४३<br>४.सीताफळ -४३<br>५.वड -४३<br>६.नारळ -४३<br>७.आंबा -४३<br>८.वि.चिंच -५७९<br>९.सुबाभूळ -२६४<br>१०.खैर -१ | ०.२० ते १.५<br>०.२० ते १.५<br>०.२० ते १.५<br>०.२० ते १.५<br>०.२० ते १.५<br>०.८० ते १.५<br>०.२० ते १.५<br>०.२० ते १.५<br>०.२० ते १.५<br>०.६० | ८ ते १०<br>८ ते १०<br>६ ते १०<br>६ ते १०<br>५ ते १०<br>६ते १२<br>६ ते १०<br>६ ते १०<br>६ ते १०<br>८ | ८ ते १५<br>५ ते १२<br>५ ते १०<br>६ ते१०<br>६ ते २०<br>८ते २२<br>६ ते २५<br>८ ते ३०<br>५ ते २५<br>१५ | येरवडा क्षे. अंतर्गत व नगररोड वडगावशेरी क्षे कार्यालय अंतर्गत बंडगार्डन पूल ते मुंढवा ब्रिज पर्यंत नदीकाठ प्रस्तुत प्रकरणी समक्ष जागेवर जाऊन पाहणी केली असता नदी पुनर्जीवन प्रकल्पामध्ये १२७९ वृक्ष बाधित होत असून हे वृक्ष नियोजित खोदाई मध्ये बाधितमात येत असल्यामुळे रखाना क्र. १,२,३,४,५ व १० मधील वृक्ष संख्या एकूण ३५० वृक्ष पुनर्रोपणात रखाना क्र ७,८,९ चे एकूण ८८६ वृक्ष पूर्ण काढण्यास नवीन नियमावली नुसार वृक्षाच्या व्याएध्धि एकूण २९५६१ वृक्ष सावण्यांच्या अटीवर मा. प्रशासक तथा | प्रस्तावित नदी सुधार प्रकल्पात एकूण १२७९ वृक्ष बाधित होत आहेत सदर बाधित वृक्ष नैसर्गिक रित्या नदीच्या तीरावर पक्षांसाठी विशेष अधिवास निर्माण करत आहेत. प्रकल्पाच्या प्रभोतवाली सलीम अली पक्षी अभयारण्य , नाईक बेट यासारखी जैव विविधतेने समृद्ध ठिकाणे आहेत. सदर वृक्ष बाधित झाल्यास मोठ्या प्रमाणात पर्यावरणाची हानी अपेक्षित | ८८६ | ३५० | | २९५६१ | --- |

242

सदर माहिती, माहिती अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | आयुक्त यांच्या शिफारशी सह २०० च्या पुढील वृक्ष असल्यामुळे सदरचा प्रस्ताव मा. महाराष्ट्र शासन वृक्ष प्राधिकरण विभागाकडे पाठविण्यात येत आहे. | आहे.पुढील कार्यवाही साठी सुधारित वृक्ष कायद्यानुसार योग्य त्या प्राधिकरणाची मान्यता घेण्याची शिफारस बाधित होणाऱ्या वृक्षांचे संवर्धन करावे. | | | | | |

( प्रदीप चव्हाण )
प्र. हॉर्टी.मिस्त्री
नगररोड -वडगाव शेरी क्षे.कार्यालय
पुणे महानगरपालिका

( गुरुस्वामी तुम्मोल )
सहा.उद्यान अधिक्षक
परिमंडळ क्र १
पुणे महानगरपालिका

(नामदेव हिंमतराळकर)
महापालिका सहा.आयुक्त तथा
वृक्ष अधिकारी
नगररोड -वडगाव शेरी क्षे.कार्यालय
पुणे महानगरपालिका

# Exhibit - K

244

2941

Sangamwadi to Khadalbaba Dargah & COEP College side

11328 dt 27/12/2022

Cut - 1121

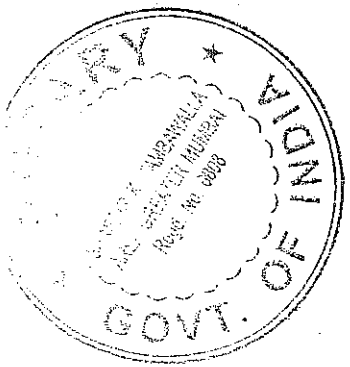
Transplant - 1820

Expert Committee

- Habitat for birds
- Dr Salim Ali Bird Sanctuary
- Nalk Island
- Biodiversity hotspot
- Environmental damage

245

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 60 | Nila Jakara | *Haplanthodes tentacu* | Herb | Y | | | | | | | |
| 61 | Raan Tevan | *Hygrophila serpyllum* | Herb | Y | | | | | | Y | |
| 62 | Deepmal | *Leonotis nepetifolia* | Herb | Y | | | Y | Y | Y | Y | Y |
| 63 | | *Leucas aspera* | Herb | Y | | | | | | | |
| 64 | | *Limnophila indica* | Herb | Y | | | | | | | |
| 65 | Paanlawang | *Ludwigia octavalvis* | Herb | Y | Y | Y | Y | Y | Y | Y | Y |
| 66 | Amboshi | *Oxalis corniculata* | Herb | Y | Y | Y | Y | Y | Y | Y | Y |
| 67 | Gajar gavat | *Parthenium hysteroph* | Herb | Y | Y | Y | Y | Y | Y | Y | Y |
| 68 | Jalpimpali | *Phylla nodiflora* | Herb | Y | | | | | | | |
| 69 | Dog tomato | *Physalis angulata* | Herb | | Y | | Y | Y | | Y | Y |
| 70 | | *Pluchea sp.* | Herb | Y | Y | | | | Y | | |
| 71 | Chitrak | *Plumbago zeylanica* | Herb | Y | Y | Y | Y | Y | | Y | |
| 72 | Gholu | *Portulaca oleracea* | Herb | Y | Y | Y | Y | Y | Y | Y | Y |
| 73 | Indian Field-Cress | *Rorippa indica* | Herb | | Y | Y | | | | | |
| 74 | Jangali Palak | *Rumex dentatus* | Herb | | Y | Y | Y | Y | Y | Y | |
| 75 | Sage weed | *Salvia plebeia* | Herb | Y | | | | Y | | Y | |
| 76 | Tomato | *Solanum lycopersicum* | Herb | Y | Y | Y | Y | Y | Y | Y | Y |
| 77 | Laghukavali | *Solanum nigrum* | Herb | Y | Y | Y | | | | | |
| 78 | | *Oldenlandia corymbos* | Herb | Y | | Y | Y | Y | Y | Y | Y |
| 79 | Wedelia | *Sphagneticola trilobata* | Herb | Y | Y | Y | | | | | |
| 80 | Nodeweed | *Synedrella nodiflora* | Herb | Y | Y | Y | Y | Y | Y | Y | |
| 81 | | *Trianthema portulacas* | Herb | | | Y | | | | | |



246

नागरिक / संस्था यांचे खाजगी मिळकातीमधील धोकादायक वृक्ष पूर्ण काढणे / पुनर्रोपण करण्याबाबतचे निर्देशपत्र (२५ च्या पुढील वृक्ष)

(डॉकेट – झोन .क्र.२)

शिवाजीनगर-घोलेरोड क्षेत्रीय कार्यालय माहे -फेब्रुवारी -२०२३

| अ.क्र (१) | अर्ज.आ.क्र. (२) | अर्जदाराचे नाव व वृक्षांचे ठिकाण (३) | वृक्षांचे नाव (४) | वृक्ष क्र. (५) | म.वेढी (मी) (६) | उंची (मी) (७) | वृक्षांचे वय वर्ष (अंदाजे) (८) | खात्याचा अभिप्राय (९) | मा.तज्ञ समितीचा अभिप्राय (१०) | पूर्ण वृक्ष काढणे संख्या (११) | पुनर्रोपण करणे वृक्षांची संख्या (१२) | नकार कळविणे वृक्षांची संख्या (१३) | अपेक्षित नवीन वृक्ष लागवड संख्या (१४) | अनामत रक्कम रु. (१५) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| १ | ११३२८ २७/१२/२२ | सुरेंद्र कर्पे [उपअभियंता] प्रकल्प पुणे नदी पुनरुज्जीवन प्रकल्पा अंतर्गत मुळा मुठा या नदीचा विकास करणे संगमवाडी पूल ते सादलबाबा दर्गा व coep कॉलेज बाजू,पुणे | १)शिरीष-२ | - | ०.२५ ते ०.८० | ३ ते ८ | ४ ते ९ | संगमवाडी ब्रिज ते संगमब्रीज सोबत जोडलेल्या यादीतील नंबर ४२७६,४२७७,४२८४,४२८ ७,४२८८,४२८९,४२९०, ४२९१,४२९२,४२९३,४२९ ४,४२९५,४२९६,४२९७, ४२९८,४२९९,४३००,४३८ २,४३९३,४३९६,४३९७, ४३९८,४३९९,४४००,४२६ ३,४२७४,४२७५ मधील २६ वृक्ष नदी सुधारणे कामी अडथळा करणारे असल्याने पूर्ण काढणेस वृक्षावरील | प्रस्तुत प्रकरणी संगमवाडी ब्रिज ते सादलबाबा दर्गा व संगमवाडी ब्रिज ते सी.ओ.इ.पी (coep) इंजिनियरिंग कॉलेजची लागील बाजू या अंतर्गत होणाऱ्या नदी सुधार प्रकल्पात एकूण २९४१ वृक्ष बाधित होत असून सदर बाधित वृक्ष नैसर्गिकरित्या नदीच्या तिरावर पक्षां साठी विशेष अधिवास निर्माण | ११२१ | १८२० | - | १३७८५ | |
| | | | २)कडूलिंब -३ | - | ०.२५ ते १.१० | २ ते ५ | ४ ते १० | | | | | | | |
| | | | ३)काटे सावर -५ | - | | ३ ते ५.५ | ३ ते ८ | | | | | | | |
| | | | ४)वहावा -१ | - | ०.१५ ते ०.७० | ४.०० | ८ | | | | | | | |
| | | | ५)उंबर – २९ | - | | २ ते ३ | ३ ते १५ | | | | | | | |
| | | | ६)शिवन -१३ | -- | ०.६० | १० | ३ ते ८ | | | | | | | |
| | | | ७)वावळ-३१ | - | ०.१५ ते २ | २ ते ५ | ३ ते ६ | | | | | | | |
| | | | ८)शेवगा -१ | - | | ३ | ४ ते ९ | | | | | | | |
| | | | ९)तुती -७ | - | १.५० | ४.५ | ३ ते ५ | | | | | | | |
| | | | १०)चेरी -५ | - | ०.१५ ते ०.६० | २ ते ३ | ३ ते ५ | | | | | | | |
| | | | ११)आवळा -१ | - | | २ ते ५ | ३ ते | | | | | | | |
| | | | १२)वि.चिंच -७४ | - | ०.१५ ते ०.७० | २.५० | ३ ते १५ | | | | | | | |
| | | | १३)करंज – ३१ | - | | २ ते ५ | ३ ते ९ | | | | | | | |
| | | | १४)रेंट्री -२८ | - | | २ ते ६ | ३ ते १० | | | | | | | |
| | | | १५)हातगा -१ | - | ०.१५ | २ ते १० | ३ ते ५ | | | | | | | |
| | | | १६)घोळ-१ | - | ०.२० ते ०.९० | ३.०० | ६ | | | | | | | |
| | | | १७)शिरीष -१ | - | | | | | | | | | | |
| | | | १८)कदुलिंब-५ | - | | | | | | | | | | |
| | | | १९)आपटा -२ | - | ०.१५ ते | २.०० | | | | | | | | |

सदर माहितीचे, माहिती अधिकार अधिनियम–२००५, अंतर्गत दिली आहे

247

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | २०)विट्टी -१ | - | ०.३५ | २ | ६ | नं.४०१९,४०२०,४०२१,४ | करत आहेत. | | | | | |
| | | | २१) बहावा-१ | - | ०.३० | १ ते | २ ते ६ | ००१,४११११,४००२,४३०९ | प्रकल्पाच्या | | | | | |
| | | | २२)वड-१ | - | ०.१५ ते | २.५ | ६ ते ८ | ,४३८०,४३८३,४३८७,४३ | सभोवताली सलीम | | | | | |
| | | | २३)उंबर-५५ | - | १.५० | १.५ ते | ३ | ८८,४०५९,४०६०,४०८६, | अली पक्षी | | | | | |
| | | | २४)पिंपळ – १० | - | ०.१५ ते | २.५ | ३ | ४३०१,४२०५,४२०६,४२० | अभयारण्य व | | | | | |
| | | | २५)शिवन -६१ | - | ०.८० | २ | ५ | ७,४२११,४२५१,४२५४,४ | नाईक बेट | | | | | |
| | | | २६)बावळ -६ | - | ०.१५ ते | २ | ४ ते ५० | २५६,४२५७,४२५९,४२७८ | यासारखी | | | | | |
| | | | २७)आंबा-१ | - | १.०० | ३ | ३ ते ६ | ,४२८३,४३७०,४००४,४० | जैवविविधतेने समृद्ध | | | | | |
| | | | २८)डेट-पाम – ५ | - | ०.३० | २ ते | ३ ते ९ | १६,४०१८,४०२६,४०२८, | ठिकाणे आहेत. | | | | | |
| | | | २९)सिल्वर डेट पाम | - | ०.४० | २ ते ४ | २ ते | ४०३०,४०३१,४०३२,४०४ | सदर वृक्ष बाधित | | | | | |
| | | | ३०)वि.चिंच - ८२५ | - | ०.४ | २ ते ५ | १० | २,४०४३,४०४६,४०९८,४ | झाल्यास नोंद्या | | | | | |
| | | | ३१)करंज -३०१ | - | ०.२० | २ ते ७ | १० | १०२,४२६४,४२६६,४३६० | प्रमाणात | | | | | |
| | | | ३२)रेंट्री -९९ | - | ते ०.४० | ४ | ५ ते १२ | ,४३७७,४३७८,४३९५,४३ | पर्यावरणाची हानी | | | | | |
| | | | ३३)काशीद – २ | - | ०.२० | २ ते ४ | २ ते ३ | ४९,४२५०,४२५३,४२६१, | आपेक्षित आहे. | | | | | |
| | | | ३४)जांभूळ – १ | - | ते ०.६० | ६ ते | ४ ते २० २ | ४०८८,४०९४,४१०६,४११ | पुढील कार्यवाही | | | | | |
| | | | ३५)घोळ -३ | - | ०.१५ | १ ते | ते २० | २,४१२२,४१२६,४१३३,४ | साठी सुधारित वृक्ष | | | | | |
| | | | ३६)सिताफळ-३ | - | ०.१५ | २ ते ७ | ३ ते | १४८,४२२५,४२२६,४२६५ | कायद्यानुसार | | | | | |
| | | | ३७)कडुलिंब -१ | - | ०.३५ | २ ते | २२ | ,४३५९,४३८१,४००३,४० | योग्य त्या | | | | | |
| | | | ३८)वांबू -१ | - | ०.२० ते | १० | ४ ते १२ | ०६,४००७ ते | प्राधिकरणाची | | | | | |
| | | | ३९)पपई-१ | - | १.५० | ३ ते ६ | ८ | ४०१५,४०१७,४०२२ ते | मान्यतेसाठी | | | | | |
| | | | ४०)उंबर – ५ | - | १.५० | ५ | ४ ते ५ | ४०२५,४०२७,४०२९,४०३ | शिफारस. बाधित | | | | | |
| | | | ४१)पिंपळ ४ | - | ०.२० ते | २ ते ४ | ४ ते ५ | ३,४०३४,४०३५,४०३७,४ | होणाऱ्या वृक्षांचे | | | | | |
| | | | ४२)शिवन -१२ | - | ०.५० | १.५ ते | ३ ते ४ | ०३८,४०३९,४०४०,४०४१ | संवर्धन करण्यात | | | | | |
| | | | ४३)बावळ-१९ | - | ०.२० ते | २.५ | ३ ते ५ | ,४०४४,४०४५,४०४६,४० | यावे. | | | | | |
| | | | ४४) पे.फोरम -४ | - | ०.९० | १ | ५ | ४८,४०४९,४०५०,४०५२, | | | | | | |
| | | | ४५)डेट पाम-१ | - | ०.१५ ते | ३ ते | ३ ते ७ | ४०४२,४०५३,४०५४,४०६ | | | | | | |
| | | | ४६)वि.चिंच -१५ | - | १.०० | ३.५ | ४ ते | | | | | | | |
| | | | ४७)करंज -११० | - | | ३ | २० | | | | | | | |
| | | | ४८)रेंट्री -१६ | - | | १.५ ते १२ | ३ ते ७ | | | | | | | |

सदर माहिती, माहिती अधिकार अधिनियम-२००५, अंतर्गत दिली आहे

248

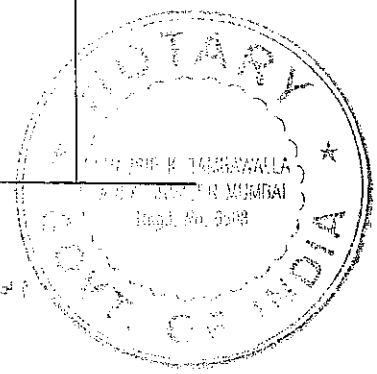
| | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | ४९)जांभूळ – ५ | - | ०.९ | ३.५ ते ४ | ४ ते ९ | ७,४०६८,४०६९,४०७१,४ | | | | | | |
| | | | ५०)धोळ -३ | - | ०.३० | २ ते १० | ५ ते ७ | ०७३,४०७७,४०७८,४०७९ | | | | | | |
| | | | ५१)सुबाभळ -२३ | - | ते १.३० | २ ते ६ | ८ | ,४०८०,४०८२,४०८३,४० | | | | | | |
| | | | ५२)विलायती बाभळ -३ | - | ०.४० ते | ३ ते | ४ ते ७ | ८४,४२५५,४३६२,४३६१, | | | | | | |
| | | | ५३)सुबाभळ -५२ | - | ०.९० | १० | २ ते १८ | ४३६२,४३६३,४३६४,४३६ | | | | | | |
| | | | ५४) विलायती बाभळ -१४५ | - | ०.१० ते | २ | २ ते २० | ५,४३६६,४३६७,४३६९,४ | | | | | | |
| | | | ५५)बाभळ –८९ | - | ३.०० | २ ते १० | ४ ते ७ | ३७१,४३७२,४३७५,४३७६ | | | | | | |
| | | | ५६)सुबाभळ - ५२२ | - | ०.२० | १.५ ते १० | २ ते ५ | ,४३८४,४३९४,४००५,४० | | | | | | |
| | | | ५७) विलायती बाभळ -१८७ | - | ते २.०० | १.५ ते १२ | २ ते ८ | ३६,४०५५,४०५६,४११०, | | | | | | |
| | | | ५८)बाभळ -१०० | - | ०.१५ ते | २ ते ४ | ५ ते ७ | ४११९,४१३९,४१४६,४२६ | | | | | | |
| | | | | | २.०० | १.५ ते ८ | २ ते | ७,४३५९,४३७९,४३८५,४ | | | | | | |
| | | | | | ०.२० ते | २ ते १२ | १० | ३८६,४३८९,४३९०,४३९१ | | | | | | |
| | | | | | १.२० | २ ते | ३ ते ६ | ,४३९२,४२१५,४२१६,४२ | | | | | | |
| | | | | | ०.६ | १.५ ते ८ | ४ ते १० | १९,४२२१,४३६८,४०८९, | | | | | | |
| | | | | | ०.२० ते | २ ते १२ | ३ ते ३० | ४०९०,४३७३,४०८५,४०८ | | | | | | |
| | | | | | ०.४५ | २ ते १० | २ ते १५ | ७,४०९१,४०९२,४०९३,४ | | | | | | |
| | | | | | ०.२० ते | २ ते ८ | २ ते २५ | १०३,४१०४,४१०५,४१०७ | | | | | | |
| | | | | | ०.३० | १ ते ५ | | ,४१०८,४१०९,४११३ ते | | | | | | |
| | | | | | ०.२ | २ ते ६ | | ४११८,४१२०,४१२१,४१२ | | | | | | |
| | | | | | २.५ | १.५ ते १० | | ३,४१२४,४१२५,४१२७,४ | | | | | | |
| | | | | | ०.३ | २ ते ८ | | १२८,४१२९,४१३०,४१३१ | | | | | | |
| | | | | | ०.१५ ते | २ ते १० | | ,४१३२,४१३६,४१३८,४१ | | | | | | |
| | | | | | ०.६० | | | ४० ते | | | | | | |
| | | | | | ०.२० ते | | | ४१४४,४१४७,४१४९,४१५ | | | | | | |
| | | | | | ०.७० | | | ०,४२०४,४२०८,४२०९,४ | | | | | | |
| | | | | | ०.३० ते | | | २१०,४२१२,४२१३,४२१४ | | | | | | |

GOVT. OF INDIA

— ...

249

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | ०.६० | | | ,४२१७,४२३२ मधील | | | | | | |
| | | | | | ०.६ | | | १९७ वृक्ष पुनर्रोपण | | | | | | |
| | | | | | ०.३० ते | | | करणेस | | | | | | |
| | | | | | ०.६० | | | संगमवाडी ब्रिज ते | | | | | | |
| | | | | | ०.१५ ते | | | स्मशानभूमी | | | | | | |
| | | | | | १.५० | | | वृक्षावरील नं. | | | | | | |
| | | | | | ०.१५ ते | | | १५७,१६५,१८२,१९१,२१ | | | | | | |
| | | | | | २ | | | ६,२३१,२४०,२४२,२४३,२ | | | | | | |
| | | | | | ०.२० ते | | | ४४,२४५,२५४,२५५,२७७, | | | | | | |
| | | | | | ०.६० | | | २९०,३०६,३३१,३३२,३४ | | | | | | |
| | | | | | ०.१० ते | | | ५,३५२,३५७,३६३,३७४,३ | | | | | | |
| | | | | | ०.४० | | | ७५,३८४,३७६,४१६,४३७, | | | | | | |
| | | | | | ०.२५ ते | | | ४४९,४६६,४६७,४८४,४९ | | | | | | |
| | | | | | ०.५० | | | ५,५३८,५३९,५४१,५४४,५ | | | | | | |
| | | | | | ०.३० ते | | | ४६,५४९,५५६,५६१,५६३, | | | | | | |
| | | | | | ०.५० | | | ५६४,५७१,५७२,५७४,५९ | | | | | | |
| | | | | | ०.२० ते | | | २,५९३,६०३,६०४,६०९,२ | | | | | | |
| | | | | | १.८० | | | ८२,५४३,१३,१५,१६,१७, | | | | | | |
| | | | | | ०.२० ते | | | २०,२२,२३,२४,२५,२६,२ | | | | | | |
| | | | | | ०.९० | | | ७,२८,२९,३०,५८,७२,७५, | | | | | | |
| | | | | | ०.१५ ते | | | ७६,७९,९०,९२,९३,९४,९ | | | | | | |
| | | | | | १.८ | | | ५,९६,९८,१००,१०२,१०३ | | | | | | |
| | | | | | ०.१५ ते | | | ,१०४,१०६,१०७,१०८,१० | | | | | | |
| | | | | | ३.२ | | | ९,११०,११२,११३,११४,१ | | | | | | |
| | | | | | ०.१५ ते | | | १५,११६,११७,११८,११९, | | | | | | |
| | | | | | १.५० | | | १२०,१२१,१२२,१२३,१२ | | | | | | |



250

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | ०.१० ते १.६ | | | ४,१२५,१२६,१२८,१२९,१<br>३१,१३२,१३३,१३७,१३८,<br>१३९,१४०,१८९,२०१,२४<br>१,३०२,३२०,३२२,३२३,३<br>२४,३३३,३३४,४०१,४०२,<br>४०३,४०५,४०६,४०७,४०<br>८,४०९,४११,४१२,४१५,४<br>१७,४१८,४१९,४२०,४२२,<br>४२३,४२५,४२७,४२८,४२<br>९,४३०,४३१,४३२,४३३,४<br>३४,४३५,४३६,४३९,४४०,<br>४४१,४४२,४४४,४४६,४५<br>१,४५२,४५३,४५४,४५५,४<br>५६,४५७,४५८,४५९,४६०,<br>४६१,४६२,४६३,४६४,४६<br>५,४६८,४६९,४७०,४७१,४<br>७२,४७३,४७४,४७५,४७६,<br>४७७,४७८,४८१,४८२,४८<br>३,४८५,४८६,४८८,४९०,४<br>९१,४९२,४९४,४९६,४९८,<br>५०५,४१४,४२४,९,१०,४७<br>,५१,५२,५७,६७,८५,१११,<br>१९६,२०२,२०३,२०४,२०<br>५,२३६,२९१,२९९,३१०,३<br>१९,३२५,३२६,३२८,३३६,<br>३४७,३५४,३६७,३६८,३७ | | | | | | |

सदर माहिती, माहिती अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

251

| | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | १,३७२,३७३,३७६,३७७,३७९,३८०,३८२,३८३,३८७,३८८,३९९,३९०,३९१,३९२,३९३,३९४,३९५,३९६,३९७,३९८,४००,४०४,४२६,४४३,४४७,४५०,४७९,४८०,४९३,५००,५०१,५०२,५०३,५०४,५०६,५०७,५०८,५०९,५१०,५११,५१२,५१३,५१८,५१९,५२०,५२१,५२५,५२७,५२८,५३०,५३२,५३३,५३५,५४५,५४७,५४८,५५१,५७९,५८०,३६६,३९९ मधील २८६ वृक्ष पूर्ण काढण्यास वृक्षावरील नं.२५९,३१३,७३,१४३,१८३,३०४,३०५,३०७,३०९,३११,२३३,१५८,१७१,१७९,२२३,२२६,२२७,२२८,२२४८,२५१,२६०,२६१,२६२,२६३,२६४,२५६,२६६,२६७,२६८,२७३,२७४,२७५,२७६,२८५,२८६,२८८,३१७,३५१,३६२,१५५,४४८,५७६,५७७,५७८,५८१,५८२, | | | | | | |

सदर माहिती, माहिती अधिकार अधिनियम–२००५, अंतर्गत दिली आहे

252

| | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | ५८३,५८४,५९८,५९९,६० ०,६१०,६०८,१४८,१५२,१ ५३,१६०,१९८,२०८,२९,२ ३०,३४६,३४७,२४९,२५०, २५२,२५६,२५७,२६९,२७ ०,२७१,२७२,२७८,२७९,२ ८१,२८७,२९२,२९३,३००, ३०३,३१५,३१६,३३५,१५ ४,९१,४९,५३,६१,६२,६३, ६४,७१,५५७,५९०,५९१,५ ९४,५९५,१०४,६९,७४,८८ ,१४१,१४९,१६६,१६९,१७ ०,१७२,१७३,१७४,१७५,१ ७८,१८०,१८३,१८४,१८५, १८६,१८७,१८८,१९०,१९ २,१९३,१९४,२०९,२१०,२ ११,२१२,२१३,२१५,२१७, २१८,२१९,२२०,२२१,२२ २,२२४,२३२,२३४,२३५,२ ३८,२३९,२४३,२५८,२८०, २८४,२८९,२९४,२९५,२९ ६,२९७,२९८,३१४,३१८,३ २१,३२७,३३७,३३८,३३९, ३४०,३४१,३४२,३४३,३४ ४,३४६,३५६,३६५,४१०,४ ९७,५२४,५२६,५२९,५४०,

सदर माहितीचे, माहिती अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

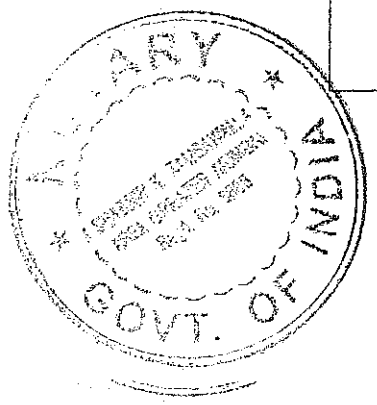
253

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | ५४२,५९,६०,६५,६६,६८, ७०,८७,८९,९७,९९,१०१, १२७,१३५,१३६,१४२,१४ ४,१४५,१४६,१४७,१५०,१ ५१,१५९,१६१,१६२,१६३, १६४,१६७,१७६,१८१,२० ०,२०६,२०७,२१४,२३६,३ ०८,३६९,३७०,५३१,१५६, ८४,८६,१६८,१७७,१९७,१ ९९,२२५,२४५,३०१,३३०, ३४८,३४९,३५०,३५३,३५ ५,३५८,३५९,३६०,३६१,३ ६४,३७८,३८१,३८५,४१३, ४३८,४८९,४९९,६०७,१३ ०,३१२ मधील २४१ वृक्ष पुनर्रोपण करणेस स्मशान भूमी ते सादलबाबा दर्गा नदी सुधारणा कामांसाठी अडथळा करणारे असल्याने वृक्षावरील नं. ३०८२,१०४५,३२०२,३४३ ९,३४४२,३४७२,३२०१,३ ५३२,१०४४,१२४३,७६७, ६२३,६३९,६४४,६७०,६८ | | | | | |

सदर माहिती, माहिती अधिकार अधिनियम-२००५, अंतर्गत दिली आहे

254

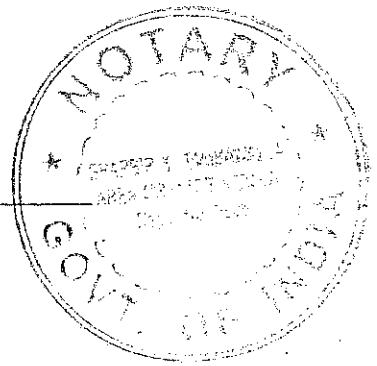
| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | ३,८९४,७०६,७२२,७३१,७३२,७३३,७३४,७३५,७३६,७३७,७३८,१००१,१००२,१००७,१००८,१०७२,१२६६,१२८४,१२८७,१३२७,१३३०,१३३१,१३३२,१३३३,१३३५,१३३६,१९०४,३२३५,३३९१,३४१४,३४३०,३४३२,३४९९,३५००,३५०१,३५०२,३५०३,३५०४,३५०७,३५०८,३५०९,३५१०,३५१४,३५२२,३५३९,३५००,३६५१,३७०९,३७१०,१३३७,६९३,७८०,७९५,८७१,१००३,१०१४,१०१५,१०१६,१०१८,१३२१,६५०,६५१,६६७,७४९,७५०,११२३०,१२३१,१२३२,१२३३,१२३४,१२३५,१२३६,१२३७,१२३८,१२३९,१२४०,१४२५,१४३०,१८०९,१८१०,१८१२,१८१३,१८१४,१८१५,१८१६,१८१७,१८१८ ते १८२०,१८२२,१८२३ ते १८३९, १८४० ते १८४८,१८५२,१८५३,१८५ | | | | | | |




सदर माहिती, माहिती अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

255

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | ४,१८५५,१८११,६१४,६१<br>५,७२५,७७३,१००४,३६५<br>२,३२१०,७१०,९३८,९९३,<br>१०७८,१८७९,३३३५,३६७<br>६,६२१,६२२,६२४,६२५<br>ते ६२९,६३४ ते<br>६३५,६४०,६४२,६४६,६५<br>२,६५३,६५४,६५५,६५८,६<br>५९,६६०,६६५,६७५,६७६,<br>६७९,६८०,६९९,७०४,७०<br>५,७०७,७०८,७०९,७१२,७<br>१३,७१४,७१५ ते<br>७२१,७२६,७२९,७३९,<br>७४०,७४२,७४३,७४४,७४<br>५,<br>७४७,७५५,७५९,७६०,७६<br>१,<br>७६२,७६३,७६५,७७२,७७<br>४,<br>७७५,७७६,७७८,७७९,७८<br>१,<br>७८४,७८५,७८६,७८५,७८<br>६,<br>८८७,७८९,७९०,७९७,८०<br>८,<br>८१७,८३४,८७०,९०३,९० | | | | | | |



256

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | ५, ९०६, ९०७, ९०८, ९०९, ९१०, ९११, ९१३, ९१४, ९१५, ९१६, ९१८, ९२०, ९२१, ९२२, ९२६, ९३०, ९३१, ९३२, ९३३ ते ९३६, ९३९, ९४०, ९४४, ९४८, ९४९, ९५९, ९६०, ९७६, ९९४, १०११, १०१२, १०१३, १०२१, १०२२, १०२५, १०२६, १०५३, १०५४, १०५६, १०५८, १०५९, १०६०, १०६४, १०६६, १०७०, १०७५, १०७७, १०७८, १०८०, १०८२, १०८३, १२०१, १२१८, १२४०, १२४५, १२५९, १२८२, १२९२, १२९३, १२९४, १२९५, १२९६, १२९७, १३११, १३२२, १३१५, १३२२, १३३४, १३३८, १३४२, १३४३, १३५६, १३५७ ते १३६२, १३६४, १३६५ ते | | | | | | |

सदर माहिती, माहिती अधिकार अधिनियम-२००५, अंतर्गत दिली आहे

257

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | १३७३,१३७५,१४०२,१४०३,१४०४,१४०५,१४०६,१४०७,१४०८,१४०९,१४१०,१४१३,१४१६,१४१६,१४२०,१४२१,१४२८ ते १४३०,१४३५, १४३६,१४३७,१५४९,१५५५,१५५९,१५६३,१५६४,१५६५,१५६६,१५६७,१५६८,१५७०,१५७१,१५७२,१५७६,१५८७,१५९२,१५९३, १५९४,१५९५,१८०२,१८०६,१८५७,१८६७,१८६८,१८७०,१८७१,१८७५,१८७६,१८८०,१८८१,१८८२,१८८७,१९०८,१९१०,१९१८, १९२०,२०००,२००५,२००६,२२०५,२२१२,२२१३,२२१४,२२१५,२२१६,२२१८,२२२३,२२२४,२२२५,२२२७,२२२८,२२२९,२२३०, २२३१,२२३२,२२५१,२२५२,२२५३,२२५४,२२९४,२३१६,२३२२,२३२३,२३९९,२४०२,२४०३,२४०५ ते २४१३,२४१७,२४२१, | | | | | | |

मदर साहिबे, मोहिनी अधिकारी
अधिनियम-२००५, अंतर्गत दिल्ली आरे

258

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | २४२३,२४९६,२४९७,२५०<br>०,२५०९,२५११,२५१२,२<br>५१३,२५२७,२५८१,२५८६<br>,२५९६,२६८४,२६८७,२६<br>८८,२६९१,२६९२,२६९३,<br>२७४५,२७४७,२७४८,२७४<br>९,२७५३,२७६१,२७६७,२<br>७६८,२८०३,२८०५,२८२४<br>,२८४२,२८४९,२८५०,२८<br>५१,२८५२,२८५३,२८५४,<br>२८५५,२८५६,२८५८,२८५<br>९,२८६२,२८६३,२८६६,२<br>८६७,२८६९,२८७०,२८७१<br>,२८७२,२८७७,२८७८,२८<br>७९,२८८०,२८८१,२८८२,<br>२८८३,२८८५,२८९०,२८९<br>९,२९००,२९०५,२९१८,२<br>९२१,२९२८,२९२९,२९३४<br>,२९४०,२९४८,२९५४,२९<br>५५,२९५८,२९६०,२९६७,<br>२९६९,२९७०,२९७९,२९८<br>०,२९८०,२९८१,२९८२,२<br>९८६,२९८८,२९८९,२९९२<br>,२९९९,३००३,३००४,३०<br>१५,३०२९,३०३३,३०३५,<br>३०३८,३०३९,३०४०,३०४ | | | | | | |

सदर माहिती, माहिती अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

259

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | २,३०४३,३०४४,३०४५,३०४६,३०४७,३०४८,३०५०,३०५१,३०५२,३०५६,३०५७,३०५९,३०६३,३०६४,३०७२,३०७४,३०७८,३०८०,३०८१,३०८९,३०९२,३०९३,३०९४,३०९५,३०९६,३०९८,३०९९,३१००,३१०१,३१०२,३१०३,३१०४,३१०५,३१०६,३१०८,३१०९,३११०,३१११,३११२,३११३ ते ३१२२,३१२४,३१२५,३१२६,३१२७,३१३२,३१३३,३१३४,३१३५,३१४९,३१५०,३१५२,३१५३,३१५४,३१५५,३१५६,३१५७,३१५८,३१५९,३१६०,३१६१,३१६२ ते ३१६८,३१७० ते ३१९०,३१९२ ते ३२००,३२०७,३२०८,३२२६,३२३६,३२३८,३२४०,३२४१,३२४२,३२४३,३२४५ ते ३२५६,३२५८,३२६१ ते ३२६६ ते | | | | | | |

सदर माहिती, माहिती अधिकार अधिनियम-२००५, अंतर्गत दिली आहे

260

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | ३२९१,३२९३,३२९६,३२९७,३२९८ ते ३३०७,३३०९ ते ३३२६,३३२८,३३२९,३३३०,३३३२,३३३३,३३३४,३३३५ ते ३३४६,३३५३,३३५६, ३३५८,३३५९,३३६२,३३६३,३३७४,३३७६,३३७७,३ ३८३ ते ३३४८, ३४०० ते ३४०८,३४११,३४१५ ते ३४१८,३४२०,३४२१,३४२२,३४२३,३४२६,३४२७,३४२९,३४३५,३४३७,३४४०,३४४१,३४४३,३४४४,३४४६,३४४७ ते ३४५०,३४५७ ते ३४५८, ३४६० ते ३४७१,३४७४ ते ३४७६,३४७७,३४९० ते ३४९४,३४९६,३४९७,३४९८,३५०६,३५१२,३५१५,३५१७,३५१९,३५२०,३५२१,३५२४,३५२६,३५२७,३५२८,३५३५,३५३६,३५४१ | | | | | | |

सदर माहिती, माहिती अधिकार अधिनियम-२००५, अंतर्गत दिली आहे

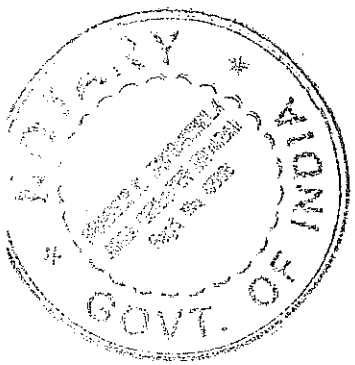
261

| | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | ते ३५४९, ३५५० ते ३५५४,३५५६ ते ३५८०,३५८२ ते ३५८२, ३५९० ते ३५९३,३५९६ ते ३६०१,३६०२ ते ३६१४, ३६१६ ते ३६२४,३६२६ ते ३६३७,३६३९ ते ३६४१,३६४३,३६४७,३६५०,३६५३,३६५७ ते ३६६९, ३६७१,३६७२ ते ३६७५, ३६७७ ते ३६७९,३६८१ ते ३६८४,३६८६ ते ३६९३, ३६९९ ते ३७०३,३७०५, ३७०७,६७८,७४६,७७७,७९८,१०५१,१०७१,१२४६, १२६३,१३०२,१३५४,१३५५,१४५२,१४८६,१४८७,१४८८,१४८९,१५६९,१७७२,१८२१,१८६९,२११०,२६५३,२७६९,२७७० ते २७७६,२७७७,२७७९, २७८९,२७९८,२८६०,२९३ | | | | | | |

सदर माहितीचे, माहितीचे अधिकार अधिनियम-२००५, अंतर्गत दिली आहे

262

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | २,३०४१,३१०७,३१९१,३२५७,३२५९,३२६०,३३०८,३५९४,३६१५,३६२५,६३८ ते ६३४,६६४,६६६,६६९,६७२, ६७४,६७७,६८१,६८२,६८४, ६८५,६८७,६९२,६९३,६९५, ६९६ ते ६९८,७००,७०२,७०३,७३०,७५८,७८३,७८८, ७९३,८११,८२३,८३३,८४७, ९४१,१०२७,१०२८,१०२९, १०५५,१२९०,१३१९,१३२०,१३२५,१३२६,१३४०,१३४१,१३४४,१३४५,१४२९,१५५७,१५५७,१५९१,१९००,१९२३,१९२४,१९२५, १९२७,१९२८,१९३८,२२१०,२२११,२२२६,२३९३,२३९५,२३९७,२४००,२४१४,२४१६,२४९४,२४९५,२४ | | | | | | |



263

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | ९८,२६०७,२६०८,२६०९, २६१०,२६११,२६१४,२६१ ५,२६१७,२६२७,२६२७,२ ६२८,२६२९,२६३०,२६३१ ,२६३२,२६३४,२६३७,२६ ३८,२६४२,२७१८,२७२१, २७२४,२७२७,२७२८,२७२ ९,२७३०,२७५५,२७५८,२ ७५९,२७६०,२८२६,२८२७ ,२८३२,२८३४,२८३७,२८ ३८,२८४१,२८४३,२८४५, २८४६,२८४७,२८४८,२८७ ३,२९११ ते २९१४,२९१६, २९२६,२९२७,२९३८,२८४ २,२९४३,२९६१,२९६३,२ ९६४,२९६५,२९६८,२९९० ,२९९१,२९९८,३०००,३० ०१,३००२,३००५,३००६, ३००७,३००८ ते ३०१२,३०१३,३०१७, ३०१८ ते ३०२१,३०२६ ते ३०२८,३०३० ते ३०३२, ३०३४,३०३६,३०५३,३०६ १,३०६२,३०६५,३०६८ ते | | | | | | |

सदर माहितीचे, माहिती अधिकारी
अधिनियम-२००५, अंतर्गत दिलेली आहे

264

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | ३०७१,३०७३ ते ३०७५, ३०७६,३०७९,३०८३ ते ३०८७,३०९०,३०९१, ३१२३,३१२८,३१२९,३१२ ९,३१३०,३१३६,३१३७,३ १३८,३१३९,३१४०,३१४१ ,३१४२,३१४३,३१४४,३१ ४६,३१४७,३२०४,३२०५, ३२०६,३२११,३२१२,३२१ ३ ते ३२२३, ३२२५,३२२७ ते ३२३४, ३२३७,३३२७,३३३१,३५० ३३५१,३३५२,३३६४,३३६ ५,३३६६ ते ३३६९,३३७३, ३३७५,३३७८,३३७९,३३८ ०,३३८१,३३८२,३३९०,३ ३९२,३३९३ ते ३३९९,३४०९, ३४१२,३४१३,३४१९,३४२ ४,३४३१,३४३३,३४५१ ते ३४५६,३४७३,३४७९,३४८ ०,३४८१ ते ३४८७,३४८९, ३५०५,३५१८,३५२३,३५३ | | | | | |

सदर माहिती, माहिती अधिकार अधिनियम-२००५, अंतर्गत दिली आहे

265

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | ३,३५३४,३५३७,३५५५,३५८१,३५९५,३६२९,३६३० ते ३६३५,३६३६,३६४५,३६४६,३६४८,३६५०,३६५५,३६७०,३६८०,३६८५,३६९७,३६९८,३७०४,३७०६,६८८,६८९, ६९०,१३३९,१३५०,६४५,६५६,६५७,६६१,६६२,६६३, ७५१,७५२,७५३,७५४,७५६, ७५७,७६४,७६६,७६८,७६९, ८३५,८६६,९२३,९२४,९२७, ९२९,९३७,९४२,९४६,९४७, ९५४,९६८,९६९,९७०,९७४, ९८१,९९१,१०२३,१०४३, १०६१,१०६२,१०६३,१०६९,१०७४,१०८४,११२८,११३०,११२६,१२४१,१२४२,१३२८,१३२९,१४०१,१४ | | | | | | |

सदर माहिती, माहिती अधिकार अधिनियम-२००५, अंतर्गत दिली आहे

266

| | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | १२,१४१४,१४१७,१४२२,<br>१४२६,१५५६,१८०१,१८०<br>३,१८०४,१०७,<br>१८४९,१८५०,१८५१,१८७<br>२,२४१५,२७१६,१७३९,२<br>७५७,२८३६,२८४०,२८७४<br>,२९२५,२९३९,२९४९,२९<br>५०,२९५१,२९५२,२९५३,<br>२९५६,२९५७,२९५९,३२२<br>४,३२९२,३३४७,३३५४,३<br>३५५,३३६०,३४४४,३४५९<br>,३५२५,३५३८,३६३८,३६<br>४४,३६४९,३६५६,३७०८,<br>२७५४,१०५२,१२९९,२९२<br>४,७११,६८६,३२९४,६६८,<br>६७१,६७३ मधील<br>१३८१ वृक्ष पुनर्रोपण<br>करणेस वृक्षांचे वया<br>एवढी वृक्ष लागवड<br>करण्याचे अटीवर<br>स्मशानभूमी तें<br>सादलबाबा दर्गा<br>वृक्षावरील नं.<br>६२०,६४७,७०१,७२३,७२<br>४,<br>७२७,७२८,७४८,७७०,७८ | | | | | | |

सदर माहिती, माहिती अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

267

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | २, ७९१,७९२,१९४,७९९,८०१ ते ८०५,८१०,८१२,८१३, ८१४,८१९,८२१,८२४,८२५, ८२९,८३०,८३२,८३६,८३८, ८३९,८४१,८४३,८४५,८५०, ८५८,८६२,८६५,८६७,८६८, ८७२,८७५,८७६,८८६,८८७, ८८८,८८९,८९१,८९३,८९४, ८९८,८९९,९००,९१२,९१७, ९१९,९२५,९४५,९८०,९८४, ९८५,९८८,९८९,९९२,९९८, १००६,१०१०,१०१७,१०२४,१०३०,१०३१,१०३२,१०३३,१०४१,१०४२,१०४७,१०८५,१०६७,१०८१,१० | | | | | |

सदर माहिती, माहिती अधिकार अधिनियम-२००५, अंतर्गत दिली आहे

268

| | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | ८७,१०९५,११०२,१११८, १११९,११२५,११३६,११३ ९,११५१,११५२,११६१,१ २१२,१२१९,१२२२,१२२३ ,१२२८,१२६०,१२६४,१२ ६८,१२७१,१२७२,१२७३, १२७४,१२७५,१२७९,१२८ ०,१२८३,१२८६,१३१३,१ ३४७,१३५१,१३५२,१३६३ ,१३७४,१३८५,१३८७,१३ ८८,१३९४,१३९६,१३९७, १३९८,१३९९,१४००,१४० ४,१४११,१४१५,१४१९,१ ४२७,१४३१,१४३२,१४३४ ,१४३९,१४४०,१४४९,१४ ५३,१४५४,१४५५,१४५६, १४५७,१४५९,१४६०,१४६ १,१४६२,१४६३,१४६५,१ ४६७,१४६९,१४७१,१४७२ ,१४७४,१४७८,१४७९,१४ ८०,१४८५,१४९०,१४९१, १४९३,१४९५,१४९८,१४९ ९,१५००,१५०१,१५०२,१ ५०३,१५०४,१५०९ ते १५१७,१५२०,१५२३, १५२६,१५२८,१५३०,१५३ | | | | | | |

सदर माहिती, माहिती अधिकार अधिनियम-२००५, अंतर्गत दिली आहे

269

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | २,१५३५,१५३७,१५४०,१५४१,१५४२,१५४३,१५४४,१५४५,१५७३,१५७४,१५७७,१५७८,१५७९,१५८०,१६०१,१६०९,१६३३,१६४८,१६३६०,१६३६४,१६३६८,१६७०,१६७१ ते १६७५,१६७७,१६७८,१६८१,१६८२,१६८७,१६९१,१६९३,१६९८,१७०२,१७०३,१७०५,१७०७,१७०८,१७१०,१७१२,१७१७,१७२०,१७२१,१७२५,१७२७,१७२९,१७३१,१७३३,१७३४,१७३५,१७३७,१७३८,१७३९,१७४१,१७४२,१७४३,१७४५,१७४८,१७५०,१७५१,१७५२,१७५३,१७५५,१७५७ ते १७६५,१७६९,१७७०,१७७१,१७७३,१७७४,१७७५ ते १७७८,१७८०,१७८१,१७८४,१७८५,१७८६,१७८७,१७९१,१७९२,१७९ | | | | | |

सदर माहिती, माहिती अधिकार अधिनियम-२००५, अंतर्गत दिली आहे.

220

| | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | ३,१७९६,१७९७,१७९८,१७९९,१८०५,१८०८,१८५८,१८५९,१८६०,१८८३,१८८४,१८८५,१८८६,१८९२ ते १८९८, १९०३,१९०४,१९१४,१९३०,१९३१,१९४४,१९४५,१९४६,१९४७,१९४९,१९५१,१९५५,१९५६,१९६४,१९७५,१९७८,१९८०,१९८१, १९८२,१९८४,१९८५,१९८७ ते १९९०, १९९२,१९९३,१९९५,१९९६,२००४,२००८,२००९,२०१४,२०१६,२०२३,२०२६,२०४९,२०५१,२०७३,२०७९,२०९९,२१०५,२१२६, २२०२,२२०३,२२३४,२२६३,२२७५,२२७६,२२७७,२२७९,२२८०,२२८५,२२८६,२२८८,२२९६,२३००,२३०१,२३०३,२३१०,२३११, २३१४,२३१५,२३१७,२३१८,२३२०,२३२१,२३२५ ते २३३०,२३३३,२३३४,२३६८,२३७४,२३७७,२३७८,२ | | | | | | |

सदर माहिती, माहिती अधिकार अधिनियम-२००५, अंतर्गत दिली आहे

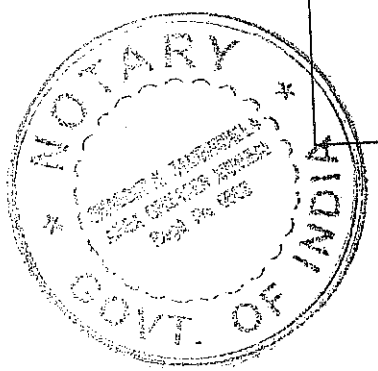
271

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | ३८०<br>तेर२३८९,२३९१,२३९४,<br>२४०४,२४१८,२४२०,२४२<br>२,२४२३,२४२४,२४३६,२<br>४३७,२४३८,२४४६,२४४८<br>,२४५१,२४५६,२४५७,२४<br>५९,२४६०,२४६३,२४६५<br>ते २४६८,<br>२४७० ते २४७५,२४८४,<br>२४८६,२४८९,२५१०,२५३<br>१,२५३२,२५५०,२६००,२<br>६४७,२६५९,२६६०,२६६२<br>ते<br>२६६५,१६६६,२६६७,२६६<br>९,२६७०,२६७२,२६७६,२<br>६७७,२६७८,२६८३,२६८५<br>,२६८६,२६८९,२६९०,२६<br>९५,२७०१,२७०४,२७०८,<br>२७१०,२७१९ ते<br>२७१५,२७१९,२७२३,<br>२७२६,२७३२,२७३३,२७३<br>६,२७३७,२७४०,२७४३,२<br>७४४,२७८०,२७६४,२७९५<br>,२७९७,२८०१,२८०८,२८<br>१०,२८११,२८१२,२८१३,<br>२८१६,२८२०,२८२१,२८२ | | | | | |

सदर माहिती, माहिती अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

232

५,२८३९,२८४४,२८५१,२
८५७,२८६१,२८६४,२८६५
,२८६८,२८७५,२९०१,२९
२२,२९२३,२९३१,२९४५,
२९४६,२९६६,३०१६,३०२
३,३०५८,३१६९,३२०३,३
२०९,३३४९,३३८९,३४१०
,३४३६,३४३८,३४७८,३५
१३,३५१६,३५३०,३५८९,
८००,८२८,८३१,८५४,१३
०१,१३५३,१४४६,१४५८,
१७९५,२६५४,२७९१,२८१
८,३१५१,३३६१,८०६,८०
७,८०९,८१५,८१६,८४२,८
४४,८४९,८५९,८६१,८६३,
८६४,८६९,८७३,८७७,८७
८,८७९,८८१,८८२,८८४,८
९०,८९२,८९५,८९६,९०४,
९५१,९५२,९५५,९५६,९५
७,९६३,९६४,९६५,९६७,९
७१,९७५,९७९,९८७,१०३
४,१०३५,१०३६,१०३७,१
०३८,१०३९,११०३,११०४
ते ११०७ ते
१११७,११२० ते
११२४,११२६,११२७,



273

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | ११२९,११३१,११३२,११३३,११३८,११४०,११४६,११४७,११४९,११५३,११५४,११५६,११५७,११५८,११६०,११६३,११६४ ते ११७३,११७४ ते ११८५,११८८,११९०,११९२,११९४ ते १२००,१२०३,१२०५,१२०८,१२०९,१२१०,१२११,१२१३,१२१४,१२१५,१२१७,१२२०,१२४७,१२४८,१२४९,१२५१,१२५२,१२५४ ते १२५७,१२६२,१२६५,१२८५,१८६५,१९०६,१९०७,२२०१,२२०५,२२२४,२३९२,२४३२,२७१७,२७२०,२७३४,२७६३,२७६४,२७६५,२७६६,२९०२,२९२०,२९४४,२९६२,२९९३,२९९७,३०१४,३०२४,३०४९,३०५४,३०५५,३०६०,३०६६,३०७७,३०८८,३१३१,३२३९,३२९५,३३२८,३३७०.३३७ | | | | | | |

सदर माहिती, माहिती अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

275

१,३३७२,३४२५,३४२८,३
४७५,३४८८,३४९५,३५११
,३५२९,३५३१,३६४२,८५
५,८८३,८८५,९६६,६११,६
१२,६१३,६१७,६१८,६१९,
६३० ते
६३३,६४१,६४३,६४८,६४
९,७४१,७७१,७९६,८१८,८
२०,८२२,८२६,८२७,८३७,
८४०,८४६,८४८,८५१,८५
२,८५३,८५६,८६०,८७४,८
८०,९०१,९२८,९४३,९५०,
९५३,९५८,९६१,९६२,९७
२,९७३,९७७,९७८,९८३,९
९०,१००९,१०१९,१०४०,
१०४६,१०५०,१०५७,१०६
८,१०७३,१०७६,१०८६,१
०८७,१०८८,१०९१,१०९३
,१२०४,१२०६,१२०७,१२
१६,१२२१,१२२४,१२२५,
१२२७,१२२९,१२५३,१२६
१,१२६७,१२६९,१२७०,१
२७६,१२७७,१२७८,१२८१
,१२८९,१३००,१३१७,१३
२४,१३४७,१४२३,१५८६,
१७६७,१८७४,१८८८,१८८

सदर प्रतिलिपी, माहिती अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

275

| | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | ९,१८९०,१८९५,१८९९,१<br>९०१,१९७२,१९७७,२००१<br>,२०९४,८५७,८९७<br>मधील ८०९ वृक्ष पूर्ण<br>काढण्यास वृक्षांचे वया<br>एवढी वृक्ष लागवड<br>करण्याचे अटीवर<br>सोबतच्या यादीप्रमाणे<br>नदी पुनर्विकास<br>प्रकल्पास (स्ट्रेच - ९)<br>अडथळा करत<br>असल्याने सोबतच्या<br>यादीप्रमाणे अ.क्र.१ ते<br>५८ मधील २९४१ वृक्ष<br>अडथळा करत<br>असल्याने वृक्षांचे वया<br>एवढी १३७८५ वृक्ष<br>लागवड करण्याचे<br>अटीवर<br>अ.क्र.१ ते ५० मधील<br>१८२० वृक्ष पुनर्रोपण<br>करणेस<br>अ.क्र.५१ ते ५८ मधील<br>११२१ वृक्ष पूर्ण<br>काढण्यास परवानगी<br>देण्यास शिफारस | | | | | | |

सदर माहिती, माहिती अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

276

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | आहे. मा.प्रशासक तथा आयुक्त यांच्या शिफारसी सह २०० च्या पुढील वृक्ष असल्यामुळे सदरचा प्रस्ताव मा.महाराष्ट्र शासन,वृक्ष प्राधिकरण विभागाकडे पाठविण्यात येत आहे. | | | | | | |
| | एकुण | | | | | | | | | ११२१ | १८२० | - | १३८५ | |

( धनजंय सोनुने )
हॉर्टीकल्चर मिस्त्री
वृक्ष प्राधिकरण विभाग
पुणे महानगरपालिका

( गुरुस्वामी तुम्मलेे )
प्र. मुख्य्क उद्यान अधिक्षक
वृक्ष प्राधिकरण विभाग
पुणे महानगरपालिका

05/03/13
मा महापालिका सहाय्यक आयुक्त
तथा वृक्ष अधिकारी
शिवाजीनगर-घोलेरोड क्षेत्रीय कार्यालय
पुणे महानगरपालिका

टीप – १) वरील स्वाक्षरी डॉकिटच्या प्रत्येक पानावर.
२) डॉकिटच्या शेवटच्या पानावर सदस्य सचिव,वृक्ष प्राधिकरण विभाग,पुणे महानगरपालिका यांची स्वाक्षरी.

सदर माहिती, माहिती अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

277

This information has been provided under the Right to Information Act, 2005.

**Docket regarding complete removal/re-plantation of following dangerous trees in the private properties of citizens/societies (Trees beyond 25)**
**(Docket - Zone – 2)**
**Shivajinagar - Ghole Road Ward Office - Month of February 2023**

| Sr. No. | Application | Name of | Name of Tree | Girth at Centre (m.) | Height (m.) | Age in | Remarks by Department | Remarks by Hon. Expert Committee | No. of | No. of Trees | No. of Trees for | Expected no. | Deposit |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 11328 Dt: 27/12/22 | Mr. Surendra Karpe (Deputy Engineer), Projects<br><br>Development of Mula Mutha rivers under the Pune River Rejuvenation Project.<br><br>Sangamwadi Bridge to Sadalbaba Dargah and COEP College Side, Pune | 1.Lebbek tree-2 | 0.25 To 0.80 | 3 To 8 | 4 To 9 | Recommendation is being given to grant permission to remove 26 trees completely (Tree No. mentioned in the attached list)for Tree No. 4276, 4277, 4284, 4287, 4288, 4289, 4290, 4291,4292,4293,4294, 4294, 4295, 4296, 4297,4298,4299, 4300, 4382, 4393, 4396,4397, 4398, 4400,4263, 4274,4275,<br>between Sangamwadi Bridge to Sangam Bridge are creating hurdle during river rejuvenation work.<br><br>Tree Nos:<br>4019,4020,4021,4001,4111,4002,4309,4380,4383,4387,4388,4059,4060,4086,4301, 4205,4206,4207,4211,4251,4254,4256,4257,4259,4278,4283,4370,4004,4016,4018, 4026,4028,4030,4031,4032,4042,4043,4046,4098,4102,4264,4266,4360,4377,4378, 4395,4349,4250,4253,4261,4088,4094,4106,4112,4122,4126,4133,4148,4225,4226, 4265,4359,4381,4003,4006,4007, to 4015,4017,4022, to 4025,<br>4027,4029,4033,4034,4035,4037,4038,4039,4040,4041,4044,4045,4046,4048,4049, 4050,4052,4042,4053,4054,4067,4068,4069,4071,4073,4077,4078,4079,4080,4082, 4083,4084,4255,4262,4361,4362,4363,4364,4365,4366,4367,4369,4371,4372,4375, 4376,4384,4394,4005,4036,4055,4056,4110,4119,4139,4146,4267,4359,4379,4385, 4386,4389,4390,4391,4392,4215,4216,4219,4221,4360,4089,4090,4373,4085,4087, 4091,4092,4093,4103,4104,4105,4107,4108,4109,4113, to<br>4118,4120,4121,4123,4124,4125,4127,4128,4129,4130,4131,4132,4136,4138,4140, to 4144, 4147,4149,4150,4204,4208,4209,4210,4212,4213,4214,4217,4232 out of which 197 trees to be replanted.<br><br>Sangamwadi bridge to Smashanbhoomi tree nos:<br>157,165,182,191,216,231,240,242,243,244,245,254,255,277,290,306,331,332,345,35 2,357,363,374,375,384,376,416,437,449,466,467,484,495,538,539,541,544,546,549, 556,561,563,564,571,572,574,592,593,603,604,609,282,543,13,15,16,17,20,22,23,24, 25,26,27,28,29,30,58,72,75,76,79,90,92,93,94,95,96,98,100,102,103,104,106,107,108, 109,110,112,113,114,115,116,117,118,119,120,121,122,123,124,125,126,128,129,13 | In case of said case, a total of 2941 trees on the stretch from Sangamwadi Bridge to Sadalbaba Dargah and Sangamwadi Bridge to back side of the COEP Engineering College are being affected under the River Rejuvenation Project. These affected trees are providing special habitat for birds on the river bank naturally. There are locations like Salim Ali Bird Sanctuary and Naik Bet that are rich in biodiversity. If the said trees are affected, then it is expected to harm environment at a large scale. It is recommended to obtain approval of competent authority as per amended tree act for further proceedings. It is advised to conserve the affected trees. | 1121 | 1820 | - | 13705 | |
| | | | 2.Kadu neem-3 | 0.25 To 1.10 | 2 To 5 | 4 To 10 | | | | | | | |
| | | | 3.Silk cotton tree-5 | 1.10 To 1.70 | 3 To 5.5 | 3 To 8 | | | | | | | |
| | | | 4.Golden shower-1 | 0.60 | 4 | 8 | | | | | | | |
| | | | 5.Cluster fig-29 | 0.15 To 1.50 | 2 To 10 | 3 To 15 | | | | | | | |
| | | | 6.White teak-13 | 0.15 To 0.60 | 2 To 5 | 3 To 8 | | | | | | | |
| | | | 7.Monkey bulscut-13 | 0.15 To 0.70 | 2 To 4.5 | 3 To 6 | | | | | | | |
| | | | 8.Drum sticks-1 | 0.15 To 0.20 | 3 To 5 | 3 | | | | | | | |
| | | | 9.Mulberry-7 | 0.90 | 2 To 3 | 4 To 9 | | | | | | | |
| | | | 10.Singapur cherry | 0.15 To 0.35 | 2 To 5 | 3 To 5 | | | | | | | |
| | | | 11.Anmala-1 | 0.30 | 2.5 | 5 | | | | | | | |
| | | | 12.Manila tamrind-74 | 0.15 To 1.50 | 2 To 5 | 3 To 15 | | | | | | | |
| | | | 13.Indian beach-39 | 0.15 To 0.80 | 2 To 6 | 3 To 9 | | | | | | | |
| | | | 14.Rain tree-28 | 0.15 To 1.00 | 2 To 10 | 3 To 10 | | | | | | | |
| | | | 15.West indian pea-1 | 0.30 | 3 | 5 | | | | | | | |
| | | | 16.Charcoal tree-1 | 0.40 | 2 | 6 | | | | | | | |
| | | | 17.Lebbek tree-1 | 0.4 | 2 | 6 | | | | | | | |
| | | | 18.Kadu neem-5 | 0.20 To 0.40 | 1 To 2.5 | 2 To 6 | | | | | | | |
| | | | 19.Orchid Tree-2 | 0.20 To 0.60 | 1.5 To 2.5 | 6 To 8 | | | | | | | |
| | | | 20.Yellow Oleander-1 | 0.15 | 2 | 3 | | | | | | | |
| | | | 21.Golden shower-1 | 0.15 | 2 | 3 | | | | | | | |
| | | | 22.Banayan tree-1 | 0.35 | 3 | 6 | | | | | | | |
| | | | 23.Cluster fig-55 | 0.20 To 1.50 | 2 To 10 | 4 To 50 | | | | | | | |
| | | | 24.Sacred fig-10 | 0.20 TO 0.50 | 2 To 4 | 3 To 6 | | | | | | | |
| | | | 25.White teak-61 | 0.20 To 0.90 | 2 To 5 | 3 To 9 | | | | | | | |
| | | | 26.Monkey bulscut-6 | 0.15 To 1 | 2 To 7 | 2 To 10 | | | | | | | |
| | | | 27.Mango-1 | 0.9 | 4 | 10 | | | | | | | |
| | | | 28.Date palm-5 | 0.30 To 1.30 | 2 To 4 | 5 To 12 | | | | | | | |
| | | | 29.Indian silvwe date palm | 0.40 To 0.90 | 6 To 10 | 2 To 3 | | | | | | | |
| | | | 30.Manila tamrind-825 | 0.10 To 3 | 1 To 10 | 4 To 20 | | | | | | | |
| | | | 31.Indian beach-301 | 0.20 To 2 | 2 To 7 | 2 To 20 | | | | | | | |
| | | | 32.Rain tree-99 | 0.15 To 2 | 2 To 10 | 3 To 22 | | | | | | | |
| | | | 33.Sayami cassia-2 | 3.20 To 0.45 | 2 To 4 | 4 To 5 | | | | | | | |
| | | | 34.Malabar plum-1 | 0.6 | 5 | 8 | | | | | | | |
| | | | 35.Charcoal tree-3 | 0.20 To 0.45 | 2 To 4 | 4 To 5 | | | | | | | |
| | | | 36.Custard apple-3 | 0.20 To 0.30 | 1.5 To 2.5 | 4 To 5 | | | | | | | |
| | | | 37.Kadu neem-1 | 0.20 | 1 | 3 To 4 | | | | | | | |
| | | | 38.Bamboo-1 | 2.50 | 3 To 3.5 | 3 To 5 | | | | | | | |
| | | | 39.Papaya-1 | 0.30 | 3 | 5 | | | | | | | |
| | | | 40.Cluster fig-55 | 0.15 To 0.60 | 1.5 To 12 | 3 To 7 | | | | | | | |
| | | | 41.Sacred fig-1 | 0.20 To 0.70 | 2.5 To 4 | 4 To 20 | | | | | | | |
| | | | 42.White teak-12 | 0.30 To 0.60 | 2 To 10 | 3 To 7 | | | | | | | |
| | | | 43.Monkey bulscut-19 | 0.6 | 2 To 6 | 4 To 9 | | | | | | | |
| | | | 44.Copper pod-4 | 0.30 To 0.60 | 3 To 10 | 5 To 7 | | | | | | | |
| | | | 45.Date palm-1 | 0.15 To 1.50 | 2 | 8 | | | | | | | |
| | | | 46.Manila tamrind-12 | 0.15 To 2 | 2 To 10 | 4 To 7 | | | | | | | |
| | | | 47.Indian beach-110 | 0.20 To 0.60 | 1.5 To 10 | 2 To 18 | | | | | | | |
| | | | 48.Rain tree-16 | 0.10 To 0.40 | 1.5 To 12 | 2 To 20 | | | | | | | |
| | | | 49.Malabar plum-5 | 0.25 To 0.50 | 2 To 4 | 4 To 7 | | | | | | | |
| | | | 50.Charcoal tree-3 | 0.30 To 0.50 | 1.5 To 8 | 2 To 5 | | | | | | | |
| | | | 51.White lead tree-13 | 0.20 To 1.80 | 2 To 12 | 2 To 8 | | | | | | | |
| | | | 52.Algaroba bin-3 | 0.20 To 0.90 | 2.10 | 5 To 7 | | | | | | | |
| | | | 53.White lead tree-32 | 0.15 To 1.8 | 2 To 8 | 2 To 10 | | | | | | | |
| | | | 54.Algaroba bin-145 | 0.15 To 3.2 | 1 To 5. | 3 To 6 | | | | | | | |
| | | | 55.Gum arabic-89 | 0.15 To 1.50 | 2 To 6 | 4 To 10 | | | | | | | |
| | | | 56.White lead tree-322 | 0.10 To 1.6 | 1.5 To 10 | 3 To 30 | | | | | | | |
| | | | 57.Algaroba bin-187 | | 2 To 8 | 2 To 15 | | | | | | | |
| | | | 58.Gum arabic-100 | | 2 To 10 | 2 To 15 | | | 1121 | 1820 | - | 13705 | |

Sd/-
(Dhananjay Sonune)
Horticulture Mistry
Tree Authority Department
Pune Municipal Corporation

Sd/-
(Guruswami Tumale)
Assist. Garden Superintendent
Tree Authority Department
Pune Municipal Corporation

Sd/-
Date: 02/03/23
Asst. Municipal Commissioner and Tree Officer
Shivajinagar - Ghole Road Ward Office
Pune Municipal Corporation

NOTE:

1) Aforementioned signature on each page of the docket.
2) Signature of Member Secretary, Tree Authority Department, Pune Municipal Corporation on the last page of docket.

This information has been provided under the Right to Information Act, 2005.

True Copy
Advocate

NOTARY
DHIRAJ K. TAMBAWALLA
GREATER MUMBAI
Regd. No. 9608
GOVT. OF INDIA

Exhibit - L 278

.Kumar

# PUNE RIVER REJUVENATION PROJECT(STRETCH 10&11)

| REF. | DATE | DESCRIPTION |
|---|---|---|
| R1 | 02.01.2023 | Revision in tree data according to updated project boundary |
| | Part A1 | |
| Sr. No. | For River Alignment (Stretch 10 & 11 LHS) | |
| 1 | Trees to be retained | 383 |
| 2 | Trees to be transplanted | 435 |
| 3 | Trees to be removed | 844 |
| 4 | Trees outside the plot boundary | 78 |
| | Total trees (A1) | 1740 |
| | Part A2 | |
| Sr. No. | For River Alignment (Stretch 10 & 11 RHS) | |
| 1 | Trees to be retained | 62 |
| 2 | Trees to be transplanted | 225 |
| 3 | Trees to be removed | 132 |
| 4 | Trees outside the plot boundary | 29 |
| | Total trees (A2) | 448 |
| | Part B1 | |
| Sr. No. | Bund Garden Kalyani Nagar DP ROAD( (Stretch 10 & 11) | |
| 1 | Trees to be removed | 143 |
| 2 | Trees to be removed/Replant | 96 |
| 3 | Trees to be transplanted | 137 |
| | Total trees (B1) | 376 |
| | Part B2 | |
| Sr. No. | Kalyani Nagar to Mundwa Bridge DP ROAD( (Stretch 10 & 11) | |
| 1 | Trees to be removed | 177 |
| 2 | Trees to be removed/Replant | 152 |
| 3 | Trees to be transplanted | 183 |
| | Total trees (B2) | 512 |
| | Total trees(A1+A2+B1+B2) | 3076 |

279

J. Kumar Infraprojects Ltd.
We dream . So we achieve...
Regd. Off. J. Kumar House, CTS No. 448, 448/1, 449, Subhash Road, Vile Parle (E), Mumbai - 400 057, Maharashtra, INDIA
Ph. +91-22-6871 7000 • E-mail: info@jkumar.com • Website: www.jkumar.com
CIN: L74210MH1999PLC122886



J. Kuma

**Ref: - JKIL/PMC/PRRP/2023/104** **Date: - 03/01/2023**



**To,**
**Resident Engineer,**
**M/s. Fortress Infracon Ltd,**
**Pune 411005.**

**Subject: - Development of Mula Mutha River from Bund Garden Bridge to Mundhwa (Stretch 10 and 11) under Pune River Rejuvenation Project and Construction & Development of Riverside Road from Bund Garden Bridge to Mundhwa (Right Hand Side) on Public Private Partnership (PPP) Module against Development Credit Note – Regarding Submission of tree analysis for stretch-10 & 11 (River Alignment & DP Road).**

**Ref: -** 1) Work Order No. 3167, Dt. 02/03/2022.

**Dear Sir,**

With reference to the matter cited above we would like to bring your kind notice that, we had completed the tree Survey work for Total stretch- 10 & 11 (LHS & RHS) with DP Road (RHS). And submitted to M/s HCP on 14th October 2022 & to Creation on 14th Oct 2023, respectively for further process. Based on our survey M/s HCP has confirmed vide mail dated 29th Dec 2022 & Creation has confirmed the same on dated 2nd Jan 2023. The said Data along with photographs and drawings were submitted to PMC for further process by us on 14th August vide letter no. JKIL/PMC/PRRP/2022/060 & JKIL/PMC/PRRP/2022/062.

Further, M/s. HCP vide their email dated 29th Dec 2022 with the document no. 15091-10-00-HCP-DG-2060 consisting data of total stretch-10 & 11 with tree analysis, stating to cancel the previous document dated 14.10.2022.

The Compiled details of survey analysis for River Alignment & DP Road are as below:

| Sr. No. | For River Alignment (Stretch 10 & 11 LHS and RHS) | | |
|---|---|---|---|
| 1 | Trees to be retained | 445 | |
| 2 | Trees to be transplanted | 660 | |
| 3 | Trees to be removed | 976 | |
| 4 | Trees outside the plot boundary | 107 | |
| | Total trees (A) | 2188 | |

280

| Part B1 (DP ROAD RHS) | from Bund Garden to Kalyani Nagar DP ROAD (Stretch 10 & 11 RHS) | |
|---|---|---|
| Sr. No. | | |
| 1 | Trees to be removed | 143 |
| 2 | Trees to be removed/Replant | 96 |
| 3 | Trees to be transplanted | 137 |
| | Total trees (B1) | 376 |

| Part B2 (DP ROAD RHS) | from Kalyani Nagar to Mundwa Bridge DP ROAD (Stretch 10 & 11 RHS) | |
|---|---|---|
| Sr. No. | | |
| 1 | Trees to be removed | 177 |
| 2 | Trees to be removed/Replant | 152 |
| 3 | Trees to be transplanted | 183 |
| | Total trees (B2) | 512 |
| | Total trees (A+B1+B2) | 3076 |

In view of the above, we are submitting herewith the hard copy of tree data analysis and drawing for the same. We request your good self to process the proposal for approval please. Your early action in the matter is highly solicited.

Thank You for your continuous support and cooperation.

With Regards,

FOR, J. KUMAR INFRAPROJECTS LTD.

J. KUMAR INFRAPROJECTS LTD.

Vinay Kumar Singh

Project Manager

Encl:-

1) Annexure – 1 (Summary sheet of Tree survey from KNA to Mundhawa (RHS)).
2) Annexure – 2 (Topography Survey).
3) Annexure – 3 (Photographs of Trees Survey).

1) The Chief Engineer (Projects) PMC.
2) The Executive Engineer, Roads Dept., PMC.

1) दिनांक : 08/09/2023

281

FORTRESS

Ref: [illegible]

Date: [illegible]

To,
Executive Engineer (Project),
Thane Municipal Corporation,
Sky of Nagar,
Thane - 400 606.

Sub: Development of Mira Mutha River from Hand Garden Bridge to Mandhwa Naka (Right Bank) Mira Bhayandar Area River Rejuvenation Project and Construction & Development of Recreational Facilities at Hand Garden Bridge to Mandhwa (Right Hand Side Corridor, Private Participation (PPP) Mode - Development Credit Note - **Regarding Submission of Tree Analysis for Streach (DP Road & River Alignment and DP road) - Reg**

Reference: 1. Contractor JKIL letter No. JKIL/PMC/PBRF/2023/Ind. Corres/01/1923
2. HCPDPM Transmittal No: 15091-ID-TR-843 dated 29.12.2022
3. Creations Consultant Letter No Nil, dated 02.01.2023

Dear Sir,

This is with reference to above cited subject and letter under reference (1), the Contractor has submitted Tree survey along with plan and photos for this office for verification and onward submission. We have verified the data as per the tree analyses submitted by HCPDPM for River Front vide letter at reference (2) & tree analysis submitted by Creation Consultant for DP Road vide letter at reference (3). The Summary of trees are as below.

| Sr. No. | Trees Detail | For River Front | For Road |
|---|---|---|---|
| 1 | Trees to be Retained | 165 | 520 |
| 2 | Trees to be Trans-planted | 101 | 25 |
| 3 | Trees to be Removed | 676 | 313 |
| | Total | 2961 | 858 |
| | Grand Total (River + Road) | 2969 Nos | |

This is for your reference, record and further necessary action.

Thanking you,
Yours faithfully,
For Fortress Infracon Ltd.

(Resident Engineer)

Cc: 1. J Kumar Infraprojects Ltd. Project Site office, Thane (Kind attn. Mr. Purse Ajeet)
2. [illegible]

True Copy

Advocate

Fortress Infracon Ltd

Exhibit - M 282

महाराष्ट्र (नागरी क्षेत्रे) झाडांचे संरक्षण व जतन अधिनियम, १९७५ च्या कलम २ च्या पोट कलम (१-क) नुसार "पुरातन (हेरिटेज) वृक्ष" वर्गीकृत करण्याची मानके निश्चित करण्याकरिता अधिसूचना

महाराष्ट्र शासन
पर्यावरण व वातावरणीय बदल विभाग
शासन निर्णय क्रमांक वृक्षअ २०२१/ प्र.क्र.४२/ तां.क. ४
मादाम कामा मार्ग, हुतात्मा राजगुरू चौक
मंत्रालय, मुंबई ४०००३२
दिनांक : २२ सप्टेंबर, २०२१

शासन निर्णय:

सोबतची शासकीय अधिसूचना महाराष्ट्र शासन राजपत्रामध्ये प्रसिध्द करण्यात यावी.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.

(सु. कि. निकम)
सह सचिव, महाराष्ट्र शासन

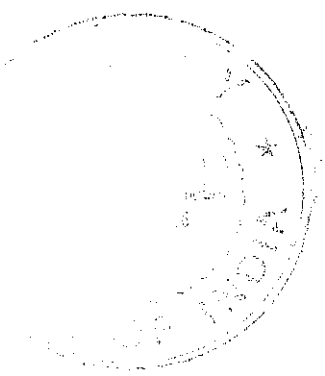
प्रत,

१) मा. मुख्यमंत्री यांचे अपर मुख्य सचिव, मंत्रालय, मुंबई ४००० ३२
२) मा. मंत्री, पर्यावरण व वातावरणीय बदल यांचे खाजगी सचिव, मंत्रालय, मुंबई ४०००३२
३) मा. राज्यमंत्री, पर्यावरण व वातावरणीय बदल यांचे खाजगी सचिव, मंत्रालय, मुंबई ४०००३२
४) मा. सभापती, महाराष्ट्र विधान परिषद, महाराष्ट्र विधानमंडळ सचिवालय , मुंबई ४०००३२
५) मा. अध्यक्ष, महाराष्ट्र विधान सभा, महाराष्ट्र विधानमंडळ सचिवालय , मुंबई ४०००३२
६) मा. विरोधी पक्ष नेता, विधान परिषद / विधान सभा, महाराष्ट्र विधानमंडळ सचिवालय , मुंबई
७) मा. उप सभापती, महाराष्ट्र विधान परिषद, महाराष्ट्र विधानमंडळ सचिवालय , मुंबई
८) मा. उपाध्यक्ष, महाराष्ट्र विधान सभा, महाराष्ट्र विधानमंडळ सचिवालय , मुंबई
९) अपर मुख्य सचिव, (नवि १), नगर विकास विभाग, मंत्रालय, मुंबई ४०००३२
१०) प्रधान सचिव, (नवि २), नगर विकास विभाग, मंत्रालय, मुंबई ४०००३२
११) प्रधान सचिव, पर्यावरण व वातावरणीय बदल विभाग, मंत्रालय, मुंबई ४०००३२
१२) प्रधान सचिव (वने) महसूल व वन विभाग, मंत्रालय, मुंबई ४०००३२ .
१३) अध्यक्ष, महाराष्ट्र प्रदुषण नियंत्रण मंडळ, मुंबई
१४) सदस्य सचिव, महाराष्ट्र प्रदुषण नियंत्रण मंडळ, मुंबई
१५) संचालक,( पर्यावरण), पर्यावरण व वातावरणीय बदल विभाग, मंत्रालय, मुंबई

283

प्रति,

१) विभागीय आयुक्त (सर्व)
२) जिल्हाधिकारी (सर्व)
३) आयुक्त, महानगरपालिका (सर्व)
४) मुख्याधिकारी, नगर परिषद / नगर पंचायत (सर्व)
५) व्यवस्थापक, शासकीय मुद्रणालय, मुंबई
(त्यांना विनंती की, सोबतची अधिसूचना महाराष्ट्र शासनाच्या राजपत्रात प्रसिध्द करून त्याच्या २५ प्रती या विभागास पाठविण्यात याव्यात.)
६) निवडनस्ती (तां.क.४)



284

अधिसूचना

पर्यावरण व वातावरणीय बदल विभाग,
मादाम कामा मार्ग, हुतात्मा राजगुरू चौक,
मंत्रालय, मुंबई ४०००३२.
दिनांक : २१ सप्टेंबर, २०२१.

महाराष्ट्र (नागरी क्षेत्रे) झाडांचे संरक्षण व जतन अधिनियम, १९७५.

क्रमांक वृक्षअ २०२१/ प्र.क्र.४२/ तां.क. ४.- महाराष्ट्र (नागरी क्षेत्रे) झाडांचे संरक्षण व जतन अधिनियम, १९७५ (१९७५ चा महा. ४४) याच्या कलम २ च्या पोट-कलम (१ क) द्वारे प्रदान केलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन, याव्दारे, वृक्ष प्राधिकरणाव्दारे पुरातन (हेरिटेज) वृक्ष म्हणून एखाद्या वृक्षास वर्गीकृत करण्यासाठी पुढील मानके अधिसूचित करीत आहे: -

कोणत्याही प्रजातीचे आणि अंदाजे वय ५० वर्षे किंवा त्यापेक्षा अधिक वयाचे वृक्ष (झाड).

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

(सु. कि. निकम)
शासनाचे सह सचिव

285

## NOTIFICATION

Environment and Climate Change
Department,
Madama Cama Marg,
Hutatma Rajguru Chowk,
Mantralaya,
Mumbai 400 032.
Dated the 22nd September, 2021.

Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975.

No. vrukshaa 2021/ CR 42/ TC-4 .- In exercise of the powers conferred by clause *(Ia)* of section 2 of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (Mah. XLIV of 1975), the Government of Maharashtra hereby notifies the following norms to categorise a tree as the heritage tree by the Tree Authority, namely:-

A tree shall be of any species and of estimated age of 50 years or more.

By order and in the name of the
Governor of Maharashtra,

(S. K. Nikam)
**Joint Secretary to Government.**

NOTARY

286

महाराष्ट्र (नागरी क्षेत्रे) झाडांचे संरक्षण व जतन अधिनियम, १९७५ कलम ८ च्या पोट-कलम (३) च्या खंड (अ) च्या उपखंड (सहा) आणि पोट-कलम (५) च्या खंड (ब) नुसार वृक्षाचे वय निर्धारित करण्याचे निकष आणि पध्दत याबाबतची अधिसूचना

**महाराष्ट्र शासन**
**पर्यावरण व वातावरणीय बदल विभाग**
**शासन निर्णय क्रमांक वृक्षअ २०२१ / प्र.क्र.४० / तां.क. ४**
मादाम कामा मार्ग, हुतात्मा राजगुरू चौक
मंत्रालय, मुंबई ४०००३२
दिनांक : २२ सप्टेंबर, २०२१

शासन निर्णय:

सोबतची शासकीय अधिसूचना महाराष्ट्र शासन राजपत्रामध्ये प्रसिध्द करण्यात यावी.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.

(सु. कि. निकम)
सह सचिव, महाराष्ट्र शासन

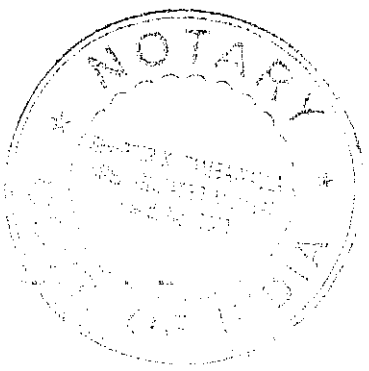
प्रत,

१) मा. मुख्यमंत्री यांचे अपर मुख्य सचिव, मंत्रालय, मुंबई ४०००३२
२) मा. मंत्री, पर्यावरण व वातावरणीय बदल यांचे खाजगी सचिव, मंत्रालय, मुंबई ४०००३२
३) मा. राज्यमंत्री, पर्यावरण व वातावरणीय बदल यांचे खाजगी सचिव, मंत्रालय, मुंबई ४०००३२
४) मा. सभापती, महाराष्ट्र विधान परिषद, महाराष्ट्र विधानमंडळ सचिवालय , मुंबई ४०००३२
५) मा. अध्यक्ष, महाराष्ट्र विधान सभा, महाराष्ट्र विधानमंडळ सचिवालय , मुंबई ४०००३२
६) मा. विरोधी पक्ष नेता, विधान परिषद / विधान सभा, महाराष्ट्र विधानमंडळ सचिवालय , मुंबई
७) मा. उप सभापती, महाराष्ट्र विधान परिषद, महाराष्ट्र विधानमंडळ सचिवालय , मुंबई
८) मा. उपाध्यक्ष, महाराष्ट्र विधान सभा, महाराष्ट्र विधानमंडळ सचिवालय , मुंबई
९) अपर मुख्य सचिव, (नवि १), नगर विकास विभाग, मंत्रालय, मुंबई ४०००३२
१०) प्रधान सचिव, (नवि २), नगर विकास विभाग, मंत्रालय, मुंबई ४०००३२
११) प्रधान सचिव, पर्यावरण व वातावरणीय बदल विभाग, मंत्रालय, मुंबई ४०००३२
१२) प्रधान सचिव (वने) महसूल व वन विभाग, मंत्रालय, मुंबई ४०००३२
१३) अध्यक्ष, महाराष्ट्र प्रदुषण नियंत्रण मंडळ, मुंबई
१४) सदस्य सचिव, महाराष्ट्र प्रदुषण नियंत्रण मंडळ, मुंबई
१५) संचालक,( पर्यावरण), पर्यावरण व वातावरणीय बदल विभाग, मंत्रालय, मुंबई

287

प्रति,

१) विभागीय आयुक्त (सर्व)
२) जिल्हाधिकारी (सर्व)
३) आयुक्त, महारानगरपालिका (सर्व)
४) मुख्याधिकारी, नगर परिषद / नगर पंचायत (सर्व)
५) व्यवस्थापक, शासकीय मुद्रणालय, मुंबई
(त्यांना विनंती की, सोबतची अधिसूचना महाराष्ट्र शासनाच्या राजपत्रात प्रसिध्द करून त्याच्या २५ प्रती या विभागास पाठविण्यात याव्यात.)
६) निवडनस्ती (तां.क.४)



288

# अधिसूचना

पर्यावरण व वातावरणीय बदल विभाग
मादाम कामा मार्ग, हुतात्मा राजगुरू चौक
मंत्रालय, मुंबई ४०००३२
दिनांक : २२ सप्टेंबर, २०२१

महाराष्ट्र (नागरी क्षेत्रे) झाडांचे संरक्षण व जतन अधिनियम, १९७५.

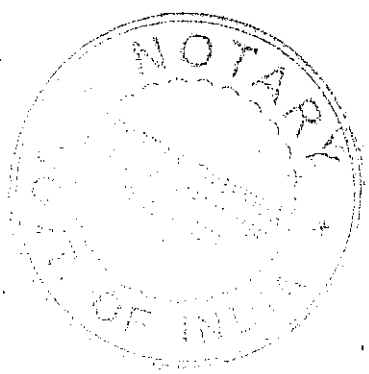
**क्रमांक वृक्षअ २०२१ / प्र.क्र.४०/ तां.क. ४.-** महाराष्ट्र (नागरी क्षेत्रे) झाडांचे संरक्षण व जतन अधिनियम, १९७५ (१९७५ चा महा. ४४) याच्या कलम ८ च्या पोट-कलम (३) च्या खंड (अ) च्या उपखंड (सहा) आणि पोट-कलम (५) च्या खंड (ब) याव्दारे प्रदान केलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन, याव्दारे उक्त अधिनियमाच्या प्रयोजनासाठी वृक्षांचे वय निर्धारित करण्यासाठी पुढील निकष व पद्धत अधिसूचित करीत आहे :-

वृक्षाचे वय पुढील पद्धतींचा वापर करून निर्धारित करता येईल :-

**पद्धत १.-** (एक) वृक्षाचे लेखी अभिलेख उपलब्ध असल्यास, वृक्षाचे वय, वृक्ष लागवडीचे वर्ष किंवा वृक्षाचे वय नमूद करणाऱ्या उपलब्ध अभिलेखांच्या आधारे निर्धारित करता येईल; किंवा

(दोन ) लेखी अभिलेख उपलब्ध नसल्यास, वृक्षाचे वय साक्षीदारांची अभिसाक्ष नोंदवून निर्धारित करता येईल.

**पद्धत २.-** प्रजातींच्या विशिष्ट वाढीच्या घटकाद्वारे वृक्षाच्या व्यासास गुणणे. उदा. काही प्रजातींच्या वाढीचे घटक या सोबत जोडलेल्या *जोडपत्र- १* मध्ये व्याख्या केल्याप्रमाणे आहेत.

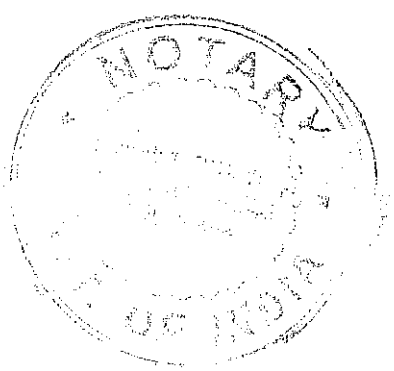


289

पद्धत ३.- इन्क्रिमेंट बोअरर या उपकरणाच्या वापराचा अंतर्भाव असलेल्या पद्धतीवर आधारित. ही पध्दत नवीन असल्याने, स्थानिक वृक्ष प्राधिकरणाव्दारे कौशल्य बिकसित होईपर्यंत, स्थानिक वन अधिकाऱ्यांच्या तज्ञ मार्गदर्शनाखाली कार्यान्वित करावी.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

(सु. कि. निकम)
शासनाचे सह सचिव



290

*जोडपत्र-एक*

वाढीचा घटकाचा वापर करून वृक्षाचे वय निर्धारित करण्याचे टप्पे:

१) जमिनीपासून सुमारे साडेचार फूट उंचीवर मोजपट्टीचा (टेप) वापर करून वृक्षाचा परीघ (इंचात) मोजणे.
२) वृक्षाचा व्यास (इंच मध्ये) काढण्यासाठी परिघाचा वापर करणे. (व्यास काढण्याचे सूत्र आहे: व्यास = परीघ भागीले ३.१४ )
३) वाढीच्या घटकाने व्यासाला गुणून वृक्षाचे अंदाजित वय काढणे.

उदा. २० इंचाचा परिघ आणि वाढीचा घटक ३.० असलेल्या वृक्षाकरीता.

- व्यास = २० / ३.१४ = ६.३६९.
- वृक्षाचे वय = व्यास * वाढीचा घटक = ६.३६९ * ३ = १९.१०८
- वृक्षाचे वय १९ वर्षे आहे.

महाराष्ट्रातील काही सर्वसाधारण वृक्षांच्या प्रजातीच्या वाढचे घटक:

| प्रजाती | वाढचे घटक |
|---|---|
| साल | ७.४७ |
| सागवान | ३.०३ |

291

**NOTIFICATION**

Environment and Climate Change,
Department,
Madama Cama Marg,
Hutatma Rajguru Chowk,
Mantralaya,
Mumbai 400 032.
Dated the 22nd September, 2021.

Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975.

No.vrukshaa 2021/CR40/TC-4 .- In exercise of the powers conferred by sub-clause *(vi)* of clause *(a)* of sub-section *(3)* and clause *(b)* of sub-section *(5)* of section 8 of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (Mah. XLIV of 1975), the Government of Maharashtra hereby notifies the following criteria and method to determine age of the tree as given below, for the purposes of the said Act, namely:-

Age of the tree can be determined by using following methods, namely:-

*Method-1.- (i)* In case of the written records of the tree are available, age of the tree may be determined on the basis of available records indicating year of plantation of the tree or age of the tree; or

*(ii)* In case of the written records are not available, age of the tree may be determined with the help of recorded witness testimony.

*Method-2.-* Multiplying diameter of the tree by species specific growth factor e.g. growth factor of some species is as defined in the *Annexure-I* appended herewith.

*Method-3.-* Based on method involving use of increment borer instrument. This method, being a new method, need to be executed under expert guidance of local forest officials till the time expertise is developed by the local tree authority.

By order and in the name of the
Governor of Maharashtra,

(S. K. Nikam)
Joint Secretary to Government.

292

*Annexure-I*

***Steps to determine age of the tree using growth factor:-***

1. Measure circumference (in inches) of the tree using measuring tape at about four and a half feet above the ground.

2. Use the circumference to find the diameter (in inches) of the tree. (The formula for finding diameter is: Diameter = circumference divided by 3.14).

3. Estimate the age of the tree by multiplying the diameter by the growth factor.

e. g. for a tree with circumference of 20 inches and growth factor of 3.0

- Diameter = 20 / 3.14 = 6.369.
- Age of the tree = diameter * growth factor = 6.369 * 3 = 19.108
- The tree is 19 years old.

***Growth Factorsfor few common tree species in Maharashtra:-***

| Species | Growth Factor |
|---|---|
| Sal | 7.47 |
| Teak | 3.03 |

True Copy

Advocate

293

STRETCH NO: 10 & 11 (RIGHT SIDE) (1245)
BUND GARDEN TO MUNDHWA (ROAD TO BE BUILT ALONG RIVER)

TREES TO BE REMOVED/CUT - 643
TREES TO BE TRANSPLANTED - 602

Exhibit - N

TRANSLATION OF 2 MEMBER EXPERT TEAM'S OPINION/REMARKS

*1245 TREES WILL BE AFFECTED BY THE PROPOSED WORK FOR THE RFD PROJECT & THE ROAD ALONG THE RIVER BANK.

*THE AFFECTED TREES PROVIDE A NATURAL HABITAT TO A VARIETY OF BIRD SPECIES.

*THE SALIM ALI BIRD SANCTUARY & NAIK ISLANDS ~~WHICH ARE~~ 'LIN THE VICINITY OF THIS PROJECT & ARE @ BIO-DIVERSITY RICH SPOTS.

~~CONSERVATION OF THESE AFFECTED TREES WILL HELP IN & BE AVOIDING HARMING THE ENVIRONMENT.~~

*BY CONSERVATION OF THESE AFFECTED TREES, AVOIDING ENVIRONMENTAL DAMAGE IS POSSIBLE.

* WE RECOMMEND APPROACHING THE RELEVANT AUTHORITY FOR FURTHER ACTION, CLEARENCE AS PER THE AMENDED TREE ACT.

296

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 38 | Osadi | *Ageratum houstonianu* | Herb | | | Y | | | | | | |
| 39 | Kassalu | *Alocasia macrorrhizos* | Herb | Y | Y | Y | Y | | | Y | | |
| 40 | Stalkless Joyweed | *Alternanthera sessilis* | Herb | Y | | Y | | | Y | Y | Y | |
| 41 | Math | *Amaranthus viridis* | Herb | Y | | Y | Y | Y | Y | Y | Y | |
| 42 | Pivala dhotra | *Argemone mexicana* | Herb | Y | Y | Y | | | | | | |
| 43 | Brahmi | *Bacopa monnieri* | Herb | Y | | | | | | | | |
| 44 | | *Blumea mollis* | Herb | Y | | Y | | | | | | |
| 45 | Mohari | *Brassica juncea* | Herb | Y | | Y | Y | Y | | Y | Y | |
| 46 | | *Calyptocarpus vialis* | Herb | Y | Y | Y | | Y | Y | Y | Y | |
| 47 | Kurdu | *Celosia argentea* | Herb | Y | | Y | | | Y | Y | | |
| 48 | Raanmari | *Chromolaena odorata* | Herb | Y | Y | Y | Y | Y | Y | Y | Y | |
| 49 | Surywarti | *Chrozophora rottleri* | Herb | Y | Y | Y | Y | Y | Y | Y | Y | |
| 50 | Kena | *Commelina benghalen* | Herb | Y | | Y | Y | Y | Y | Y | Y | |
| 51 | | *Crotalaria pallida* | Herb | Y | | Y | | | | | | |
| 52 | | *Croton bonplandianus* | Herb | Y | Y | Y | | | | | | |
| 53 | | *Cryptocoryne retrospir* | Herb | Y | Y | | | | | | | |
| 54 | Gangotra | *Cyathocline purpurea* | Herb | Y | | Y | Y | Y | | Y | | |
| 55 | Maka | *Eclipta prostrata* | Herb | Y | | Y | Y | | | Y | Y | |
| 56 | | *Erigeron bonariensis* | Herb | Y | | Y | Y | Y | Y | Y | Y | |
| 57 | | *Gnaphalium polycaulo* | Herb | Y | | Y | | | | | | |
| 58 | Supari phul | *Gomphrena globosa* | Herb | Y | | | | | | | | |
| 59 | Madras carpet | *Grangea maderaspata* | Herb | Y | | | | Y | | Y | | |

295

सदर माहितीस, माहिती अधिकार
अधिनियम–२००५, अंतर्गत दिली आहे

नागरिक / संस्था यांचे खाजगी मिळकतीमधील धोकादायक १ ते २५ पुढील वृक्ष पूर्ण काढणे / पुनरोपण करण्याबाबतचे निर्देशपत्र (डॉकेट) (zone – १ )

फेब्रुवारी – २०२३

ढोले पाटील रोड क्षेत्रिय कार्यालय

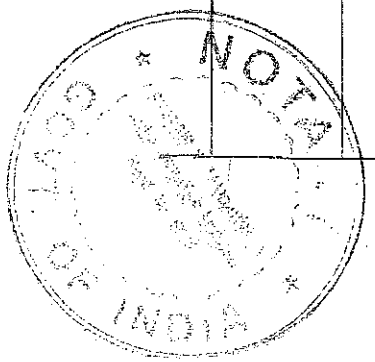
| अ.क्र (१) | अर्ज आ.क्र. (२) | अजदाराचे नाव व वृक्षाचे ठिकाण (४) | वृक्षाचे नाव (५) | म.वेढी. (मी) (६) | उंची (मी) (७) | वय वर्षे (अंदाजे) (८) | खात्याचा अभिप्राय (९) | मा.तज्ञ समितीचा अभिप्राय (१०) | पूर्ण वृक्ष काढणे संख्या (११) | पुनर्रोपण करणे वृक्षांची संख्या (१२) | नकार कळविणे वृक्षांच्या संख्या (१३) | अपेक्षित नविन वृक्ष लागवड संख्या (१४) | अनामत रक्कम रु. (१५) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| १ | ९८३४ ३/२/२३ | मा. श्री. श्रीनिवास बोनाला, मुख्य अभियंता (प्रकल्प ) पुणे मनपा पुणे नदी पुनर्जीवन प्रकल्पा अंतर्गत मुळा-मुठा या नदीचा विकास करणे साठी बंडगार्डन पूल ते मुंढवा (स्ट्रेच -१० व ११ ) व बंडगार्डन पूल ते मुंढवा (उजव्या बाजूस ) नदीच्या कडेने रस्ता विकसित करणे. | १.बेंकद -१<br>२.चाफा -१<br>३.करंज -१७३<br>४.काशीद -११<br>५.कडुलिंब -१८<br>६.रेनट्री -१४<br>७.पळस -१<br>८.उंदर -१<br>९.वि.चिंच ५<br>१०.चंदन -१<br>११.चाफा -३<br>१२.चेरी -१<br>१३. पेरू -१<br>१४. गुलमोहर -१<br>१५.बुच -३<br>१६.बंगली –१<br>१७.करंज -९०<br>१८.खैर -१<br>१९.कडुलिंब -१५<br>२०.पिंपळ -११<br>२१.उंबर -८<br>२२. वड -१<br>२३.पेपरमलबेरी -२<br>२४.वि.चिंच -२५ | ०.५०<br>०.८०<br>०.२० ते १<br>०.१५ ते १.५०<br>०.१० ते ०.५०<br>०.२० ते १.२०<br>०.७०<br>१<br>०.१० ते १<br>०.२०<br>०.४०<br>०.२० ते ०.८०<br>०.१०<br>१.१०<br>०.१० ते १<br>१.५०<br>०.१५ ते १.१०<br>०.२०<br>०.२० ते १<br>०.३० ते १.२०<br>०.२० ते १.१०<br>२<br>०.३०<br>०.३० ते १.१०<br>०.२० ते १.५० | ५<br>७<br>३ ते ८<br>३ ते ८<br>३ ते ५<br>३ ते ८<br>७<br>६<br>३ ते ८<br>३<br>३<br>३ ते ६<br>३<br>७<br>३ ते ६<br>१०<br>३ ते ६<br>३<br>३ ते ६<br>३ ते ८<br>३ ते ७<br>१०<br>३<br>३ ते ६<br>३ ते ९ | १०<br>१२<br>५ ते २०<br>५ ते २५<br>५ ते १५<br>५ ते २०<br>८<br>२०<br>५ ते २०<br>६<br>७<br>५ ते १५<br>५<br>२०<br>५ ते १५<br>३५<br>५ ते२५<br>६<br>६ ते १५<br>५ ते २०<br>५ ते१५<br>४५<br>५<br>५ ते २०<br>६ ते १५ | सदरचे एकूण वृक्ष १२४५ हे पुणे नदी पुनर्जीवन प्रकल्पा अंतर्गत मुळा-मुठा या नदीचा विकास करणे साठी बंडगार्डन पूल ते मुंढवा (स्ट्रेच -१० व ११ ) व बंडगार्डन पूल ते मुंढवा (उजव्या बाजूस ) नदीच्या कडेने रस्ता विकसित करणे प्रकल्प अंतर्गत अडथळा करीत असून अ. क्र. १ ते ३४ मधील ६०२ वृक्ष पुनर्रोपणास प्रतिसाद देत असल्याने पुनर्रोपण करण्यास व अ. क्र. ३५ ते ४८ मधील ६४३ वृक्ष पूर्ण काढणेस व महाराष्ट्र राज्य शासनाच्या नियमानुसार वृक्षांच्या वया इतकी ११,५५८ नवीन वृक्षांची लागवड करण्याच्या अटीवर तसेच मा. तज्ञ समितीची शिफारसस्तव | प्रस्तुत नदी सुधार प्रकल्पात एकूण १२४५ वृक्ष बाधित होत आहेत सदर बाधित वृक्ष विविध पक्षांसाठी करिता नैसर्गिक अधिवास निर्माण करत आहेत. सदर प्रकल्पाच्या सभोवताली सलीम अली पक्षी अभयारण्य , नाईक बेट यासारखी जैव विविधतेने समृद्ध ठिकाणे उपलब्ध आहेत. बाधित वृक्षांचे संवर्धन केल्यास पर्यावरणाची हानी टाळता येणे शक्य आहे.पुढील कार्यवाही साठी सुधारित वृक्ष कायद्यानुसार योग्य त्या प्राधिकरणाची मान्यता घेण्याची शिफारस. | ६४३ | ६७२ | – | ११५५८ | |

NOTARY GOVT. OF INDIA
SHABBIR K. TAMBAWALLA
AREA GREATER MUMBAI
Regd. No. 6003

296

माहिती, माहिती अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | २५.आंबा -७ | ०.२० ते १.१० | ३ ते ९ | ६ ते १५ | | | | | | |
| | | २६.रामफळ -१. | ०.८० | ७ | १५ | | | | | | |
| | | २७.चेरी -११ | ०.२० ते ०.८० | ३ ते ७ | ५ ते १५ | | | | | | |
| | | २८.करंज -१४९ | ०.१५ ते ०.५० | ३ ते ५ | ५ते १० | | | | | | |
| | | २९. कडुलिंब -२२ | ०.१० ते ०.७० | ३ ते ५ | ५ ते १२ | | | | | | |
| | | ३०.उंबर -१ | १.२० | ९ | २० | | | | | | |
| | | ३१.आंबा -२ | ०.२० | ३ | ६ | | | | | | |
| | | ३२.पाम -१ | १.२० | ७ | २० | | | | | | |
| | | ३३.शिरीष -१ | ०.१५ | ३ | ५ | | | | | | |
| | | ३४.वि.चिंच -१८ | ०.२० ते १ | ३ते ७ | ५ ते २५ | | | | | | |
| | | ३५.सुभाभूळ -३१ | ०.१० ते १ | ३ ते ८ | ५ ते १५ | | | | | | |
| | | ३६.कु.भावुळ -१०१ | ०.१५ ते १ | | | | | | | | |
| | | ३७. रेनट्री -४२ | | | | | | | | | |
| | | ३८.सुभाभूळ -१९ | | | | | | | | | |
| | | ३९.जंगली -३ | ०.१५ ते १ | ३ ते ९ | ५ ते १५ | | | | | | |
| | | ४०.जंगली -१ | ०.३० ते १ | ३ ते ८ | ५ ते १५ | | | | | | |
| | | ४१.कु.भावुळ -१३९ | ०.७० | ६ | १५ | | | | | | |
| | | ४२.निलगिरी -४ | ०.३० ते ०.७० | ९ | १० ते १५ | | | | | | |
| | | ४३. रेनट्री -२४ | ०.५० ते १.५० | ५ ते ९ | १५ ते ३० | | | | | | |
| | | ४४.सुभाभुळ -१०२ | | | | | | | | | |
| | | ४५.अशोक -१ | ०.४० | ६ | १० | | | | | | |
| | | ४६.काटेरी भावुळ -१ | १.१० | ८ | २५ | | | | | | |
| | | ४७.जंगली -१ | ०.१० | ३ | ५ | | | | | | |
| | | ४८. कु. भावुळ -१७४ | | | | | | | | | |
| | | एकूण वृक्ष १२४५ | | | | | | | | | |



297

सदर माहिती, माहितीचा अधिकार अधिनियम–२००५, अंतर्गत दिली आहे

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | ३१.चायनीज प्रायव्हेट -५<br>३२.खजूर पाम - १<br>३३.विलायती<br>३४. करंज -५०<br>३५. रेनट्री—७<br>३६.निलगिरी -१<br>३७.सुभाबुळ -७१<br>३८.कु.बाभूळ - २४<br>३९.काटेरी बाभूळ -१६<br>४०.खैर -२<br>४१.सुभाभूळ - १३५<br>४२.कु.बाभूळ - ११६<br>४३. काटेरी बाभूळ -३९<br>एकूण १९७९ वृक्ष | ०.२० ते १<br>१<br>०.२० ते ०.७०<br>०.२० ते ०.५०<br>०.५० ते १<br>०.२० ते १.५०<br>०.२० ते ०.५०<br>०.३० ते ०.५० | ३ ते ५<br>४ ते ८<br>१०<br>५ ते ८<br>३ ते ५<br>५ ते ८<br>४ ते ८<br>३ ते ७<br>३ ते ५ | ५ ते १०<br>१० ते १५<br>२०<br>८ ते १०<br>५ ते ८<br>१५ ते २०<br>६ ते १५<br>५ ते १०<br>५ ते १० | | | | | | | |

(भरत गायकवाड)
हॉर्टी.मिस्त्री
ढोले पाटील रोड क्षे.कार्यालय
पुणे महानगरपालिका

( गुरुदत्त म्हाळुंगे )
उ.सहा.उद्यान अधिक्षक
परिमंडळ क्र.१
पुणे महानगरपालिका

( ज्ञानेश्वर ढमे )
महापालिका सहा.आयुक्त तथा
वृक्ष अधिकारी
ढोले पाटील रोड क्षे.कार्यालय
पुणे महानगरपालिका

NOTARY OF INDIA

This information has been provided under the Right to Information Act, 2005.

298

Docket regarding complete removal/re-plantation of following dangerous trees from 1 to 25 in the private properties of citizens/societies (Zone – 1)

February 2023

Dhole Patil Road Ward Office

| Sr. No. | Application Received Date | Name of applicant & Place of Tree | Name of Tree | Girth at Centre (mt.) | Height | Age in | Remarks by Department | Remarks by Hon. Expert Committee | No. of Trees to be removed | No. of Trees to be re-planted | No. of Trees for which relocation needed | Expected No. of re-plantation to be done | Deposit Amount |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 9834 | Hon. Mr. Shrinivas Bonala, Chief | 1. Pride of India-1 | 0.50 | 5 | 10 | A total of 1245 trees are being affected by the riverside road development | A total of 1245 trees are being affected due to the | 643 | 602 | – | 11558 | |
| | | | 2. Champa-1 | 0.80 | 7 | 12 | | | | | | | |
| | | | 3. Indian beach-173 | 0.20 To 1 | 3 To 8 | 5 To 20 | | | | | | | |
| | | | 4. Sayami cassia-11 | 0.15 To 1.50 | 3 To 8 | 5 To 25 | | | | | | | |
| | | | 5. Kadu neem-18 | 0.10 To 0.50 | 3 To 5 | 5 To 15 | | | | | | | |
| | | | 6. Rain tree-14 | 0.20 To 1.20 | 3 To 8 | 5 To 20 | | | | | | | |
| | | | 7. Flame of forest-1 | 0.70 | 7 | 9 | | | | | | | |
| | | | 8. Cluster fig-1 | 1 | 6 | 20 | | | | | | | |
| | | | 9. Manila tamarind-5 | 0.10 To 1 | 3 To 8 | 5 To 20 | | | | | | | |
| | | | 10. Sandal wood-1 | 0.20 | 3 | 6 | | | | | | | |
| | | | 11. Champa-3 | 0.40 | 3 | 7 | | | | | | | |
| | | | 12. Singapur cherry-1 | 0.20 To 0.80 | 3 To 6 | 5 To 15 | | | | | | | |
| | | | 13. Guava-1 | 0.10 | 3 | 5 | | | | | | | |
| | | | 14. Royal poinciana-1 | 1.10 | 7 | 20 | | | | | | | |
| | | | 15. Cork tree-3 | 0.10 To 1 | 3 To 6 | 5 To 15 | | | | | | | |
| | | | 16. Wild-1 | 1.50 | 10 | 35 | | | | | | | |
| | | | 17. Indian beach-90 | 0.15 To 1.10 | 3 To 6 | 5 To 25 | | | | | | | |
| | | | 18. Black catechu-1 | 0.20 | 3 | 6 | | | | | | | |
| | | | 19. Kadu neem-15 | 0.20 To 1 | 3 To 6 | 6 To 15 | | | | | | | |
| | | | 20. Sacred fig-11 | 0.30 To 1.20 | 3 To 8 | 5 To 20 | | | | | | | |
| | | | 21. Cluster fig-8 | 0.20 To 1.10 | 3 To 7 | 5 To 15 | | | | | | | |
| | | | 22. Banyan tree-1 | 2 | 10 | 45 | | | | | | | |
| | | | 23. Paper mulbery-2 | 0.30 | 3 | 5 | | | | | | | |
| | | | 24. Manila tamrind-25 | 0.30 To 1.10 | 3 To 6 | 5 To 20 | | | | | | | |
| | | | 25. Mango-7 | 0.20 To 1.10 | 3 To 9 | 6 To 15 | | | | | | | |
| | | | 26. Ox Heart-1 | 0.20 To 1.10 | 3 To 9 | 6 To 15 | | | | | | | |
| | | | 27. Singapur cherry-11 | 0.80 | 7 | 15 | | | | | | | |
| | | | 28. Indian beach-149 | 0.20 To 0.80 | 3 To 7 | 5 To 15 | | | | | | | |
| | | | 29. Kadu neem-22 | 0.15 To 0.50 | 3 To 5 | 5 To 10 | | | | | | | |
| | | | 30. Cluster fig-1 | 0.10 To 0.70 | 3 To 5 | 5 To 12 | | | | | | | |
| | | | 31. Mango-2 | 1.20 | 9 | 20 | | | | | | | |
| | | | 32. Palm-1 | 0.20 | 3 | 6 | | | | | | | |
| | | | 33. Lebbek tree-1 | 1.20 | 7 | 20 | | | | | | | |
| | | | 34. Manila tamrind-18 | 0.15 | 3 | 5 | | | | | | | |
| | | | 35. White lead tree-21 | 0.20 To 1 | 3 To 7 | 5 To 25 | | | | | | | |
| | | | 36.White lead tree-101 | 0.10 To 1 | 3 To 8 | 5 To 15 | | | | | | | |
| | | | 37.Rain tree-42 | 0.15 To 1 | | | | | | | | | |
| | | | 38.White lead tree-19 | | | | | | | | | | |
| | | | 39. Wild-3 | 0.15 To 1 | 3 To 9 | 5 To 15 | | | | | | | |
| | | | 40. Wild-1 | 0.30 To 1 | 3 To 8 | 5 To 15 | | | | | | | |
| | | | 41.White lead tree-139 | 0.70 | 6 | 15 | | | | | | | |
| | | | 42.Eucalyptus-4 | 0.30 To 0.70 | 9 | 10 To 15 | | | | | | | |
| | | | 43.Rain tree-24 | 0.50 To 1.50 | 5 To 9 | 15 To 30 | | | | | | | |
| | | | 44.White lead tree-102 | | | | | | | | | | |
| | | | 45.False ashok-1 | 0.40 | 6 | 10 | | | | | | | |
| | | | 46.Babhul-1 | 1.10 | 8 | 25 | | | | | | | |
| | | | 47. Wild-1 | 0.10 | 3 | 5 | | | | | | | |
| | | | 48.White lead tree-174 | | | | | | | | | | |
| | | | Total Trees 1245 | | | | | | | | | | |
| | | | 31. Chinese Private-5 | 0.30 To 1 | 3 To 5 | 5 To 10 | | | | | | | |
| | | | 32. Date Palm Tree -1 | 1 | 4 To 8 | 10 To 15 | | | | | | | |
| | | | 33.Manila tamrind | 0.20 To 0.70 | 10 | 20 | | | | | | | |
| | | | 34. Indian Beach-50 | 0.20 To 0.50 | 5 To 8 | 8 To 10 | | | | | | | |
| | | | 35. Raintree-7 | | | 5 To 8 | | | | | | | |
| | | | 36. Eucalyptus-1 | 0.50 To 1 | 3 To 5 | 15 To 20 | | | | | | | |
| | | | 37. White lead tree-71 | 0.20 To 1.50 | 5 To 8 | 6 To 15 | | | | | | | |
| | | | 38. White lead tree-24 | 0.20 To 0.50 | 4 To 8 | 5 To 10 | | | | | | | |
| | | | 39. Babhul-16 | 0.30 To 0.50 | 3 To 7 | 5 To 10 | | | | | | | |
| | | | 40. Black catechue-2 | | 3 To 5 | | | | | | | | |
| | | | 41. White lead tree-135 | | | | | | | | | | |
| | | | 42. White lead tree-116 | | | | | | | | | | |
| | | | 43. Babhul-39 | | | | | | | | | | |
| | | | Total trees 1979 | | | | | | | | | | |

Sd/-
Bharat Gaikwad
Horticulture Mistry
Dhole Patil Road Ward Office
Pune Municipal Corporation

Sd/-
Guruswami Tumale
Assist. Garden Superintendent In Charge
Circle No. 1
Pune Municipal Corporation

Sd/-
Dnyandev Tupe
Asst. Municipal Commissioner and Tree Officer
Dhole Patil Road Ward Office
Pune Municipal Corporation

True Copy
Advocate

NOTARY
GOVT. OF INDIA
SHABBIR K. RAJKAPALA
AREA GREATER MUMBAI
Room No. 6809

Exhibit-O

299

Date - 24th March 2023

To,

Shri Rajesh Deshmukh
District Collector Pune ,
Chairman District Bio Diversity Committee
New Collector Office, Pune - 411 001
collector.pune@maharashtra.gov.in

**Subject - Objections to proposed cutting and transplantation of over 7500 trees along the Mula Mutha riverbanks as per PMC notice no 1/1336/Dt 28/2/23 released by PMC in newspapers Indian Express and Lokmat dated 1/3/1023**

Dear Sir,

We citizens hereby seek your intervention as the Chairman Pune District BioDiversity Committee to scrap the PMCs proposal related to cutting and transplantation of over 7500 trees along the Mula Mutha river banks.

The Indian Constitution Article 51-A (g), says that "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.As per Environment Protection Act 1986 it is the obligation of the state to provide a healthy environment to the citizens.

It is therefore highly objectionable that PMC should propose to cut full grown age old trees in the riparian zone of an ancient river which is the natural habitat of endemic flora and fauna.

**As Chairman of Pune District BioDiversity Management Committte ,we demand that your office immediately passes orders to cancel the proposal by PMC .**

We have explained our objections in detail as below.

28/3/23
धारक/जावक लिपीक
जिल्हाधिकारी कार्यालय, पुणे.

NOTARY
GOVT. OF INDIA

300

| Point no | Our detailed objections |
|---|---|
| 1 | The proposal by PMC to cut and transplant over 7500 trees is illegal as there is no functional Tree Authority in PMC.The tenure of the last general body was over in Feb 2022 and since then the PMC is under state nominated administrator.<br><br>The Tree Authority comprises 15 elected representatives and up to an equal number of members of the public ,NGOs and experts.<br><br>**It is hereby submitted that without a functional,democratic and representative Tree Authority the decision to propose cutting and transplanting thousands of trees is highly objectionable.**<br><br>The Tree Authority of PMC currently is the state appointed administrator ie - PMC Municipal Commissioner who heads PMC which is also the project proponent of riverfront development and also the applicant for cutting/transplanting trees and also the first level approver for the tree cutting/transplantation proposal. **Such an obvious conflict of interest is highly objectionable.**<br><br>The Maharashtra (Urban Areas)Protection and Preservation of Trees Act, 1975 Sec 3(4) requires approval of decisions of Tree Authority of the general body in next meeting, However given that the damage to trees is irreversible and the general body is not elected yet, any decisive action on part of the state administrator acting as Tree Authority is equivalent to circumventing the process of democratic decision making which is highly objectionable. |
| 2 | 2a) PMC has not published the requisite detailed notice in several leading newspapers in Pune city as required by law. It was only published in two newspapers ( Annexure 1 ) on 1st March 2023 whereas Pune has more than 30 newspapers.<br><br>2b) The notice issued in newspapers ( Annexure 1 ) does not contain any details of the number of trees, location,project details etc, it only refers to the docket online on PMC website. Therefore such a notice is flawed as it conceals the requisite information by an act of deliberate omission of facts.<br><br>2c) The general public was deliberately not informed by other means like official press releases by PMC to disseminate such important information about a project of such magnitude with severe environmental impacts.<br><br>Therefore we object to the entire process and demand it to be scrapped. |
| 3 | The dockets uploaded on PMC website (Annexure 2 ) do not provide inspection reports of the Maharashtra State Forest Department as required by law. |

301

| | |
|---|---|
| | The riparian zone of rivers is a dense forested area and is habitat to endemic flora and fauna and it is a deemed forest under Forest Protection Act. Any proposal to cut or transplant trees from riparian zones will negatively impact the aquatic life,birds,animals and reptiles many of which are protected species as per the Wildlife Protection Act. |
| 4 | The dockets uploaded on the PMC website do not provide inspection reports of the Pune District BioDiversity Management Committee nor any inspection report of the Wetland Committee which are statutory committees under the office of the District Collector. |
| 5 | The dockets have glaring omissions which are hereby placed on record<br><br>5.a) The age of trees mentioned span an extreme range ,for example the age mentioned for some trees is 5 years to 25 years and 8 years to 30 years for certain species.<br><br>It raises serious questions regarding the methodology used for calculating the age of trees and hence such flawed reports are objectionable.<br><br>5.b) Maximum native trees in the riparian zone are more than 50 years old and qualify as heritage trees as per the Maharashtra Preservation Tree Act Amendments 2021. However the dockets qualify ages of most trees in the range of 5 to 25 years.We object to the gross underreporting of the real ages of trees in the riparian zone of the Mula Mutha.<br><br>We believe that the intention of providing deficient data is to underreport the true age of trees and therefore our objection to the same. |
| 6 | The Expert Committee report is not attached with the docket- The experts are required to have inspected and surveyed the trees, made observations,taken photographs etc and made their expert comments. |

We thereby seek a line of confirmation of action taken by your office to our request.

Thanking you,

Upated.

Ms Vasihali Patkar Tel 9823235331
vpshali25@gmail.com

Mr Ravindra Sinha Tel 7774001188
sinha.ravindra@gmail.com

NOTARY

302

Mr Pushkar Kulkarni - 9767050711
pvk927@gmail.com

Address for correspondence
Ravindra Sinha
Flat no C-703,Camellia Apartments
Baner Pashan Link Road
Pashan,Pune 411 021

Copy to -

The Chairman - Tree Authority
Pune Municipal Corporation
PMC Main Building
Shivajinagar
Pune 411 005
vikramkumar@punecorporation.org
mco@punecorporation.org

Shri Praveen N.R.
Chief Conservator of Forests - Pune Division
Van Bhavan,Bhamburda,Van Vihar ,Gokhale Nagar PUNE 411016
Ccftpune@mahaforest.gov.in

Shri Saurabh Rao
Divisional Commissioner - Pune Division
RajBhavan, Pune 411 001
divcom.pune@maharashtra.gov.in

Shri H.V.Gunale
Chief Engineer - Pune Division
Water Resources Department
Sinchan Bhavan
Mangalwar Peth,Pune 411 001
sepicpune@gmail.com

Shri Eknath Shinde
Hon Chief Minister
Government of Maharashtra

303

Mantralaya , Mumbai - 400021
CM@maharashtra.gov.in

Shri Devendra Fadnavis
Hon Dy Chief Minister
Government of Maharashtra
Mantralaya , Mumbai - 400021
DCM@maharashtra.gov.in

Annexure A

लोकमत

**पुणे महानगरपालिका**
**वृक्ष प्राधिकरण**
**जाहीर नोटीस**

महाराष्ट्र (नागरी क्षेत्र) झाडांचे संरक्षण व जतन अधिनियम १९७५, महाराष्ट्र (नागरी क्षेत्र) वृक्ष संरक्षण व संवर्धन नियम २००९, मे. उच्च न्यायालय, मुंबई यांचे जनहित याचिका क्र. १३/२००९ चे दिनांक ३०/९/२०१३ रोजीचे आदेश तसेच मे. महाराष्ट्र शासनाने वेळोवेळी पारित केलेले अध्यादेश, सुधारणा यांस अनुसरुन जाहीर नोटीस देण्यात येते की, पुणे महानगरपालिकेच्या हद्दीतील, परिमंडळ क्र. १,२,३,४,५ अंतर्गत १५ क्षेत्रीय कार्यालयाकडील १ ते २५ वृक्षांपर्यंत व वृक्ष १ ते २५ वृक्षांच्या पुढील पूर्ण वृक्ष काढणे / पुनर्रोपण करणे बांधकामास अडथळा ठरणारे / पडलेले वृक्ष / धोकादायक वृक्ष / रस्ता विकसनाच्या कामास अडथळा करणारे वृक्ष पूर्ण काढणे / पुनर्रोपण करणेस परवानगी देण्याबाबतचे प्रस्ताव संबंधित क्षेत्रीय कार्यालयात संबंधित मा. महापालिका सहाय्यक आयुक्त तथा वृक्ष अधिकारी, पुणे महानगरपालिका यांचेमार्फत व मा. वृक्ष तज्ञ समिती यांनी केलेल्या पाहणीचा अहवाल मा. अध्यक्ष तथा महापालिका आयुक्त, वृक्ष प्राधिकरण, पुणे महानगरपालिका तसेच वृक्ष प्राधिकरण समिती यांच्या समोर मान्यतेसाठी सादर करणेत येणार आहे.

सदरहू प्रस्तावांची तपशिलवार सविस्तर माहिती निर्देशपत्र स्वरूपात (Docket) पुणे महानगरपालिकेच्या www.punecorporation.org या संकेतस्थळावर "PMC Departments Tree Authority Tree Cutting/Replantation Docket" मार्च २०२३" या लिंकवर डाऊनलोड करता येईल अशा स्वरूपात उपलब्ध करून देणेत आलेली आहे.

सदरहू प्रस्तावांमधील वृक्षांसंबंधी कोणाचेही आक्षेप असल्यास त्यासंदर्भात योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह लेखी हरकत अर्ज अथवा तक्रार संबंधित क्षेत्रीय कार्यालयात संबंधित मा. महापालिका सहाय्यक आयुक्त तथा वृक्ष अधिकारी, पुणे महानगरपालिका यांचेकडे दि. ०१/०३/२०२३ ते दि. १३/०३/२०२३ पर्यंत नोंदविण्यात याव्यात, मुदती मध्ये योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह आक्षेप अर्ज सादर करण्यात यावा, योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह आक्षेप अर्ज सादर न केल्यास तसेच मुदतीनंतर आलेले आक्षेप अर्ज फेटाळण्यात येतील याची नोंद घेण्यात यावी.

स्वाक्षरी/-
(अशोक घोरपडे)
मुख्य उद्यान अधिक्षक तथा
सदस्य सचिव, वृक्ष प्राधिकरण
पुणे महानगरपालिका

जाहिरात क्र. १/१३२६
दि. २८/०२/२०२३

Pune Main
Page No: 8 - Mar 01, 2023
Powered by: erelego.com

True Copy
Advocate

Exhibit - P 304

SCC ONLINE
The next wave in legal research

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 1 Thursday, September 21, 2023
Printed For: Madhvi gomathieswaran, Jindal Global University
SCC Online Web Edition: http://www.scconline.com
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.

**(2021) 5 Supreme Court Cases 466 : 2021 SCC OnLine SC 259**

**In the Supreme Court of India**

(BEFORE S.A. BOBDE, C.J. AND A.S. BOPANNA AND V. RAMASUBRAMANIAN, JJ.)

ASSOCIATION FOR PROTECTION OF DEMOCRATIC RIGHTS AND ANOTHER . . Petitioners;

*Versus*

STATE OF WEST BENGAL AND OTHERS . . Respondents.

SLP (C) No. 25047 of 2018[1], decided on March 25, 2021

**Environment Law — Forests, Wildlife and Zoos — Balance between environmental conservation and development — Felling of trees, in order to construct road over bridges and widen roads — Computation of just and fair compensation for felling of trees by authority or organisation which proposes such felling**

**— Held, there must be a realistic assessment of economic value of a tree, which may be permitted to be felled, with reference to its value to environment and its longevity — It is essential to strike right balance between environmental conservation and protection on one hand, and right to development on the other, while articulating doctrine of sustainable development — Conservation and development need not be viewed as binaries, but as complementary strategies that weave into one another — In other words, conservation of nature must be viewed as part of development and not as a factor stultifying development — Expert Committee constituted and direction issued to committee to submit its recommendations**

**(Paras 3, 4 and 6)**

RM-D/67543/C

ORDER

**1.** The issue before us in SLP (C) No. 25047 of 2018 is whether we should allow the Government of West Bengal to fell the trees, in order to construct Road Over Bridges ("ROBs") and widen the roads. We are told that ROBs are necessitated to prevent accidents, which are several, over the past few years. This is the human/development concern that has been expressed by the State of West Bengal.

**2.** It is, however, undisputed that the ROBs can only be constructed after felling of several trees, ages of which are said to be up to 150 years. As per the report of the Expert Committee submitted before us, primarily, about 50 trees have already been felled and potentially another 306 trees are to be felled. As per the report, many of the trees can be called "historical trees", which have "irreplaceable value" and compensatory afforestation cannot replace trees of this value. It is common ground that the trees cannot be transplanted at some other location.

**3.** The right to clean and healthy environment has been recognised as the fundamental right under Article 21 of the Constitution of India. Article 48-A imposes duty upon the State to endeavour to protect and improve the environment and safeguard the forests and wildlife of the country. In addition to this, India is also a party to international treaties, agreements and conferences



and has committed itself to sustainable development and growth. This legal framework indicates that sustainable development must remain at the heart of any development policy implemented by the State. It is essential to strike the right balance between



305

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 2 Thursday, September 21, 2023
Printed For: Madhvi Somathieswaran, Jindal Global University
SCC Online Web Edition: http://www.scconline.com
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.

environmental conservation and protection on one hand, and the right to development on the other, while articulating the doctrine of sustainable development. We may add that in our opinion conservation and development need not be viewed as binaries, but as complementary strategies that weave into one another. In other words, conservation of nature must be viewed as part of development and not as a factor stultifying development.

**4.** One of the moot questions often involved wherever there is need to fell trees to develop a project is how just and fair compensation can be calculated for felling of trees by any authority or organisation which proposes such felling. We have no doubt that such compensation should be calculated and paid as a part of the project cost of the project which necessitates the felling of trees and such compensation must be utilised in an expert manner to create a better environment and, most importantly, increase afforestation. It is, therefore, imperative to make a realistic assessment of the economic value of a tree, which may be permitted to fell, with reference to its value to environment and its longevity, with regard to factors such as production of oxygen and carbon sequestration, soil conservation, protection of flora/fauna, its role in habitat and ecosystem integrity and any other ecologically relevant factor, distinct from timber/wood.

**5.** We note that the issue assumes significance from the perspective of climate change as a growing national and international concern. The pivotal policy document in India on climate change is the National Action Plan on Climate Change ("NAPCC") formulated by the Union Government in 2008, which recognizes that the country is committed to increasing tree cover from 23% to 33%. Under the Paris Agreement, India has committed itself to Nationally Determined Contributions in 2015, wherein one of the stated objectives is to create an additional carbon sink of 2.5 to 3 billion tonnes of CO2 equivalent through additional forest and tree cover by 2030.

**6.** In view of the aforesaid concept, based upon the suggestions of the parties before us, we constitute an expert committee of the following:

(*a*) Dr M.K. Ranjitsinh Jhala, wildlife expert and former Chairman of the Wildlife Trust of India — Chairman of the Committee;

(*b*) Shri Jigmet Takpa, Joint Secretary, Ministry of Environment, Forests and Climate Change — Member-Secretary of the Committee;

(*c*) Shri Arun Singh Rawat, DG, Indian Council for Forestry Research — Member;

(*d*) Prof. Sandeep Tambe, (Indian Forest Service), currently working as Professor of Forestry at the Indian Institute of Forest Management, Bhopal — Member;

(*e*) Shri Gopal Singh Rawat, former Dean and Director, Wildlife Institute of India — Member;

(*f*) Dr Nilanjan Ghosh, Director, Observer Research Foundation, Kolkata, an expert in ecological economics — Member; and

(*g*) Shri Pradeep Krishen, Environmentalist — Member.



**7.** The Committee shall discuss and recommend on the following mandate:

**7.1.** Develop a set of scientific and policy guidelines that shall govern decision making with respect to cutting of trees for developmental projects.

**7.2.** These guidelines may specify the species of trees in categories based upon their environmental values considering the age and girth of the trees, etc.

206

SCC ONLINE
The surest way to legal research!
SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 3 Thursday, September 21, 2023
Printed For: Madhvi gomathieswaran, Jindal Global University
SCC Online Web Edition: http://www.scconline.com
© 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.

**7.3.** The guidelines may provide special treatment for geographical area or eco-sensitive area, they may identify areas which need to be regulated and even identify a minimum threshold beyond which the guidelines will apply.

**7.4.** The guidelines shall prescribe a mechanism for assessment of both intrinsic and instrumental value of the trees, based not only on the value of timber, but also the ecosystem services rendered by the trees and its special relevance, if any, to the habitat of other living organisms, soil, flowing and underground water.

**7.5.** The guidelines shall also mandate rules regarding alternate routes/sites for roads/projects, and possibilities for using alternate modes of transport like railways or waterways.

**7.6.** The guidelines shall also prescribe the mode of compensation financial and otherwise, the stage of depositing such compensation and the process that governs the computation and recovery. In this regard, the committee may consider the existing regulatory framework regarding calculation of net present value ("NPV") and may suggest necessary modification.

**7.7.** In addition, the guidelines shall also specify the manner and mechanism of compensatory afforestation to be carried out using the deposited compensation, consistent with the native ecosystem, habitat and species.

**7.8.** The Committee may consider the need for any permanent expert body and its proposed structural form.

**7.9.** Any other issue incidental to the aforesaid objectives.

**8.** We direct the Committee to file its recommendations within four weeks from the date of its first meeting.

**9.** The Union of India, through the Member-Secretary of the Committee, is directed to ensure that all administrative facilities are provided to the Committee including functioning office space, appropriate secretarial assistance and other infrastructure. He shall also ensure that all information/statistics necessary for the deliberations of the Committee are made available. Further, he shall ensure that the necessary arrangements are made for the travel and boarding/lodging of the Committee members.

**10.** We appoint Shri K. Parameshwar, Advocate as Amicus Curiae to assist the Court on all the issues raised in the present batch of petitions. The Registry is directed to send a copy of the paperbooks and records to Shri K. Parameshwar. The Amicus shall also assist the committee constituted above, on the legal aspects involved in framing and institutionalising the guidelines it proposes.

**11.** List the matter after four weeks.

---

† Arising from Final Judgment and Order in *Assn. for Protection of Democratic Rights* v. *State of W.B.*, 2018 SCC OnLine Cal 5898 [Calcutta High Court, WP No. 5181 (W) of 2017, dt. 31-8-2018]

**Disclaimer:** While every effort is made to avoid any mistake or omission, this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification. All disputes will be subject exclusively to jurisdiction of courts, tribunals and forums at Lucknow only. The authenticity of this text must be verified from the original source.

True Copy

Advocate

Exhibit - Q colly 307

Date - 12th March 2023

To,
The Chairman - Tree Authority
Pune Municipal Corporation
PMC Main Building
Shivajinagar
Pune 411 005

vikramkumar@punecorporation.org
mco@punecorporation.org

**Subject - Objections to proposed cutting and transplantation of over 7500 trees along the Mula Mutha riverbanks as per PMC notice no 1/1336/Dt 28/2/23 released by PMC in newspapers Indian Express and Lokmat dated 1/3/1023**

Dear Sir,

The Indian Constitution Article 51-A (g), says that "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.

As per Environment Protection Act 1986 it is the obligation of the state to provide a healthy environment to the citizens and redress injuries to trees.

The Hon SC on 18th Feb 2021 remarked that it would ban felling of mature beneficial trees for development work including laying roads and setting up industries and order inclusion of the value of the trees,including its oxygen giving capacity,required to be cut down in the project cost.

It is therefore highly objectionable that PMC should propose to cut full grown age old trees in the riparian zone of an ancient river which is the natural habitat of endemic flora and fauna

पुणे महानगरपालिका
वृक्ष प्राधिकरण
आवक क्रमांक/
दिनांक/

NOTARY

1/5

308

We hereby submit our formal objections to the PMC proposal for tree cutting/transplant on the banks of theMula Mutha river in Pune and demand for a public hearing to be conducted.

| Point no | Our detailed objections |
|---|---|
| 1 | The proposal by PMC to cut and transplant over 7500 trees is illegal as there is no functional Tree Authority in PMC.The tenure of the last general body was over in Feb 2022 and since then the PMC is under state nominated administrator.<br><br>The Tree Authority comprises 15 elected representatives and up to an equal number of members of the public ,NGOs and experts.<br><br>**It is hereby submitted that without a functional,democratic and representative Tree Authority the decision to propose cutting and transplanting thousands of trees is highly objectionable.**<br><br>The Tree Authority of PMC currently is the state appointed administrator ie - PMC Municipal Commissioner who heads PMC which is also the project proponent of riverfront development and also the applicant for cutting/transplanting trees and also the first level approver for the tree cutting/transplantation proposal. **Such an obvious conflict of interest is highly objectionable.**<br><br>The Maharashtra (Urban Areas)Protection and Preservation of Trees Act, 1975 Sec 3(4) requires approval of decisions of Tree Authority of the general body in next meeting, However given that the damage to trees is irreversible and the general body is not elected yet, any decisive action on part of the state administrator acting as Tree Authority is equivalent to circumventing the process of democratic decision making which is highly objectionable. |
| 2 | 2a) PMC has not published the requisite detailed notice in several leading newspapers in Pune city as required by law. It was only published in two newspapers ( Annexure 1 ) on 1st March 2023 whereas Pune has more than 30 newspapers.<br><br>2b) The notice issued in newspapers ( Annexure 1 ) does not contain any details of the number of trees, location,project details etc, it only refers to the docket online on PMC website. Therefore such a notice is flawed as it conceals the requisite information by an act of deliberate omission of facts.<br><br>2c) The general public was deliberately not informed by other means like official press releases by PMC to disseminate such important information about a project of such magnitude with severe environmental impacts. |

2/5

309

| | |
|---|---|
| | Therefore we object to the entire process and demand it to be scrapped. |
| 3 | The dockets uploaded on PMC website (Annexure 2 ) do not provide inspection reports of the Maharashtra State Forest Department as required by law.<br><br>The riparian zone of rivers is a dense forested area and is habitat to endemic flora and fauna and it is a deemed forest under Forest Protection Act. Any proposal to cut or transplant trees from riparian zones will negatively impact the aquatic life,birds,animals and reptiles many of which are protected species as per the Wildlife Protection Act. |
| 4 | The dockets uploaded on the PMC website do not provide inspection reports of the Pune District BioDiversity Management Committee nor any inspection report of the Wetland Committee which are statutory committees under the office of the District Collector. |
| 5 | The dockets have glaring omissions which are hereby placed on record<br><br>8.a) The age of trees mentioned span an extreme range ,for example the age mentioned for some trees is 5 years to 25 years and 8 years to 30 years for certain species.<br><br>It raises serious questions regarding the methodology used for calculating the age of trees and hence such flawed reports are objectionable.<br><br>8.b) Maximum native trees in the riparian zone are more than 50 years old and qualify as heritage trees as per the Maharashtra Preservation Tree Act Amendments 2021. However the dockets qualify ages of most trees in the range of 5 to 25 years.We object to the gross underreporting of the real ages of trees in the riparian zone of the Mula Mutha.<br><br>We believe that the intention of providing deficient data is to underreport the true age of trees and therefore our objection to the same. |
| 6 | The Expert Committee report is not attached with the docket- The experts are required to have inspected and surveyed the trees, made observations,taken photographs etc and made their expert comments. |

We demand public hearings to be held with detailed presentations by PMC,Expert Committee,Forest Dept, BioDiversity Committee, Water Resources Department in the interest of full disclosure, transparency and accountability.

3/5

310

Thanking you,

Ravindra Sinha
Flat no C-703,Camellia Apartments
Baner Pashan Link Road
Pashan,Pune 411021
Tel 7774001188
sinha.ravindra@gmail.com

Copy to -

Shri Praveen N.R.
Chief Conservator of Forests - Pune Division
Van Bhavan,Bhamburda,Van Vihar ,Gokhale Nagar PUNE 411016
Ccftpune@mahaforest.gov.in

Shri Saurabh Rao
Divisional Commissioner - Pune Division
RajBhavan, Pune 411 001
divcom.pune@maharashtra.gov.in

Shri Rajesh Deshmukh
District Collector Pune , Chairman District Bio Diversity Committee
New Collector Office, Pune - 411 001
collector.pune@maharashtra.gov.in

Shri H.V.Gunale
Chief Engineer - Pune Division
Water Resources Department
Sinchan Bhavan
Mangalwar Peth,Pune 411 001
ceidpune@vsnl.com
cewrpune@rediffmail.com

Shri Eknath Shinde
Hon Chief Minister
Government of Maharashtra
Mantralaya , Mumbai - 400021
CM@maharashtra.gov.in

4/5

311

Shri Devendra Fadnavis
Hon Dy Chief Minister
Government of Maharashtra
Mantralaya , Mumbai - 400021
DCM@maharashtra.gov.in

Annexure A

लोकसत्ता

**पुणे महानगरपालिका**
**वृक्ष प्राधिकरण**
**जाहीर नोटीस**

महाराष्ट्र (नागरी क्षेत्र) झाडांचे संरक्षण व जतन अधिनियम १९७५, महाराष्ट्र (नागरी क्षेत्रे) वृक्ष संरक्षण व संवर्धन नियम २००९, मे. उच्च न्यायालय, मुंबई यांचे जनहित याचिका क्र. ९३/२००९ चे दिनांक २०/९/२०१३ रोजीचे आदेश तसेच मे. महाराष्ट्र शासनाने वेळोवेळी पारित केलेले अध्यादेश, सुधारणा यांस अनुसरून जाहीर नोटीस देण्यात येते की, पुणे महानगरपालिकेच्या हद्दीतील, परिमंडळ क्र. १,२,३,४,५ अंतर्गत २५ क्षेत्रीय कार्यालयाकडील १ ते २५ वृक्षांपर्यंत व वृक्ष १ ते २५ वृक्षांच्या पुढील पूर्ण वृक्ष काढणे / पुनर्रोपण करणे बांधकामास अडथळा ठरणारे / वठलेले वृक्ष / धोकादायक वृक्ष / रस्ता विकसनाच्या कामास अडथळा करणारे वृक्ष पूर्ण काढणे / पुनर्रोपण करणेस परवानगी देण्याबाबतचे प्रस्ताव संबंधित क्षेत्रीय कार्यालयात संबंधित मा. महापालिका सहायक आयुक्त तथा वृक्ष अधिकारी, पुणे महानगरपालिका यांचेमार्फत मे मा. वृक्ष तज्ञ समिती यांनी केलेल्या पाहणीचा अहवाल मा. अध्यक्ष तथा महापालिका आयुक्त, वृक्ष प्राधिकरण, पुणे महानगरपालिका तसेच वृक्ष प्राधिकरण समिती यांच्या समोर मान्यतेसाठी सादर करणेत येणार आहे.

सदरहू प्रस्तावांची तपशीलवार सविस्तर माहिती निर्देशपत्र स्वरूपात (Docket) पुणे महानगरपालिकेच्या www.punecorporation.org या संकेतस्थळावर "PMC Departments Tree Authority Tree Cutting/Replantation Docket" मार्च २०२३" या लिंकवर डाऊनलोड करता येईल अशा स्वरूपात उपलब्ध करून देणेत आलेली आहे.

सदरहू प्रस्तावांमधील वृक्षासंबंधी करणेचेबाबत आक्षेप असल्यास त्यासंदर्भात योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह लेखी हरकत अर्ज अथवा तक्रार संबंधित क्षेत्रीय कार्यालयात संबंधित मा. महापालिका सहायक आयुक्त तथा वृक्ष अधिकारी, पुणे महानगरपालिका यांचेकडे दि. ०१/०३/२०२३ ते दि. १३/०३/२०२३ पर्यंत नोंदविण्यात यावयात, मुदती मध्ये योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह आक्षेप अर्ज सादर करण्यात यावा, योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह आक्षेप अर्ज सादर न केल्यास तसेच मुदतीनंतर आलेले आक्षेप अर्ज फेटाळण्यात येतील याची नोंद घेण्यात यावी.

स्वाक्षरी/-
(अशोक घोरपडे)
मुख्य उद्यान अधिक्षक तथा
सदस्य सचिव, वृक्ष प्राधिकरण
पुणे महानगरपालिका

जाहिरात क्र. १/१३३६
दि. २८/०२/२०२३

Pune Main
Page No. 9 Mar 01, 2023
Powered by: epaper.com

NOTARY
GOVT. OF INDIA

5/5

312

Regards
Pune River Revival.

--------- Forwarded message --------
From: **Pune River Revival** <puneriverrevival@gmail.com>
Date: Thu, 23 Mar 2023 at 18:24
Subject: Citizens' objection on tree felling for River Front Development
To: <vikramkumar@punecorporation.org>

Dear Sir,
Kindly find attached letter containing 780 signatures of citizens of Pune opposing tree felling proposed by Pune Municipal Corporation for River Front Development project.

Regards
Pune River Revival.



313

**CONCERNED CITIZENS OF PUNE**

puneriverrevival@gmail.com

**Date:** 23/3/2023 **Ref. No.:** RFD/6000 Trees/Citizen's Cor/1-3

**To,**
**Shri. Vikram Kumar (IAS),**
Commissioner,
Pune Municipal Corporation,
Pune.

**Sub.:** 6000+ trees to be felled for the River Front Development project of Pune Municipal Corporation.

**Dear Sir,**

We the concerned citizens of Pune, are writing this letter to you in light of the recent News published in Daily Pudhari on 16th March 2023. Said News highlights that; more than 6000 trees are to be culled down by PMC for first two out of the eleven stretches of the "River Front Development" project. Sir, apart from many serious flaws and illegalities in the said project, with great anguish we want to bring following points before you in this particular context.

1. Article 51-A (g) of Indian Constitution says that:

   ***"It shall be duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures."***

   Not only being a citizen on this country but as the custodian of the environment and the natural resources within the jurisdiction of Pune Municipal Corporation, it indeed is your prime responsibility to follow this principle precisely in the larger interests of environmental protection for social benefits.

2. In an order Dt. 19th Feb 2021, Hon'ble Supreme Court has said, it would ban felling of mature, beneficial trees for development work, including laying roads and setting up industries, and order inclusion of the value of trees, including its oxygen giving capacity, required to be cut down in the project cost.

314

3. PMC as the project proponent of the RFD project claims that many Public Consultation meetings were held prior to planning of the project to understand public opinion and priorities as well as to explain the merits if any of the said project. Unfortunately, in none of such meetings it was brought before the citizens that thousands of trees on the riverbanks will be chopped for this project. Sir, by way of concealing this crucial piece of information, the citizens of Pune have been deprived of their lawful right to understand the project comprehensively before they could form their final opinion about it.

4. In the recent past, PMC distributed about one million forms amongst school students to garner support for this project from the students and their parents. The question is, were the students or their parents made aware of this "Green Massacre" before filling their forms?

5. If we refer the Detailed Project Report (DPR) of the said project, it is specifically highlighted in it that:

   ***"The design of the project carefully retains the existing trees."***

   ***"The embankments design has been modified to accommodate the existing trees."***

   ***"The large number of existing trees will be integrated in the riverfront development."*** **etc.**

   It is extremely disturbing and appalling to make a complete U-turn and now propose to cull down 6000+ trees, that too only for the first two stretched out of eleven. This is not only unethical but completely illegal on your part.

6. Sir, you are well aware that the Environment Clearance has been accorded to this project on the grounds that not a single tree will be cut for the project. Point No. 44 of the 178th SEIAA minutes specifically states as under:

   **Green Belt Development:**

   | | |
   |---|---|
   | No of trees to be cut | : NA |
   | Number of trees to be planted | : NA |

   It is beyond common man's perception that when it is so categorically specified in the SEIAA meeting minutes that tree cutting is not even applicable for this project while according the EC, on what grounds and rights; PMC proposes to chop thousands of trees for such a cosmetic project?

315

Sir, for the reasons mentioned above, we the citizens of Pune, who are bearing the cost of this cosmetic project have very strong objection on cutting even a single tree for this project. We request you to give hearings to all of us in this context.

If you differ from the above views, kindly revert back to us at the earliest on the following email address: puneriverrevival@gmail.com

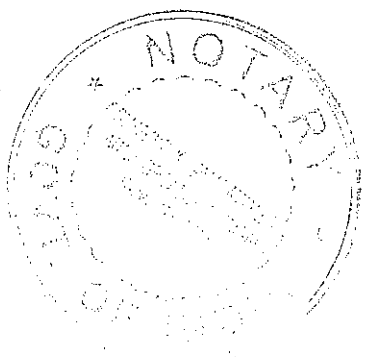
Kindly treat this letter as a legal notice.

**We hope wisdom prevails and environment friendly decision would be taken by you in the larger interests of social wellbeing.**

Thanks.

**- Concerned Citizens of Pune.**

**Encl.: 780 signatures of citizens of Pune**



316

1. Anu Aga (Ex MP, Rajyasabha)
2. Vandana Chavan (MP, Rajyasabha)
3. Meher Pudumjee (Director, Thermax)
4. Vasant More (Maharashtra Nav Nirman Sena)
5. Nitin Jagtap (Maharashtra Nav Nirman Sena)
6. Parisar Organisation
7. Sarang Yadwadkar
8. Qaneez Sukhrani (Association Of Nagar Road Citizens Forum)
9. Pushkar Kulkarni (Pashan Area Sabha)
10. Narendra Chugh (Jal Biradri)
11. Vivek Velankar (Sajag Nagrik Manch)
12. Ravindra Sinha (Mission Groundwater)
13. Dr Sushma Date (DGPS)
14. Shyamla Desai (NSCC, UWAPUNE)
15. Satish Khot (National Society For Clean Cities)
16. Adv Sheela Paralikar (Nisargsevak)
17. Shailaja Deshpande
18. Hema Chari (Warrior Moms)
19. Shlok Sarolkar (Pune FFF)
20. Dr Priyadarshini Karve
21. Wg Cdr Puneet Sharma (Swachh Pune Swachh Bharat)
22. A T Shah
23. Gautam Idnani, (Koregaon Park Mohalla Sudhar Samiti)
24. Anjali Gokhale
25. Aakash Sathyarthi
26. Akshat Bakliwal
27. Anjali Khadilkar
28. Aanand Burad
29. Akshay Patil
30. Anjali Kulkrni
31. Aarti Kanherkar Oswal
32. Akshay Rao
33. Anub George
34. Aasha Mohite
35. Akshay Shintre
36. Anuja Bali
37. Aashish Baldota
38. Akshay Singh
39. Anuja Jagtap
40. Abha Bhagwat
41. Alexander Bhatt
42. Anupama Shirole
43. Abhay Joshi
44. Amar Kulkarni
45. Anuradha Fukane
46. Aboli Chavan
47. Ambarish Sathe
48. Anuradha Gurnani
49. Adil Hussain Ali
50. Amey Kulkarni
51. Anuradha Kurma
52. Adit Lalwani
53. Amir Gangani
54. Anuradha Lalwani
55. Aditya Chavan
56. Amita Kulkarni
57. Anushri Shrivardhan Gadgil
58. Aditya Khirid
59. Amity Irani
60. Ar Shraddha Baldota
61. Aditya Mansabdar
62. Amol Palsodkar
63. Archana Pande (UWAPUNE)
64. Adv Maitreya Ghorpade
65. Anagha Deshpande
66. Arham Dhoka
67. Adv Sheela Paralikar (Nisargsevak)
68. Anagha Joshi
69. Arijit Jere
70. Adv Shireen Merchant
71. Anahita Antia
72. Arnaud Devic

317

73. Advocate Murtuza K
74. Anand Mutha
75. Arpita Mukharjee
76. Aishwarya Shrivardhan Gadgil
77. Anand Palsodkar
78. Aruna Bagchee
79. Aiyaaz Hamirani
80. Anand Shah
81. Aruna Kulkarni
82. Ajay Bulbule
83. Anant Gharat (My Earth)
84. Aruna Suratkal
85. Ajay Kakade
86. Anay Deshpande
87. Arvind Tilak
88. Ajay Lalwani
89. Angela Bhatt
90. Asha Sherlekar
91. Ajay Navgire
92. Anil Gore
93. Ashish Tadsare (DLRWA)
94. Ajay Navgire
95. Anil Kelka
96. Ashok Deshpande
97. Ajay Polkamwar
98. Anil Mengade
99. Ashutosh Gokhale
100. Ajit Shinde
101. Anil Raka
102. Ashutosh Pradhan (Punarbharan Foundation)
103. Ajit Shintre
104. Aniruddh Joshi
105. Ashwin Bhandarkar
106. Akash Bhalerao
107. Anirudha Datar
108. Asmita Shivlepatil
109. Avantika Bharti
110. Anita Ravishankar
111. Avan Mehta
112. Avinash Joshi
113. Anita Shintre
114. Dhiren Jobanputra
115. Avnish Agarwal
116. Anita Taher
117. DILIP BALDOTA
118. Ayush Jamage
119. Chetan Shah
120. Dilip Gondhalekar
121. B T Punjab
122. Chitra Chhabria
123. Dilip Halder
124. Benedikte Theunissen
125. Chris Azavedo
126. Dilip Kulkarni
127. Berk Jamal
128. Christina Dhende
129. Dilip Mohite
130. Beulah Kerwar
131. Christine Rebel
132. Dipak Pawle
133. Bhaarat Bagaria
134. Corina Gonsalves
135. Divesh Wadhawan
136. Bhagesh Joshi
137. Daisy Dorabjee
138. Dolly Dorabjee
139. Bhagyalakshmi Menon
140. Dallas Irani
141. Dr Deepak Shinde
142. Bhagyashri Shinde
143. Darab Nagarwalla
144. Dr Kalyani Bondre (UWAPUNE)
145. Bhakti Borawake
146. Daraius Jal Cursetji
147. Dr Mangesh Kashyap

318

148.Bharat Pittie

149.Darius Dorabjee

150.Dr Meera Bondre (UWAPUNE)

151.Bharat T Kunjir

152.Deelip Lalwani

153.Dr Neha Kulkarni

154.Bharti Baldota

155.Deepa Kunte

156.Dr Seemab Shaikh

157.Bhaskar Gaikwad (WVS)

158.Deepa Prabhu (Bavdhan Citizens Forum)

159.Dr Shekhar Kulkrni

160.Bhushan Bhalerao

161.Deepak Honawar

162.Dr Suchitra Roy (UWAPUNE)

163.Bijoy S Guha

164.Deepak Lalwani

165.Dr Sumeet Nawani

166.Biren Bhatt

167.Deepak Mirpuri

168.Dushyant Bhatia (Bavdhan Citizens Forum)

169.C Ravindranath

170.Deepak Mohoni

171.Dyonne Irani

172.Capt A R Dias

173.Deepak Phatak

174.Edwina Dias

175.Capt Rohit Suri

176.Deepak Sharma

177.Elizabeth Dsilva

178.Carolyn Irani

179.Deepak Shrote (Vasundhara Swachhata Abhiyan)

180.Erach Wadia

181.Chaitanya Nadkarny

182.Deepali Godse

183.Eshwari Shah

184.Chanda Lalwani

185.Delia Knaebel (Airport Road Mohalla Committee)

186.Fabio Chindhy

187.Chandrakala Raka

188.Deven Vakil

189.Farhat Jasani

190.Chandru Samtani

191.Devendra Jagtap

192.Farida

193.Charania

194.Dhanashree Chavan

195.Ferishte Chindhy

196.Charu Sawant

197.Dhaval Thakkar

198.Firdaus Chindhy

199.Charuta Palsodkar

200.Dheeraj Baldota

201.Freeda Pais

202.Medha Pandit

203.Ishan Rupwate

204.Gagandeep Khanna

205.Meena Dhoka

206.Jahnavee Palsodkar

207.Ganesh Angadi

208.Meena Doshi

209.Jal Curtesji

210.Ganesh Bora (Rotary Club of Walhekarwadi)

211.Meena Gupta

212.Jamshed Frenchman

213.Ganesh Mohite

214.Meena Jadhav

215.Jamshed Garda

216.Gaurav Singh

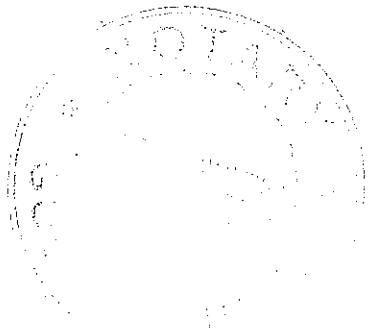
217.Meena Paradkar

218.Jamshid Dalal

219.Gaurav Surana

319

220.Meenakshi
221.Jasmeet Puri
222.Gaurav Yedge
223.Meenal Ekbote
224.Jasmin Dalal
225.Gauravi Dinkar
226.Meera Malhotra
227.Jasmine Diviney
228.Gauri Deshpande
229.Meeta
230.Jasmine Wadhawan
231.Gauri Gokhale
232.Megal Marshelin Dsouza
233.Jaspal Dugal
234.Gayatri Kunte
235.Meghana Baphna
236.Jasraj Fukane
237.George Mundackel
238.Mehak Malhotra
239.Javed Munsiff
240.Girigagan Khorana
241.Mehavi Lalwani
242.Jay Dhoka
243.Girish Patil
244.Mehek Malhotra
245.Jaya Bhansali
246.Gita Tandon
247.Meherangiz Contractor
248.Jaya Ramchandani
249.GMA Soudagar
250.Milind Agate
251.Jayashree Bothara
252.Gool Patel
253.Minal Jakhadi
254.Jayashree Chakvte
255.Gopal Kapoor
256.Minal Sagare
257.Jayashree Deshpande
258.Gopal Shewani
259.Mira Shah
260.Jayashree Ganesh (Undri Resident Association)
261.Gurudas Nulkar
262.Mira Sindgi
263.Jehan Satarawala
264.Harikesh Nair
265.Mira Sindgi
266.Justine Bhatt
267.Harsh Mutha
268.Mitesh Mayekar
269.Justine Contractor
270.Harshal Kaute
271.Mohak Shah
272.Juzer Sitabkhan
273.Harshita Dudhedia
274.Mohini Khot
275.Jyoti Shintre
276.Hasnain Rupani
277.Monica Sharma
278.K J Joy (SOPPECOM)
279.Heather Baker
280.Moniya Shinde
281.Kalpana Chordia
282.Heena Maheshwari
283.Moti Irani
284.Kalpana Manoj Raka
285.Hema Natrajan
286.Motilal Banthia
287.Kalpana Philip
288.Hemanshu Payel
289.Mridula Chordia
290.Kalpana Raka
291.Hemant Chandwani
292.Mrinal Joshi
293.Kalpana Sriram
294.Hemant Lele



320

295.Mrinal Vaidya
296.Kalpita Atre
297.Hemant Rajhans
298.Mrs Mangal Shinde
299.Kalyani Palsodkar
300.Hemant Shivle Patil
301.Mrs Raj Bali
302.Kamini Bhatt Arora
303.Henry Dhende
304.Mukul Ahmad
305.Kamlesh Bothara
306.Herta Halder
307.Mukund V Mavalankar
308.Kanisha Sheth
309.Hetal Gohil
310.Munira Phaltanwala
311.Kapil Desai
312.Hilda E D'Silva
313.Murad Cursetji
314.Karan Hetal Gohil
315.Himanshu Kulkarni
316.Murtaza Hakim
317.Karishma Bharat Kunjir
318.Hitesh Panchal
319.Mustafa Battiwala
320.Kavas Patel
321.Hoshang Irani
322.N Jagtap
323.Kavita Mirchandani
324.Husena Taheer
325.Nanda Deshmukh (UWAPUNE)
326.Kedar Champhekar
327.Indrayani Jadhav
328.Nandini Narang
329.Kedar Pinsetti
330.Ira Rao
331.Nandinidevi Pant Pratinidhi
332.Kersi Jal Cama
333.Isha Bhate
334.Narayan Kamath
335.Ketaki Ghate
336.Preeti Baldota
337.Narendra Chugh
338.Ketu Patil
339.Priyanka Lande
340.Narendra Dudhedia
341.Kiran Khalatkar
342.Priyanka Mutha
343.Narendra Khot
344.Kiran Mande
345.Promil Aggy
346.Naresh Kumar Pinsetti
347.Kirti Jadhav
348.Promila Rajpal
349.Naresh Sareen
350.Kisalay Vora
351.Punam Dharkar
352.Natalie Contractor
353.Kishor Raka
354.Punit Khinvasara
355.Naushad Forbes
356.Kishore Kamble
357.Purnima Joshi
358.Nazir Bhatri
359.Koustubh Govind Yadre
360.Pushkar Bagmar
361.Nazneen Nagarwalla
362.Krushna Bathe
363.Pushpa Tejani
364.Neelam Kalia
365.Kumar Pinsetti
366.R Kaul
367.Neelam Rathore
368.Kunal Dhameja
369.R N Mishra

321

370.Neeta Kulkarni
373.Neha Deshmukh
376.Nicole Rutnagar
379.Niharika Cursetji
382.Nilesh Manathkar
385.Nilima Bhure
388.Nilima Yadav
391.Nimish Sanghavi
394.Nina Narsian
397.Niranjan Upasani
400.Nirmala Tiku
403.Nisha Bhatt
406.Nisha Munshi
409.Nishit Kamath
412.Nitasha Sehgal
415.Nitin Shintre
418.Nizam Shaikh
421.Nora Furtado
424.Nupur Pittie
427.Ojas Phatak
430.Omprakash Choudhary
433.Omswrup Patil
436.Ovee Palsodkar
439.Padma Kantheti
442.Pallavi Ekbote

371.Kurush Grant
374.Kusum Seth
377.Lalita Pagariya
380.Lalita Singh
383.Lata Hiremath
386.Lata Jasani
389.Laxmi Sarma
392.Lea Pudumjee
395.Leena Shete
398.Lila Bothara
401.Lizzy Geogy
404.Lubaina Bhatri
407.MA Soudagar
410.Maana Sheth
413.Madhav Patil
416.Madhukar Fukane
419.Madhuri Shintre
422.Maharookh Parikh
425.Maharukh Doctor
428.Mahavir Mutha
431.Mahesh Lendal
434.Mahesh Mohan
437.Mahrukh Kersi Cama
440.Maithilee Patil
443.Maithili Manakawad

372.Rachna Aggarwal
375.Radhika Kulkarni
378.Radhika Mohanashram
381.Rahul Bhansali
384.Rahul Kamble
387.Rahul Karambelkar
390.Rahul R Birade
393.Rajan Niphadkar
396.Rajashree Kulkarni
399.Rajendra Fukane
402.Rajendra Rayabagi
405.Rajesh Arora
408.Rajeshwari Lakhani
411.Rajiv Kulkarni
414.Rajiv Patkar
417.Rajkumar Khodake
420.Raju Bhatt
423.Rajul Anil Bafna
426.Rajul Bhandari
429.Rakesh N Jagtap
432.Rakesh Sheth
435.Rakhee Chorbole
438.Rakhee Kankariya
441.Ram Sabunani
444.Ramesh Patil



322

445.Pankaj Thadani
446.Mala Sherlekar
447.Ramesh Sindgi
448.Parag Bobade
449.Malini Samtani
450.Ramesh Sindgi
451.Paras Kankariya
452.Mallika Sabunani
453.Ramesh Yadav
454.Pashmina Chindhy
455.Managala Bhalerao
456.Ranade L
457.Pavanjit Mane (FITE IT Employees Forum)
458.Manasi Karandikar
459.Rani Dalal
460.Percy Contractor
461.Manasi Lele
462.Ranjan Rajgopaul
463.Pheroze Irani
464.Manasi Rajhans
465.Ranjana Panse
466.Piaa Jagtap
467.Mandar Shintre
468.Ranjanbala Bagmar
469.Piyush Surana
470.Mangesh Panse
471.Ranoo Sheth
472.Pooja bafna
473.Mangesh Panse
474.Rashi
475.Pooja Rao
476.Mangesh Sali
477.Rashmi Dhuri
478.Poornima Deshpande
479.Manish Ekbote
480.Ratan Batliwala
481.Poorva Datar
482.Manish Ghorpade
483.Ravlebala Kakatkar (UWAPUNE)
484.Pournima Agarkar
485.Manisha Chordia
486.Rehan Gill
487.Pradeep Raheja
488.Manisha Mohite
489.Rekha Joshi
490.Pradeep Shroff
491.Manisha Sheth
492.Rekha Raibagi
493.Pradnya Niphadkar
494.Manjiri Palnitkar
495.Rekha Shintre
496.Pragna Patel
497.Manjiri Udgirkar
498.Remi Taheer
499.Prajakta Divekar
500.Manjushri Parasnis (UWAPUNE)
501.Renee Correa
502.Pramila Jamdar
503,Mannat Kaur
504.Renee Gandhikota
505.Pramila Wadhawan
506.Manu Tandon
507.Renuka Vijairaghavan
508.Pramod Mohite
509.Mariam Kapoor
510.Revati Dhoble
511.Pranali Barve
512.Marilyn Dyer
513.Revati Gindi
514.Pranali Patil
515.Mathai Joseph
516.Réyan Patel

323

517.Pranay Juvvadi
518.Mayukh Bal
519.Rishikesh Palekar
520.Prarthana Rao
521.Mayuresh Dhoke
522.Rita Halder
523.Prasad Deshpande
524.Mayuresh Gurav
525.Rizwana Yusuf
526.Prathamesh Marne
527.Mayuri Baldota
528.RK Malhotra
529.Pratik Ankush
530.Medha Kamat
531.Robbie Thomas
532.Pratik Dudhedia
533.Medha Kulkarni
534.Roda Mehta
535.Pratika Chordia
536.Medha Mande
537.Rohan Desai
538.Pratima Kithani
539.Veena Bhate
540.Rohan Patil
541.Pravin Desai
542.Venkattareddi Kurma
543.Rohit Dayal
544.Pravin Gurale
545.Viddulata Gawade (UWAPUNE)
546.Roma Kapoor
547.Preetali Manathkar
548.Vidya Deshpande
549.Ronald Dsouza
550.Preete Pushpa Prakash
551.Vidya Hedge
552.Rosa Dhende
553.Sarita Challa
554.Vidya Nair
555.Rosanna D'Souza
556.Sarita Khetan
557.Vijay Jobanputra
558.Roshan Chindhy
559.Sarthak P Thakur
560.Vijaya Mohite
561.Rujuta Matapurkar
562.Sathi Nair
563.Vijaya Rao
564.Runa Mukerjee
565.Sathya Natarajan
566.Vijaya Sawant
567.Rupesh Kesekar
568.Satish Khade
569.Vijaya Suratkal
570.Rusi Rutnagar
571.Satish Kulkarni
572.Vikas Malhotra
573.S Dugal
574.Savita Bhansali
575.Vikram Lalwani
576.Sachin Khandelwal
577.Savitha Pais
578.vinay Mutha
579.Sachin Udgirkar
580.Sayeeda Khanna
581.Vinaya Acharya
582.Sadhana Deshmukh
583.Sejal Agarwal
584.Vinifer Garda
585.Sadrudin Jinnah
586.Selina Christian Chandran
587.Vinod Mavalankar
588.Sahil Pagariya
589.Shabbir Attarwala
590.Vipin Shankar
591.Saifee Dalal

324

592.Shahnaz Tarapore
593.Viraf Dhalla
594.Saili Jahagirdar
595.Shahyan Satarawala
596.Virendr Sherlekar
597.Sakshi Bedre
598.Shaila Gurjar
599.Virendra Luthra
600.Sakshi Survase
601.Shailaja Deshpande
602.Viru Gill
603.Salonee Mistry
604.Shalaka Wagle
605.Vishakha Kale
606.Sameer Baldota
607.Shama Deshpande
608.Vishakha Sapre
609.Samir Sindgi
610.Shantanuraj Patil
611.Vishnu Vishwanath Pawar (Compost Ville Group)
612.Samir Sindgi
613.Shardul Chordia
614.Vishwanath Bhave
615.Samir Taheer
616.Sharmista Guha
617.VJ Rao
618.Samruddhi Kondekar
619.Sharvari Jadhav
620.Vrunda Shete
621.Sanaaya Kurup
622.Shashank Deshpande
623.Vrushali Deshmukh
624.Sandeep Baghchee
625.Shashank Joshi
626.Vrushank Rana
627.Sandeep Bhandari
628.Shashi Paranjpey
629.Warren D'Souza
630.Sandeep Gadade
631.Shatakshi Gawade
632.Wasi Khan
633.Sandeep Gaikwad
634.Shaunak Sindgi
635.Yash Wadhawan
636.Sandhya Kale
637.Shaunak Sindgi
638.Yasmin Charania
639.Sandhya Phatak
640.Sheeba Rajan
641.Yatin Deshmukh
642.Sandip Patil
643.Sheena Sahni
644.Yogesh More
645.Sangeet Sarnot
646.Sheetal
647.Yuvraj Shinde
648.Sangeeta Patane
649.Sheila Christian
650.Zahaan Pudumjee
651.Sanjali
652.Shernaz Wadia
653.Zaina Garda
654.Sanjay Lalwani
655.Shilpa Bhalerao
656.Zarine Cooper
657.Sanjay Pagariya
658.Shilpa Bhandarkar
659.Zenobia Merchant
660.Sanjay Shitole (City Eye)
661.Shilpa Naniwadekar
662.Sujata Mavdikar
663.Sanjay Sibal

NOTARY OF INDIA
SHARIF K. TAHILRAMANI
ADV. & GREATER MUMBAI
Regd No. 6858

325

664.Shireen Nashrulla
667.Shirin Gill
670.Shirish Kulkarni
673.Shivani Jadhav
676.Shivtej Shinde
679.Shlavi Pawar
682.Shlok Sarolkar (Pune FFF)
685.Shobha Burad
688.Shonali Khan
691.Shreeyash Mainkar
694.Shreya Fukane
697.Shrikrushna Bhide
700.Shrinivas Sapre
703.Shripal Lalwani
706.Shrisai Kharat
709.Shrivardhan Vasant Gadgil
712.Shriyush Oswal
715.Shruti Parkhe
718.Shubha Kulkarni
721.Shubham Matre
724.Shubhangi Dumare
727.Shweta Yadwadkar
730.Shyamoli Tejani
733.Siddharth Bhide
736.Siddharth Palsodkar

665.Sujata Raye
668.Sujata Tilak
671.Sujata Varasne
674.Sulochana Fukane
677.Sumeet Nawani
680.Sumit Dagale
683.Sunil Bhansali
686.Sunil Khanna
689.Sunil Kochhar
692.Sunil Sehgal
695.Sunita Lalw ani
698.Sunita Shivdasani
701.Surekha Banthia
704.Surekha Lalwani
707.Suresh Mathew
710.Surya Pujari
713.Sushama Jadhav
716.Sushruta Bhave
719.Suvarna Bharat Kunjir
722.Suvarna Gokhale (UWAPUNE)
725.Suvarna Samdadia
728.Swapna Naik
731.Swarupa Karambelkar
734.Swati Pathak
737.Swayam Dhoka

666.Sanjeev Kumar
669.Sanjiwani Kulkarni
672.Sanober Dalal
675.Sanober Keshwaar
678.Santosh Chordia
681.Sanyojeeta Kulkarni
684.Sarala Dudhedia
687.Sarbjt Singh
690.Tinkie Virji
693.Tuhin Phatak
696.Uday Gorhe
699.Uma Dongre
702.Uma Kalamkar
705.Uma Khare
708.Umesh Deshpande
711.Umesh Deshpande
714.Umesh Niphadkar
717.Upendra Rabadia
720.Usha Bobade
723.Usha Menan
726.Usha Narang
729.Vaibhavi Singh
732.Vaishali Joshi
735.Vaishali Mutha
738.Vaishali Nadkarny



326

739.SK Patil
740.T P Mohan Chandra
741.Vaishali Patkar (Aundh Vikas Mandal)
742.Smita Dastane
743.Tanay Lalwani
744.Vaishnavi Bhatt
745.Smita Dastane
746.Tanmayi Shinde
747.Vaishnavi Kathalkar
748.Smita Gondhalekar
749.Tanushri Kulkarni
750.Vanalika Nagarwalla
751.Smita Unnikrishnan
752.Tanya Gill
753.Varsha Kalyani
754.Smitha Naik
755.Tasneem Shaikh
756.Varsha Samtani
757.Snehal Biradar
758.Teja Palsodkar
759.Varsha Sindgi
760.Snehal S Kulkarni
761.Tejas Jadhav
762.Varsha Sindgi
763.Snober Satarawala
764.Tejas Shende
765.Varun Miglani
766.Soha Dabhade
767.Tejashri Chavan
768.Vasant Anant Gadgil
769.Sohrab Doctor
770.Tina Dagale
771.Ved Wani
772.Sonia Agarwal
773.Subhash Deshpande
774.Sudha Nambisan
775.Sonia Murthy
776.Sudeep Gogate
777.Sudhir Deshmukh (PCCHSF)
778.Suhas Chakavte
779.Parth Borwake
780.Sachin Kherade

True Copy
Advocate

Exhibit - R 327

Date - 21st March 2023

To,
The Chairman - Tree Authority
Pune Municipal Corporation
PMC Main Building
Shivajinagar
Pune 411 005

पुणे महानगरपालिका
महापालिका आयुक्त कार्यालय
शिवाजीनगर, पुणे - ४११ ००५
लोकाभिमुख
स्वागतकक्ष
दिनांक 27/03/23
वेळ 1:10

vikramkumar@punecorporation.org
mco@punecorporation.org

**Subject - Objections to proposed cutting and transplantation of over 7500 trees along the Mula Mutha riverbanks as per PMC notice no 1/1336/Dt 28/2/23 released by PMC in newspapers Indian Express and Lokmat dated 1/3/1023**

Dear Sir,

The Indian Constitution Article 51-A (g), says that "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.

As per Environment Protection Act 1986 it is the obligation of the state to provide a healthy environment to the citizens .

The Hon SC on 18th Feb 2021 remarked that it would ban felling of mature beneficial trees for development work including laying roads and setting up industries and order inclusion of the value of the trees,including its oxygen giving capacity,required to be cut down in the project cost.

It is therefore highly objectionable that PMC should propose to cut full grown age old trees in the riparian zone of an ancient river which is the natural habitat of endemic flora and fauna

NOTARY
SHABBIR K. TAMBAWALLA
AREA GREATER MUMBAI
Regn. No. 6081
GOVT. OF INDIA

328

We hereby submit our formal objections to the PMC proposal for tree cutting/transplant on the banks of theMula Mutha river in Pune and demand for a public hearing to be conducted.

| Point no | Our detailed objections |
|---|---|
| 1 | The proposal by PMC to cut and transplant over 7500 trees is illegal as there is no functional Tree Authority in PMC.The tenure of the last general body was over in Feb 2022 and since then the PMC is under state nominated administrator.<br><br>The Tree Authority comprises 15 elected representatives and up to an equal number of members of the public ,NGOs and experts.<br><br>**It is hereby submitted that without a functional,democratic and representative Tree Authority the decision to propose cutting and transplanting thousands of trees is highly objectionable.**<br><br>The Tree Authority of PMC currently is the state appointed administrator ie - PMC Municipal Commissioner who heads PMC which is also the project proponent of riverfront development and also the applicant for cutting/transplanting trees and also the first level approver for the tree cutting/transplantation proposal. **Such an obvious conflict of interest is highly objectionable.**<br><br>The Maharashtra (Urban Areas)Protection and Preservation of Trees Act, 1975 Sec 3(4) requires approval of decisions of Tree Authority of the general body in next meeting, However given that the damage to trees is irreversible and the general body is not elected yet, any decisive action on part of the state administrator acting as Tree Authority is equivalent to circumventing the process of democratic decision making which is highly objectionable. |
| 2 | 2a) PMC has not published the requisite detailed notice in several leading newspapers in Pune city as required by law. It was only published in two newspapers ( Annexure 1 ) on 1st March 2023 whereas Pune has more than 30 newspapers.<br><br>2b) The notice issued in newspapers ( Annexure 1 ) does not contain any details of the number of trees, location,project details etc, it only refers to the docket online on PMC website. Therefore such a notice is flawed as it conceals the requisite information by an act of deliberate omission of facts.<br><br>2c) The general public was deliberately not informed by other means like official press releases by PMC to disseminate such important information about a project |

329

| | |
|---|---|
| | of such magnitude with severe environmental impacts.<br><br>Therefore we object to the entire process and demand it to be scrapped. |
| 3 | The dockets uploaded on PMC website (Annexure 2 ) do not provide inspection reports of the Maharashtra State Forest Department as required by law.<br><br>The riparian zone of rivers is a dense forested area and is habitat to endemic flora and fauna and it is a deemed forest under Forest Protection Act. Any proposal to cut or transplant trees from riparian zones will negatively impact the aquatic life,birds,animals and reptiles many of which are protected species as per the Wildlife Protection Act. |
| 4 | The dockets uploaded on the PMC website do not provide inspection reports of the Pune District BioDiversity Management Committee nor any inspection report of the Wetland Committee which are statutory committees under the office of the District Collector. |
| 5 | The dockets have glaring omissions which are hereby placed on record<br><br>8.a) The age of trees mentioned span an extreme range ,for example the age mentioned for some trees is 5 years to 25 years and 8 years to 30 years for certain species.<br><br>It raises serious questions regarding the methodology used for calculating the age of trees and hence such flawed reports are objectionable.<br><br>8.b) Maximum native trees in the riparian zone are more than 50 years old and qualify as heritage trees as per the Maharashtra Preservation Tree Act Amendments 2021. However the dockets qualify ages of most trees in the range of 5 to 25 years.We object to the gross underreporting of the real ages of trees in the riparian zone of the Mula Mutha.<br><br>We believe that the intention of providing deficient data is to underreport the true age of trees and therefore our objection to the same. |
| 6 | The Expert Committee report is not attached with the docket- The experts are required to have inspected and surveyed the trees, made observations,taken photographs etc and made their expert comments. |

We demand public hearings to be held with detailed presentations by PMC,Expert Committee,Forest Dept, BioDiversity Committee, Water Resources Department in the interest of full disclosure, transparency and accountability. We demand that the C

330

Thanking you,

Climate Cell Action Group
Under the Pune Municipal Corporation

| Name | Signature |
|---|---|
| Vaishali Patkar ( CCPEF ) | |
| Dr Sanskriti Menon ( CEE ) | |
| Dr Gurudas Nulkar (Ecological Society) | |
| Siddharth Bhagwal ( PIC ) | |
| Anita Benninger Gokhale ( CDSA) | |
| Dr Poorva Keskar ( Sustainability Initiatives) | |
| Dr Priyadarshini Karve ( Samuchit ) | |
| Dr Ashwini Keskar ( PKC ) | |
| Shailaja Deshpande ( Jeevitnadi ) | |
| Suhas Patwardhan ( PDCHSAFederation ) | |

Copy to -

Shri Praveen N.R.

331

Chief Conservator of Forests - Pune Division
Van Bhavan,Bhamburda,Van Vihar ,Gokhale Nagar PUNE 411016
Ccftpune@mahaforest.gov.in

Shri Saurabh Rao
Divisional Commissioner - Pune Division
RajBhavan, Pune 411 001
divcom.pune@maharashtra.gov.in

Shri Rajesh Deshmukh
District Collector Pune , Chairman District Bio Diversity Committee
New Collector Office, Pune - 411 001
collector.pune@maharashtra.gov.in

Shri H.V.Gunale
Chief Engineer - Pune Division
Water Resources Department
Sinchan Bhavan
Mangalwar Peth,Pune 411 001
ceidpune@vsnl.com
cewrpune@rediffmail.com

Shri Eknath Shinde
Hon Chief Minister
Government of Maharashtra
Mantralaya , Mumbai - 400021
CM@maharashtra.gov.in

Shri Devendra Fadnavis
Hon Dy Chief Minister
Government of Maharashtra
Mantralaya , Mumbai - 400021
DCM@maharashtra.gov.in

Annexure A

332

लोकमत

## पुणे महानगरपालिका
### वृक्ष प्राधिकरण
### जाहीर नोटीस

महाराष्ट्र (नागरी क्षेत्र) झाडांचे संरक्षण व जतन अधिनियम १९७५, महाराष्ट्र (नागरी क्षेत्रे) वृक्ष संरक्षण व संवर्धन नियम २००९, मे. उच्च न्यायालय, मुंबई यांचे जनहित याचिका क्र. ९२/२००९ चे दिनांक २०/९/२०१३ रोजीचे आदेश तसेच मे. महाराष्ट्र शासनाने वेळोवेळी पारित केलेले अध्यादेश, सुधारणा यांस अनुसरून जाहीर नोटीस देण्यात येते की, पुणे महानगरपालिकेच्या हद्दीतील, परिमंडळ क्र. १,२,३,४,५ अंतर्गत १५ क्षेत्रीय कार्यालयाकडील १ ते २५ वृक्षांपर्यंत व वृक्ष १ ते २५ वृक्षाच्या पुढील पूर्ण वृक्ष काढणे / पुनर्रोपण करणे कामकामास अडथळा ठरणारे / पडलेले वृक्ष / शोकादायक वृक्ष / रस्ता विकसनाच्या कामास अडथळा करणारे वृक्ष पूर्ण काढणे / पुनर्रोपण करणेस परवानगी देण्याबाबतचे प्रस्ताव संबंधित क्षेत्रीय कार्यालयात संबंधित मा. महापालिका सहाय्यक आयुक्त तथा वृक्ष अधिकारी, पुणे महानगरपालिका यांच्यामार्फत व मा. वृक्ष तज्ञ समिती यांनी केलेल्या पाहणीचा अहवाल मा. अध्यक्ष तथा महापालिका आयुक्त, वृक्ष प्राधिकरण, पुणे महानगरपालिका तसेच वृक्ष प्राधिकरण समिती यांच्या समोर मान्यतेसाठी सादर करणेत येणार आहे.

सदरहू प्रस्तावाची सविस्तर माहिती निर्देशांक स्वरूपात (Docket) पुणे महानगरपालिकेच्या www.punecorporation.org या संकेतस्थळावर "PMC Departments Tree Authority Tree Cutting/Replantation Docket मार्च २०२३" या लिंकवर डाऊनलोड करता येईल अशा स्वरूपात उपलब्ध करून देणेत आलेली आहे.

सदरहू प्रस्तावामधील वृक्षासंबंधी कोणाचेही आक्षेप असल्यास त्यासंदर्भात योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह लेखी हरकत अर्ज अथवा तक्रार संबंधित क्षेत्रीय कार्यालयात संबंधित मा. महापालिका सहाय्यक आयुक्त तथा वृक्ष अधिकारी, पुणे महानगरपालिका यांचेकडे दि. ०१/०३/२०२३ ते दि. १३/०३/२०२३ पर्यंत नोंदविण्यात यावेत. मुदती मध्ये योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह आक्षेप अर्ज सादर करण्यात यावा. योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह आक्षेप अर्ज सादर न केल्यास तसेच मुदतीनंतर आलेले आक्षेप अर्ज फेटाळण्यात येतील याची नोंद घेण्यात यावी.

स्वाक्षरी/-
(अशोक घोरपडे)
मुख्य उद्यान अधिक्षक तथा
सदस्य सचिव, वृक्ष प्राधिकरण,
पुणे महानगरपालिका

जाहिरात क्र. १/१२३६
दि. २८/०२/२०२३

Pune Main
Page No: 8 Mar 01, 2023
Powered by: elelego.com

True Copy
Advocate

Exhibit - S 333

Date - 24th March 2023

To,
Shri Praveen N.R.
Chief Conservator of Forests - Pune Division
Van Bhavan,Bhamburda,Van Vihar ,Gokhale Nagar PUNE 411016
Ccftpune@mahaforest.gov.in

**Subject - Objections to proposed cutting and transplantation of over 7500 trees along the Mula Mutha riverbanks as per PMC notice no 1/1336/Dt 28/2/23 released by PMC in newspapers Indian Express and Lokmat dated 1/3/1023**

Dear Sir,

We citizens hereby seek your intervention as the Chief Conservator of Forests Pune Division to pass orders to cancel the PMCs proposal related to the cutting and transplantation of over 7500 trees along the Mula Mutha river banks which are dense riparian forests and biodiversity zones of Pune which are protected under the **BioDiversity Act and Forest Protection Act.** Also such a proposal to cut or transplant trees from riparian zones will negatively impact the aquatic life,birds,animals and reptiles many of which are protected species as per the **Wildlife Protection Act.**

The Indian Constitution Article 51-A (g), says that "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.As per Environment Protection Act 1986 it is the obligation of the state to provide a healthy environment to the citizens.

It is therefore highly objectionable that PMC should propose to cut full grown age old trees in the riparian forests of an ancient river which is the natural habitat of endemic flora and fauna.

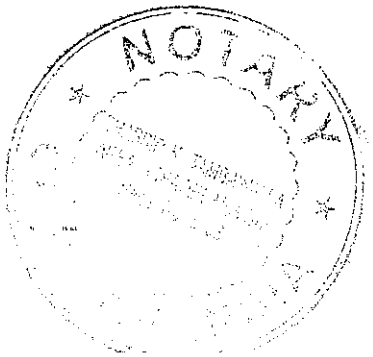
**As Chief Conservator of Forests Pune ,we demand that your office immediately passes orders to cancel the proposal by PMC.**

We have explained our objections in detail as below.

24.3.23
आवक जावक कक्ष
मुख्य वनसंरक्षक (प्रा.) पुणे
'वनभवन' भांबुर्डा वन
गोखले नगर, पुणे-411005

334

| Point no | Our detailed objections |
|---|---|
| 1 | The proposal by PMC to cut and transplant over 7500 trees is illegal as there is no functional Tree Authority in PMC.The tenure of the last general body was over in Feb 2022 and since then the PMC is under state nominated administrator.<br><br>The Tree Authority comprises 15 elected representatives and up to an equal number of members of the public ,NGOs and experts.<br><br>**It is hereby submitted that without a functional,democratic and representative Tree Authority the decision to propose cutting and transplanting thousands of trees is highly objectionable.**<br><br>The Tree Authority of PMC currently is the state appointed administrator ie - PMC Municipal Commissioner who heads PMC which is also the project proponent of riverfront development and also the applicant for cutting/transplanting trees and also the first level approver for the tree cutting/transplantation proposal. **Such an obvious conflict of interest is highly objectionable.**<br><br>The Maharashtra (Urban Areas)Protection and Preservation of Trees Act, 1975 Sec 3(4) requires approval of decisions of Tree Authority of the general body in next meeting, However given that the damage to trees is irreversible and the general body is not elected yet, any decisive action on part of the state administrator acting as Tree Authority is equivalent to circumventing the process of democratic decision making which is highly objectionable. |
| 2 | 2a) PMC has not published the requisite detailed notice in several leading newspapers in Pune city as required by law. It was only published in two newspapers ( Annexure 1 ) on 1st March 2023 whereas Pune has more than 30 newspapers.<br><br>2b) The notice issued in newspapers ( Annexure 1 ) does not contain any details of the number of trees, location,project details etc, it only refers to the docket online on PMC website. Therefore such a notice is flawed as it conceals the requisite information by an act of deliberate omission of facts.<br><br>2c) The general public was deliberately not informed by other means like official press releases by PMC to disseminate such important information about a project of such magnitude with severe environmental impacts.<br><br>Therefore we object to the entire process and demand it to be scrapped. |
| 3 | The dockets uploaded on PMC website (Annexure 2 ) do not provide inspection reports of the Maharashtra State Forest Department as required by law. |



335

| | |
|---|---|
| | The riparian zone of rivers is a dense forested area and is habitat to endemic flora and fauna and it is a deemed forest under Forest Protection Act. Any proposal to cut or transplant trees from riparian zones will negatively impact the aquatic life,birds,animals and reptiles many of which are protected species as per the Wildlife Protection Act. |
| 4 | The dockets uploaded on the PMC website do not provide inspection reports of the Pune District BioDiversity Management Committee nor any inspection report of the Wetland Committee which are statutory committees under the office of the District Collector. |
| 5 | The dockets have glaring omissions which are hereby placed on record<br><br>5.a) The age of trees mentioned span an extreme range ,for example the age mentioned for some trees is 5 years to 25 years and 8 years to 30 years for certain species.<br><br>It raises serious questions regarding the methodology used for calculating the age of trees and hence such flawed reports are objectionable.<br><br>5.b) Maximum native trees in the riparian zone are more than 50 years old and qualify as heritage trees as per the Maharashtra Preservation Tree Act Amendments 2021. However the dockets qualify ages of most trees in the range of 5 to 25 years.We object to the gross underreporting of the real ages of trees in the riparian zone of the Mula Mutha.<br><br>We believe that the intention of providing deficient data is to underreport the true age of trees and therefore our objection to the same. |
| 6 | The Expert Committee report is not attached with the docket- The experts are required to have inspected and surveyed the trees, made observations,taken photographs etc and made their expert comments. |

We thereby seek a line of confirmation of the action taken by your office to our request.

Thanking you,

Ms Vasihali Patkar Tel 9823235331
vpshali25@gmail.com

Mr Ravindra Sinha Tel 7774001188



336

sinha.ravindra@gmail.com

Mr Pushkar Kulkarni - 9767050711
pvk927@gmail.com

Address for correspondence
Ravindra Sinha
Flat no C-703,Camellia Apartments
Baner Pashan Link Road
Pashan,Pune 411 021

Copy to -

Mr Sudhir Mungantiwar
Minister for Forests, Cultural Affairs, Fisheries, Government of Maharashtra.
Government of Maharashtra
Mantralaya,Mumbai
min.env@maharashtra.gov.in

Secretary - Environment
Government of Maharashtra
Mantralaya,Mumbai
psec.env@maharashtra.gov.in

The Chairman - Tree Authority
Pune Municipal Corporation
PMC Main Building
Shivajinagar
Pune 411 005
vikramkumar@punecorporation.org
mco@punecorporation.org

Shri Rajesh Deshmukh
District Collector Pune ,
Chairman District Bio Diversity Committee
New Collector Office, Pune - 411 001
collector.pune@maharashtra.gov.in

337

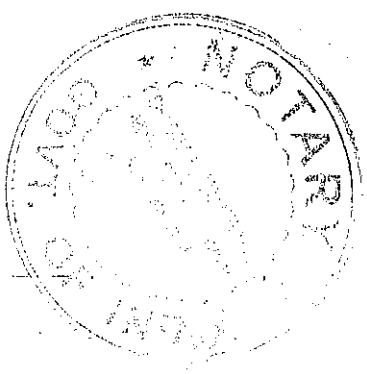
Shri Saurabh Rao
Divisional Commissioner - Pune Division
RajBhavan, Pune 411 001
divcom.pune@maharashtra.gov.in

Shri H.V.Gunale
Chief Engineer - Pune Division
Water Resources Department
Sinchan Bhavan
Mangalwar Peth,Pune 411 001
sepicpune@gmail.com

Shri Eknath Shinde
Hon Chief Minister
Government of Maharashtra
Mantralaya , Mumbai - 400021
CM@maharashtra.gov.in

Shri Devendra Fadnavis
Hon Dy Chief Minister
Government of Maharashtra
Mantralaya , Mumbai - 400021
DCM@maharashtra.gov.in

Annexure A



338

लोकमत

## पुणे महानगरपालिका
### वृक्ष प्राधिकरण
### जाहीर नोटीस

महाराष्ट्र (नागरी क्षेत्र) झाडांचे संरक्षण व जतन अधिनियम १९७५, महाराष्ट्र (नागरी क्षेत्र) वृक्ष संरक्षण व संवर्धन नियम २००९, मे. उच्च न्यायालय, मुंबई यांचे जनहित याचिका क्र. ९३/२००१ चे दिनांक २०/९/२०१३ रोजीचे आदेश तसेच मे. महाराष्ट्र शासनाने वेळोवेळी पारित केलेले अध्यादेश, सुधारणा यांस अनुसरून जाहीर नोटीस देण्यात येते की, पुणे महानगरपालिकेच्या हद्दीतील, परिमंडळ क्र. १,२,३,४,५ अंतर्गत १५ क्षेत्रीय कार्यालयाकडील १ ते २५ वृक्षांपर्यंत व वृक्ष १ ते २५ वृक्षांच्या पुढील पूर्ण वृक्ष कापणे / पुनर्रोपण करणे बांधकामास अडथळा ठरणारे / पडलेले वृक्ष / धोकादायक वृक्ष / रस्ता विकसनाच्या कामास अडथळा ठरणारे वृक्ष पूर्ण कापणे / पुनर्रोपण करणेस परवानगी देण्याबाबतचे प्रस्ताव संबंधित क्षेत्रीय कार्यालयात संबंधित मा. महापालिका सहाय्यक आयुक्त तथा वृक्ष अधिकारी, पुणे महानगरपालिका यांचेमार्फत व मा. वृक्ष तज्ञ समिती यांनी केलेल्या पाहणीचा अहवाल मा. अध्यक्ष तथा महापालिका आयुक्त, वृक्ष प्राधिकरण, पुणे महानगरपालिका तसेच वृक्ष प्राधिकरण समिती यांच्या समोर मान्यतेसाठी सादर करण्यात येणार आहे.

सदरहू प्रस्तावांची तपशिलवार सविस्तर माहिती निर्देशपत्र स्वरूपात (Docket) पुणे महानगरपालिकेच्या www.punecorporation.org या संकेतस्थळावर "PMC Departments Tree Authority Tree Cutting/Replantation Docket" मार्च २०२५" या लिंकवर डाऊनलोड करता येईल. अशा स्वरूपात उपलब्ध करून देण्यात आलेली आहे.

सदरहू प्रस्तावांमधील वृक्षासंबंधी हरकतीचे आक्षेप असल्यास त्यासंदर्भात योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह लेखी हरकत अर्ज अथवा तक्रार संबंधित क्षेत्रीय कार्यालयात संबंधित मा. महापालिका सहाय्यक आयुक्त तथा वृक्ष अधिकारी, पुणे महानगरपालिका यांचेकडे दि. ०१/०३/२०२३ ते दि. ९३/०३/२०२३ पर्यंत नोंदविण्यात यावेत. मुदती मध्ये योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह आक्षेप अर्ज सादर करण्यात यावा, योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह आक्षेप अर्ज सादर न केल्यास तसेच मुदतीनंतर आलेले आक्षेप अर्ज फेटाळण्यात येतील याची नोंद घेण्यात यावी.

स्वाक्षरी/-
(अशोक घोरपडे)
मुख्य उद्यान अधिक्षक तथा
सदस्य सचिव, वृक्ष प्राधिकरण
पुणे महानगरपालिका

जा.क्र.प्र.१/१३३६
दि. २८/०२/२०२३

Pune Mast
Page No. 6 Mar 01, 2023
Powered by: epaper.com

339

Date - 27th March 2023

Shri H.V.Gunale
Chief Engineer - Pune Division
Water Resources Department
Sinchan Bhavan
Mangalwar Peth,Pune 411 001
sepicpune@gmail.com
cewrd.punewrd@maharashtra.gov.in

Subject - Objections to proposed cutting and transplantation of over 7500 trees along the Mula Mutha riverbanks as per PMC notice no 1/1336/Dt 28/2/23 released by PMC in newspapers Indian Express and Lokmat dated 1/3/1023

Dear Sir,

We citizens hereby seek your intervention as the Chief Engineer - Water Resources Department ,Pune Division.

As per the powers,roles & responsibilities bestowed to you under the Maharashtra Irrigation Act, 1976 ,you are requested to take necessary action to cancel the PMCs proposal to cut and remove approx 7500 trees from the Mula Mutha river banks which fall under the jurisdiction of the Water Resources Department ( Irrigation ) of the State of Maharashtra.

The Indian Constitution Article 51-A (g), says that "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.As per Environment Protection Act 1986 it is the obligation of the state to provide a healthy environment to the citizens.

It is therefore highly objectionable that PMC should propose to cut full grown age old trees in the riparian forests of an ancient river which is the natural habitat of endemic flora and fauna. **These thousands of trees,vegetation and natural wetlands are part of the green zone within the prohibitive and restrictive zones marked by the blue and red floodlines of the river. Therefore any act of tree felling within these areas is illegal.**

**As Chief Engineer - Pune Division Water Resources Department,we demand that your office immediately passes orders to cancel the proposal by PMC.**

We have explained our objections in detail as below.

27.3.23
आवक लिपीक
मुख्य अभियंता (जसं),
जलसंपदा विभाग,पुणे-११.

NOTARY

340

| Point no | Our detailed objections |
|---|---|
| 1 | The proposal by PMC to cut and transplant over 7500 trees is illegal as there is no functional Tree Authority in PMC.The tenure of the last general body was over in Feb 2022 and since then the PMC is under state nominated administrator.<br><br>The Tree Authority comprises 15 elected representatives and up to an equal number of members of the public ,NGOs and experts.<br><br>It is hereby submitted that without a functional,democratic and representative Tree Authority the decision to propose cutting and transplanting thousands of trees is highly objectionable.<br><br>The Tree Authority of PMC currently is the state appointed administrator ie - PMC Municipal Commissioner who heads PMC which is also the project proponent of riverfront development and also the applicant for cutting/transplanting trees and also the first level approver for the tree cutting/transplantation proposal. Such an obvious conflict of interest is highly objectionable.<br><br>The Maharashtra (Urban Areas)Protection and Preservation of Trees Act, 1975 Sec 3(4) requires approval of decisions of Tree Authority of the general body in next meeting, However given that the damage to trees is irreversible and the general body is not elected yet, any decisive action on part of the state administrator acting as Tree Authority is equivalent to circumventing the process of democratic decision making which is highly objectionable. |
| 2 | 2a) PMC has not published the requisite detailed notice in several leading newspapers in Pune city as required by law. It was only published in two newspapers ( Annexure 1 ) on 1st March 2023 whereas Pune has more than 30 newspapers.<br><br>2b) The notice issued in newspapers ( Annexure 1 ) does not contain any details of the number of trees, location,project details etc, it only refers to the docket online on PMC website. Therefore such a notice is flawed as it conceals the requisite information by an act of deliberate omission of facts.<br><br>2c) The general public was deliberately not informed by other means like official press releases by PMC to disseminate such important information about a project of such magnitude with severe environmental impacts.<br><br>Therefore we object to the entire process and demand it to be scrapped. |
| 3 | The dockets uploaded on PMC website (Annexure 2 ) do not provide inspection reports of the Maharashtra State Forest Department as required by law.<br><br>The riparian zone of rivers is a dense forested area and is habitat to endemic flora and fauna and it is a deemed forest under Forest Protection Act. Any proposal to cut or transplant trees from riparian zones will negatively impact the aquatic life,birds,animals and reptiles many of which are protected species as per the Wildlife Protection Act. |

341

| | |
|---|---|
| 4 | The dockets uploaded on the PMC website do not provide inspection reports of the Pune District BioDiversity Management Committee nor any inspection report of the Wetland Committee which are statutory committees under the office of the District Collector. |
| 5 | The dockets have glaring omissions which are hereby placed on record<br><br>5.a) The age of trees mentioned span an extreme range ,for example the age mentioned for some trees is 5 years to 25 years and 8 years to 30 years for certain species.<br><br>It raises serious questions regarding the methodology used for calculating the age of trees and hence such flawed reports are objectionable.<br><br>5.b) Maximum native trees in the riparian zone are more than 50 years old and most of these trees should qualify as heritage trees as per the Maharashtra Preservation Tree Act Amendments 2021. However the dockets qualify ages of most trees in the range of 5 to 25 years.We object to the gross underreporting of the real ages of trees in the riparian zone of the Mula Mutha.<br><br>We believe that the intention of providing deficient data is to underreport the true age of trees and therefore our objection to the same. |
| 6 | The Expert Committee report is not attached with the docket- The experts are required to have inspected and surveyed the trees, made observations,taken photographs etc and made their expert comments. |

We thereby seek a line of confirmation of the action taken by your office to our request.

Thanking you,

Ms Vasihali Patkar Tel 9823235331
vpshali25@gmail.com

Mr Ravindra Sinha Tel 7774001188
sinha.ravindra@gmail.com

Mr Pushkar Kulkarni - 9767050711
pvk927@gmail.com

Address for correspondence
Ravindra Sinha
Flat no C-703,Camellia Apartments
Baner Pashan Link Road
Pashan,Pune 411 021

Copy to -

342

Shri Devendra Fadnavis
Hon Dy Chief Minister
Minister Water Resources Department
Government of Maharashtra
Mantralaya , Mumbai - 400021
DCM@maharashtra.gov.in

Shri Eknath Shinde
Hon Chief Minister
Minister Environment Department
Government of Maharashtra
Mantralaya , Mumbai - 400021
CM@maharashtra.gov.in

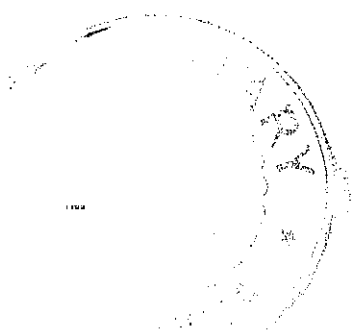
Mr Sudhir Mungantiwar
Minister for Forests, Cultural Affairs, Fisheries, Government of Maharashtra.
Government of Maharashtra
Mantralaya,Mumbai
min.env@maharashtra.gov.in

Secretary - Environment
Government of Maharashtra
Mantralaya,Mumbai
psec.env@maharashtra.gov.in

Principal Secretary - WRD
Government of Maharashtra
Mantralaya,Mumbai
psecwr.wrd@maharashtra.gov.in

The Chairman - Tree Authority
Pune Municipal Corporation
PMC Main Building
Shivajinagar
Pune 411 005
vikramkumar@punecorporation.org
mco@punecorporation.org

Shri Rajesh Deshmukh
District Collector Pune ,
Chairman District Bio Diversity Committee
New Collector Office, Pune - 411 001



343

collector.pune@maharashtra.gov.in

Shri Saurabh Rao
Divisional Commissioner - Pune Division
RajBhavan, Pune 411 001
divcom.pune@maharashtra.gov.in

Shri Praveen N.R.
Chief Conservator of Forests - Pune Division
Van Bhavan,Bhamburda,Van Vihar ,Gokhale Nagar PUNE 411016
Ccftpune@mahaforest.gov.in

Annexure A

जाहिरात

**पुणे महानगरपालिका**
**वृक्ष प्राधिकरण**
**जाहीर नोटीस**

महाराष्ट्र (नागरी क्षेत्र) झाडांचे संरक्षण व जतन अधिनियम १९७५; महाराष्ट्र (नागरी क्षेत्र) वृक्ष संरक्षण व संवर्धन नियम २००९; मे. उच्च न्यायालय, मुंबई यांचे जनहित याचिका क्र. ९३/२००९ चे दिनांक २०/९/२०१३ रोजीचे आदेश तसेच मे. महाराष्ट्र शासनाने वेळोवेळी पारित केलेले अध्यादेश, सुधारणा यास अनुसरून जाहीर नोटीस देण्यात येते की, पुणे महानगरपालिकेच्या हद्दीतील, परिमंडळ क्र. १,२,३,४,५ अंतर्गत १५ क्षेत्रीय कार्यालयाकडील १ ते २५ पेक्षाअधिक व वृक्ष १ ते २५ वृक्षांच्या पुढील पूर्ण वृक्ष कापणे / पुनर्रोपण करणे बाबतचा अडथळा ठरणारे / संतलेले वृक्ष / धोकादायक वृक्ष / रस्ता विकसनाच्या कामास अडथळा करणारे वृक्ष पूर्ण काढणे / पुनर्रोपण करणेस परवानगी देण्याबाबतचे प्रस्ताव संबंधित क्षेत्रीय कार्यालयात संबोधित मा. महापालिका सहाय्यक आयुक्त तथा वृक्ष अधिकारी, पुणे महानगरपालिका यांचेमार्फत व मा. वृक्ष तज्ञ समिती यांनी केलेल्या पाहणीचा अहवाल मा. अध्यक्ष तथा महापालिका आयुक्त, वृक्ष प्राधिकरण, पुणे महानगरपालिका तसेच वृक्ष प्राधिकरण समिती यांच्या समोर मान्यतेसाठी सादर करणेत येणार आहे.

सदरहू प्रस्तावांची तपशिलवार सविस्तर माहिती निर्देशपत्र स्वरूपात (Docket) पुणे महानगरपालिकेच्या www.punecorporation.org या संकेतस्थळावर "PMC Departments Tree Authority Tree Cutting/Replantation Docket" मार्च २०२३" या लिंकवर डाऊनलोड करता येईल अशा स्वरूपात उपलब्ध करून देणेत आलेली आहे.

सदरहू प्रस्तावांमधील वृक्षासंबंधी कोणाचेही आक्षेप असल्यास त्यासंदर्भात योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह लेखी हरकत अर्ज अथवा तक्रार संबंधित क्षेत्रीय कार्यालयात संबोधित मा. महापालिका सहाय्यक आयुक्त तथा वृक्ष अधिकारी, पुणे महानगरपालिका यांचेकडे दि. ०१/०३/२०२३ ते दि. १३/०३/२०२३ पर्यंत नोंदविण्यात याव्यात, मुदती मध्ये योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह आक्षेप अर्ज सादर करणात यावा, योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह आक्षेप अर्ज सादर न केल्यास तसेच मुदतीनंतर आलेले आक्षेप अर्ज फेटाळण्यात येतील याची नोंद घेण्यात यावी.

स्वाक्षरी/-
(अशोक घोरपडे)
मुख्य उद्यान अधिक्षक तथा
सदस्य सचिव, वृक्ष प्राधिकरण
पुणे महानगरपालिका

जाहिरात क्र. १/१३३६
दि. २८/०२/२०२३

Pune Main
Page No. 8 Mar 01, 2023
Powered by: arelego.com

True Copy
Advocate

Exhibit - T 344

SUNDAY Pune Mirror
PUNE, SUNDAY, APRIL 30, 2023 www.punemirror.com 18 Pages Invitation PRICE Rs 5
MAX 38 | MIN 20 | HUMIDITY 31%
TODAY | Scattered clouds | SUNRISE 0609 | SUNSET 1858
SMOOCH 81.71 | NIDO 1.05 | GOLD 59,300 | SILVER 70,200 | DOLLAR 82.75 | EURO 90.16 | POUND 102.47
feedback@punemirror.com facebook.com/thepunemirror twitter.com/thepunemirror instagram.com/thepunemirror
TO ORDER YOUR COPY, CALL 9881672123




## Thousands embrace Chipko movement, give our trees...



# A warm & tight hug

**Citizens gather at the riverside road in Deccan Gymkhana area against the cutting of 7,000 trees under the RFD project, also speak against BB-PP road project**

Prince Choudhuri & Nitin Gangarde
feedback@punemirror.com
TWEET @ThePuneMirror

Punekars from all walks of life and belonging to all age groups, flaunting placards with messages on the environment, gathered in their thousands to hug the trees as part of the 'Chipko Andolan' in the Deccan Gymkhana area on Saturday evening. Their message was loud and clear to the authorities: "Cut us before cutting our trees".

CONTINUED ON PAGE 4 »



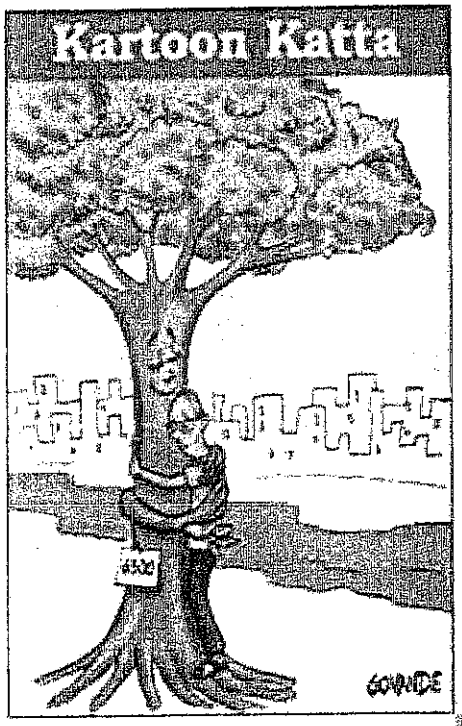
ALSO SEE PAGE 2

PHOTOS: RAHUL DESHMUKH

345





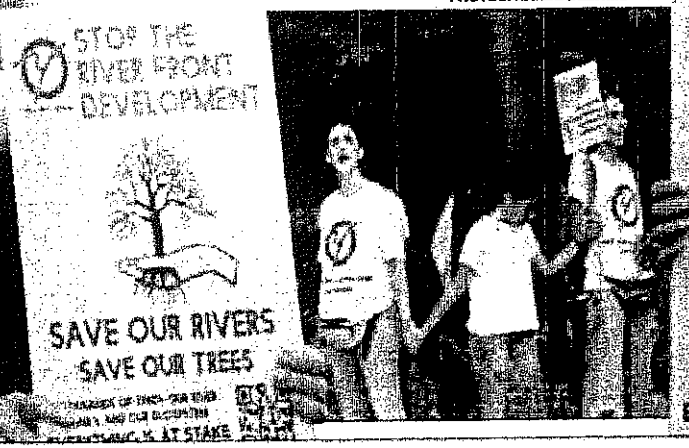



## SOLEMNLY YOURS

Punekars once again proved their love for nature by turning up in thousands for the Chipko Andolan against the planned cutting of over 7,000 trees for the Riverfront Development (RFD) project on Saturday. The protesters, including children and senior citizens, some foreigners too, marched from JM Road to the riverfront in the Deccan Gymkhana area while holding banners, placards and shouting slogans. They concluded the march by lovingly hugging the trees and assuring them that any harm to them won't be allowed.

PHOTOS: RAHUL DESHMUKH









(For all social, community, corporate, business, arts, culture and city events, email to feedback@punemirror.com)

346



# A warm & tight hug

CONTINUED FROM PAGE 1

A number of those who spoke to Mirror, which was the first newspaper to flag the campaign against the RFD and BB-PP road projects, looked determined that they will go to any lengths to stop the "destruction of the rivers, trees and hills in the city". The protesters marched against the proposed hacking of over 7,000 trees under the Riverfront Development project by hugging the trees along the river.

Professionals, environmentalists, nature lovers, social activists, politicians and citizens walked approximately 1.5 km from the main gate of Chhatrapati Sambhajiraje Garden towards the riverside road. Creative placards and sloganeering kept the spirits of the participants high. Some foreign nationals also joined the march after learning about the planned massacre of the trees.

## 'Clean up the river first'

Madhumita Ukhiyarkar, a participant of the event, said, "We are fighting to save the trees and the banks of the Mula-Mutha rivers. Punekes should unite against the Pune Municipal Corporation (PMC) as they will use our tax money to implement the proposed beautification of the riverfront, which is not necessary. They need to clean up the river first. We are not against beautification. We oppose the cutting of the trees."

Activist Vivek Velankar said that if the PMC wants to do something good for the river, it is not the RFD but fully functional STPs. "They want to waste taxpayers' money in beautifying the river, after which sewage water would be dumped into it. The whole project is meaningless and a waste of funds. If untreated sewage water is channelled into the river. The city produces 1,600-1,700 MLD sewage daily. Even after completion of the JICA STP project in 2025, there will still be 700-800 MLD sewage water that will be discharged into the river," he said.

"With the fast rising population in the city, the PMC should invest in STPs to a level that not a litre of sewage water is left untreated. The villages downstream use the river water that passes through the city. They get contaminated water since sewage is released into the rivers without treatment. Hacking of trees is just one aspect of it. There are many more environmental hazards that the RFD will bring to the city," said Velankar.

## 'It's riverfront destruction'

Environmentalist Sarang Yadwadkar said that the RFD should actually be read as "riverfront destruction". "The PMC is reducing the river width by 40 percent. According to the PMC's hydraulic report, the flood levels will rise by 5 feet and Pune is a flood-prone city. The annual rainfall will rise by 37.5 percent in a few years. Without permission, thousands of trees will be cut. This should be stopped."

Narendra Patwardhan, another participant in the protest, said, "We are here to save our dear river, which is one of the oldest on the planet. The RFD plan will kill it completely. We would rather have a living river than a made-up corpse of a river. We hope our voices are heard and the project is cancelled since it is about thousands of trees and the biodiversity surrounding it."

## For the love of nature

As the protest march concluded, the crowd gathered at the riverside road hugged trees and made a human chain around them. Local resident Mayuri Gandhi said, "I'm in this protest to show my support. This agitation is primarily to stop the tree-cutting, but ultimately, it is against the construction activity on the riverfront to protect the river. The present objective is to save the thousands of trees that face the axe."

Speaking to Mirror, Symbiosis Centre for Waste Resource Management director Manik Dhanurkar said, "The agitation organised by concerned citizens is very important to send a message to the civic administration on the environment. No trees means no water and, hence, no life. Consultants who are paid crores of rupees by the government should give genuine advice to protect the environment, which is why this protest is extremely important. We have no political support. This is a public movement. People are well aware. This is an issue of survival. If we don't act now, our future generations will suffer. Over 7,000 trees will be butchered. A huge tree-cutting process has already begun. It is really ridiculous."



Vasant More of MNS, who is known for coming up with creative ideas during protests, hogged the limelight. PHOTO: RAHUL DESHMUKH

## NCP leaders give it a miss

The city NCP leaders, who were a part of the GB meeting of the PMC that approved the RFD project with their support, were missing from the Chipko Andolan. They had, however, participated in the Bal Bharati-Paud Phata (BB-PP) road project to save Vetal Tekdi. Leaders from AAP, Congress and MNS have been protesting right from the beginning.

## Standing out from the crowd

Party leaders took extra care to make their presence felt with their speeches against the project. Vasant More of MNS, who is known for coming up with creative ideas during protests, hogged the limelight. Wearing a headgear resembling a peacock and feathers stuck on his back, the former corporator was a major attraction during the protest. Participants were taking selfies with More and party's environment wing head, Nitin Jagtap, who was dressed like 'Yamraj'.

More said, "We had opposed the project while it was tabled in the GB meeting in the PMC. The ruling party and one of the opponents voted for the project and got it approved. Our stand is clear: There should not be any hacking of trees."

NOTARY ... SURESH K. TAMBAKHALE ... REG. GREATER MUMBAI ... 2018

347

# Tree lovers gather in thousands to rally against PMC's project

## Chipko Andolan Decries River Devpt Calling For Loss Of Flora

TIMES NEWS NETWORK

Pu. . Over 5,000 residents of the city joined the Chipko Andolan on April 29 to oppose the Pune Municipal Corporation's (PMC) plan to uproot thousands of trees and destroy associated ecosystems on the banks of the Mula-Mutha river near Bund Garden.

Over 7,000 trees are to be uprooted on the stretch from Sangam Bridge to Kharadi alone, said agitation organisers.

Meanwhile, PMC has promised that a lower number of trees will be chopped in the first and second phases of the project — a declaration that citizens seem to have taken with a pinch of salt as it did not stop their protest.

The civic project plans to build embankments along 44km of the river. Citizens have mooted

▶ erfront project: What we stand to gain and lose | P6

that more than 1lakh trees might be under threat of being axed.

Now, the protesters have placed several demands before the civic body, says it must clean the rivers first, save the trees and forests along the banks, not reduce the width of the river, protect the natural flow of the river and groundwater reserves, and more.

City-based environmental activist Satish Khot said, "A huge number of people had come to Sambhaji Park on Jangli Maharaj (JM) Road for the protest on Saturday to object to the cutting of trees on the riverbed. Over 5,000 trees are in danger. PMC says if they will replace them. But don't the officials realise that it will take years and years for the old trees to be replaced? Trees help in absorbing carbon monoxide, which is very injurious to human health. We would like the PMC to not cut even a single tree on the riverbanks, so that citizens can breathe easy."

Khot further explained, "Replacing more than 7,500 old trees with concrete will have a major adverse effect on the temperature of Pune, which is already being impacted by climate change amid the reality of global warming. Decreasing the width of the river is likely to cause more floods in Pune, while concretizing riverbanks will impact groundwater and borewells."

Similarly, Shailaja Deshpande, founder-director of NGO Jeevitnadi, said, "We want the river's natural zone to be saved. The demands of citizens will be given in an official letter to the authorities. Failing to incorporate the same, our agitations will continue."

The rally on Saturday began from Chhatrapati Sambhaji Maharaj Park on JM Road at 5pm, with people raising slogans to voice their displeasure about the situation.

Environmental experts participating in the protest pointed out that nature-friendly river revival was possible and alternative approaches have been suggested to PMC.

The kilometre-long march proceeded onto the riverside road, where Chipko action was conducted. Many citizens symbolically hugged trees to show their opposition to the planned tree cutting. The walk ended near Garware Bridge, with the Chipko Andolan continuing with trees at the location.

Pics: Ashish Gupta

### GREEN BRIGADE EMBRACES ITS CAUSE





Saturday's rally began at 5pm from Chhatrapati Sambhaji Maharaj Park on JM Road, and headed over to the riverside road, ending near Garware Bridge. Thousands of citizens hugged trees to protest the civic body's plan to axe them for building embankments. **Citizens said the move will affect the city's temperatures, air quality, vulnerability to flooding and groundwater reserves**

**TIMES VIEW:** Well-known biodiversity experts have often said that the Mula-Mutha's riverbanks support a rich species of trees, some that are rare. Pune Municipal Corporation's plan to cut down thousands of trees for the riverfront development project is not healthy for the city. Citizens have time and again pointed out that Pune needs Mula-Mutha to look like a river instead of a sewage canal and run throughout the year. Concreting the riverbanks will only add to the heat islanding effect and make Pune's weather hotter.

NOTARY GOVT. OF INDIA
SHASHIK K. MANDREKAR
Regn. No. 4822

True Copy

Advocate

Exhibit - U 348

M

**पुणे महानगरपालिका वृक्ष प्राधिकरण जाहीर नोटीस जाहिरात क्र. 1/१३३६ दि.२८/०२/२०२३ अनुषंगाने सुनावणी (हिअरिंग) साठी उपस्थित राहण्याबाबत.**

1 message

**rohit Wasvand** <rohitwasvand9922@gmail.com> Thu, May 4, 2023 at 17:01
To: vpshali25@gmail.com <vpshali25@gmail.com>, sinha.ravindra@gmail.com <sinha.ravindra@gmail.com>, kajaldighe0@gmail.com <kajaldighe0@gmail.com>, meeramahajan@gmail.com <meeramahajan@gmail.com>, vasant_mns@yahoo.com, aratimaskar@gmail.com <aratimaskar@gmail.com>, vandanchavan@hotmail.com, shri_osval@yahoo.com, meghanasukhthanker@gmail.com <meghanasukhthanker@gmail.com>, archee60@gmail.com <archee60@gmail.com>, oxygenpune509@gmail.com <oxygenpune509@gmail.com>, tara.pathak@gmail.com <tara.pathak@gmail.com>, londheajay1000@gmail.com <londheajay1000@gmail.com>, gauri.bargi@gmail.com, tejaswitape@rediffmail.com, udaydel@yahoo.com <udaydel@yahoo.com>, varundavsshete@gmail.com, surendrabirje@gmail.com <surendrabirje@gmail.com>, sharsh76@gmail.com <sharsh76@gmail.com>, debashishshd@gmail.com, somanadidya26@gmail.com, niveditakumbhar08@gmail.com <niveditakumbhar08@gmail.com>, sameerbarde@gmail.com <sameerbarde@gmail.com>, yogi420@gmail.com <yogi420@gmail.com>, ashishkothari@riseup.net, ecological.society@gmail.com <ecological.society@gmail.com>, neerja_01@rediffmail.com, opveetee@gmail.com, aparnaharmarkar@yahoo.com, ambobhate@yahoo.com, maithli.ap@gmail.com, ecological.society@gmail.co, shailajadesh@gmail.com <shailajadesh@gmail.com>, soham_dere@yahoo.in <soham_dere@yahoo.in>

मा.महोदय,

पुणे मुळा, मुठा व मुळा-मुठा नदी पुनरुज्जीवन प्रकल्पाअंतर्गत अडथळा ठरणारी वृक्ष काढणे,पुनर्रोपण करणे याबाबत दैनिक वर्तमान पत्रांमध्ये नोटीस प्रसिद्ध करण्यात आल्या होत्या त्या अनुषंगाने हरकती व सूचनांबाबत सुनावणी घेण्यात येणार असून यासाठी जुना जी.बी. हॉल मनपा भवन दिनांक ०८/०५/२०२३ या कालावधीत सकाळी १०.०० ते दुपारी १.०० वाजेपर्यंत उपस्थित रहावे, हि विनंती.

मा. स. कळावे ...

(गुरुस्वामी तुम्माले)
प्र.सहा.उद्यान (वृक्ष) अधिकारी
वृक्ष प्राधिकरण विभाग
पुणे महानगरपालिका

True Copy
Advocate

NOTARY

Exhibit - V 349

V

Chilade
8/5/2023

पुणे महानगरपालिका

Date: 08th May 2023

To,
The Chairman - Tree Authority
Pune Municipal Corporation
PMC Main building,
Shivajinagar,
Pune - 411005

vikramkumar@punecorporation.org
mco@punecorporation.org

Sub: Absence of Tree Authority Chairman, PMC Commissioner during public hearing for proposed ~~tree~~ removal, cutting, transplantation of more than 7500 trees (ref:- notice no. I/1336 dated 28/02/2023) makes the hearing being conducted on 8th May 2023 null and void.

Dear Sir,

You being the Chairman of the tree authority for Pune Municipal Corporation are expected to chair the public hearing on the suggestions & objections ~~being~~ that were submitted post publishing of the notice no I/1336 dated 28/02/2023.

We the undersigned were present in the old GB hall in PMC main building for the public hearing on 8th May 2023 since 10AM. You Sir were absent from this public hearing & allowed the garden department officials, project consultant representatives, project departments officials to ~~carry~~ continue conducting the said hearing.

As such, this makes the public hearing of 8th May 2023 NULL & VOID.

Regards

Pushkar Kulkarni - Pushkar
Ravindra Sinha - Ravindra
Vaishali Patkar - Vaishali
Sarang Yadwadkar - Sarang
Uday Gorhe - Uday 08/05/23.
Shailaja Deshpande - Shailaja
Gurudas Nilkar - Gurudas 8/5/23

Shatakshi Gawade - Shatakshi
Hema Chari - Hema
Shaitaja Deshpande Shaitaja
Tanmayi Shinde - Tanmayi
Nishant Yadwadkar - Nishant
Swati Gote - Swati

350

Ajay (Ajay Phatak) Uma (Uma Khare) Manjiri S. Joshi Manjiri

Chaanta Palsodkar (Chaanta) Usha Bobade (UPBobade) Ovee Palsodkar. (Ovee)

Anand Palsodkar (Apalsodkar) Pritam Manare (Manare) Mrinalini Sartale (Mrinal Sartale

Santosh Lalwani (SKalwani) Veena Bhate (VKB) SANDIP (HAKSAB) Sandip

Soham Dere (Soham 8.5.23)

Mayuri Gokulkar (MGokulkar 8/5/23.)

True Copy
Advocate

NOTARY

Exhibit - W 351

पुणे महानगरपालिका
वृक्ष प्राधिकरण विभाग

विषय : पुणे मुळा –मुठा नदी पुनर्जीवन प्रकल्पा अंतर्गत अडथळा ठरणारे वृक्ष काढणे /पुनर्रोपण करणे या प्रस्तावाकरिता आलेल्या आक्षेप सुनावणी इतिवृत्त

वार : सोमवार दि. ०८/०५/२०२३

वेळ : सकाळी १० ते १

स्थळ : जुना जी. बी. हॉल , पुणे महानगरपालिका, शिवाजीनगर , पुणे ०५

---

पुणे महानगरपालिका परिमंडळ १ व २ कडील १)ढोले पाटील रोड क्षेत्रीय कार्यालय २)येरवडा – कळस-धानोरी क्षेत्रीय कार्यालय ३) नगररोड- वडगावशेरी क्षेत्रीय कार्यालय ४) शिवाजीनगर घोले रोड क्षेत्रीय कार्यालयाकडील पुणे मुळा –मुठा नदी पुनर्जीवन प्रकल्पा अंतर्गत अडथळा ठरणारे वृक्ष काढणे /पुनर्रोपण करणे प्रस्तावांवर प्राप्त आक्षेपांवर आज दि. ८/५/२०२३ रोजी सुनावणी ठेवण्यात आली.

वृक्ष प्राधिकरण समिती मा. सदस्य सचिव यांनी उपस्थित आक्षेप कर्त्यांना माहिती देताना सांगितले की, आलेल्या प्रस्तावावर महाराष्ट्र नागरी क्षेत्रे संरक्षण व जतन अधिनियम १९७५ मधील तरतुदी नुसार मुळा-मुठा नदी सुधार प्रकल्पा अंतर्गत अडथळा ठरणारे वृक्ष काढणेकामी जा.क्र. १/१३३६ दि. २८/०२/२३ चे स्थानिक वृत्तपत्रामधून जाहीर नोटीस प्रसिद्ध करण्यात आली होती या जाहिराती नुसार नागरिकांनी आक्षेप / हरकती नोंदविलेल्या आहेत.नागरिकांचे म्हणणे ऐकून घेण्यासाठी आज दि. ०८/०५/२०२३ रोजी सुनावणी ठेवण्यात आली आहे.

सदर सुनावणीस आक्षेप कर्त्यांना सुनावणीसाठी उपस्थित राहणेसाठी दि. ०४/०५/२०२३ रोजी मेल करून, व्हॉटस अप वर कळविण्यांत आले आहे.

पुणे शहरातील नागरिकांचा सहभाग कलाटणी देणारा आहे. आज सर्वांना आपले मत मांडण्याची संधी दिली जाणार असून नागरिकांनी कृपया झाडांविषयी चर्चा करावी आपण मांडलेले मत /अभिप्राय /सूचना तक्रारी या महाराष्ट्र शासनाकडे पाठविल्या जाणार आहेत. सुमारे १५० जणाचे हरकती अर्ज प्राप्त झालेले आहेत सर्वांचे व्हिडीओ व ऑडीओ रेकॉर्डिंग केले जाणार आहे. असे मा. श्री. अशोक घोरपडे, सदस्य सचिव , वृक्ष प्राधिकरण यांनी सांगितले.

सदर सुनावणीस पुणे महानगरपालिकेकडील मा. श्रीनिवास बोनला (प्रकल्प अधिकारी), मा.श्री.युवराज देशमुख , अधिक्षक अभियंता प्रकल्प , मा. श्री. सुरेंद्र कर्पे अधिक्षक अभियंता प्रकल्प मा. श्री. अशोक घोरपडे, सदस्य सचिव , वृक्ष प्राधिकरण श्री. रवी खंदारे , वृक्ष अधिकारी घोले रोड क्षे. कार्या., श्री.ज्ञानदेव सुपे, वृक्ष अधिकारी, ढोले पाटील रोड क्षे. कार्या, श्री. चंद्रसेन नागटिळक वृक्ष अधिकारी येरवडा –

सदर माहिती, माहिती अधिकार
अधिनियम - २००५, अंतर्गत दिली आहे

352

कळस- धानोरी क्षे. कार्या, श्री. सोमनाथ बनकर,वृक्ष अधिकारी नगररोड-वडगावशेरी क्षे. कार्या, श्री. गुरुस्वामी तुम्मालें , सहा.उद्यान अधिक्षक , परिमंडळ क्र. १ व २ व मनपा अधिकारी श्री. गणेश अहिरे, श्री.बी.डी.मचाले, श्री. मुकुंद शिंदे, श्री. राजेश धुमाळ श्री.आंबे पंकज इ.

तसेच आक्षेप कर्ते श्रीमती.वैशाली पाटकर, श्री.रविंद्र सिन्हा, पुष्कर कुलकर्णी , श्री. कनीज सुखरानी , श्री.सुभाष गायकवाड, श्री.मनिष , श्री.डी .टी. देवरे, श्रीमती मंजिरी जोशी, श्रीमती. वीणा भाटे , श्रीमती शैलेजा देशपांडे, श्रीमती शताक्षी गावडे, श्री. संदीप चक्रवर्ती , श्री. अंकुश मोटे , श्रीमती हेमा चारी , श्री.सोहम ढेरे , श्रीमती मयुरी गोकुळकर ,श्रीमती प्रियंवदा गंभीर , श्रीमती तन्मयी शिंदे , श्री. गुरुदास नरुलकर श्री.किशोर रजपूत , श्री. अजय फाटक, श्रीमती चारुता पळसोदकर श्री. निशांत यादवाडकर, श्री.सारंग यादवाडकर, श्रीमती स्वाती गोळे, श्री.अमित गोडबोले ,श्री. युवराज परिचे , श्री. गणेश शिरोडे , श्री.राम थरकुडे, श्री. गणेश काकडे, श्री. नंदकुमार मंडोरा , श्री. सागर दळवी, श्रीमती. उमा खैरे , श्री. सुभाष ललवाणी , श्री. नितीन जगताप , श्री. प्रीतम मनोरे , श्री.श्रीयश ओसवाल, श्री नंदकिशोर लोंढे, श्रीमती मृणाल वैद्य ,श्री.प्रदीप धुमारे इत्यादी सुनावणीस उपस्थित होते.

**सदर सुनावणी दरम्यान आक्षेप कर्ते यांनी खालीलप्रमाणे मुळा –मुठा नदी पुनर्जीवन प्रकल्पा अंतर्गत आपले मत नोंदविले.**

१) <u>रविंद्र सिन्हा</u> : शहराचा नागरिक असून पुणे मुळा –मुठा नदी पुनर्जीवन प्रकल्पा अंतर्गत अडथळा ठरणारे वृक्ष काढणे /पुनर्रोपण करणे या प्रस्तावावर मी हरकत घेतली आहे.

२) <u>वैशाली पाटकर</u> : श्री. रविंद्र सिन्हा यांनी जे मत मांडले आहे त्याला माझी सहमती आहे. पर्यावरणाची हानी न होता पर्यावरणाचा कसा समतोल राखला पाहिजे माझी या प्रस्तावास हरकत आहे.

३) <u>पुष्कर कुलकर्णी:</u> हा प्रस्ताव जेव्हा नागरिकांन समोर मांडण्यात आला तेव्हा इतकी झाडे काढणार याचा उल्लेख नव्हता तसेच एकही झाड बाधित होणार नाही असे सांगिलते होते. इतकी झाडे काढणार मग त्यांचे पुनर्रोपण नवीन वृक्ष लागवड कोठे करणार यांचा उल्लेख केलेला नाही. इरिगेशन डिपार्टमेंट परमिशन घेतलेली नाही या प्रस्तावास माझा विरोध आहे.

४) <u>उदय जगन्नाथ गोन्हे</u> : मी पुण्याचा जागरूक नागरिक म्हणून सुनावणीसाठी आलो आहे. मी २२ मार्च २०२३ , ५ मे २०२३ , १० मे २०२३ या दिनांकाला हरकती नोंदविल्या आहेत त्या मधील ठळक मुद्दे मांडू इच्छीतो श्री. रविंद्र सिन्हा, कविता पाटकर, पुष्कर कुलकर्णी यांनी मांडलेल्या मतांना माझा पाठिंबा आहे. मनपाने जो प्रस्ताव प्रसिद्ध केला आहे. त्यामध्ये किती झाडे कांढणार यांचा उल्लेख नाही १५ एप्रिलला माझ्या पाहणी नुसार संगमवाडी पट्ट्यात झाडे गाडली गेली आहेत. मी पाठविलेल्या तक्रारीस उत्तरही पाठविलेले नाही. इ-मेल मध्ये मी फोटो जोडले आहेत. माझे म्हणणे रेकॉर्डवर घ्यावे असे सुचवत आहे . हायवेला झाडे काढण्यात आली त्या झाडांचे पुनर्रोपण केले ती झाडे वाळली आहेत. पुनर्रोपण हे दिशाभूल करणारे आहे.

परिशिष्ट १: नदी सुधार प्रकल्प मुख्य अहवालात नमूद पान क्र. १३९ (४-४), पान क्र. १४९(४-४) पान क्र. १९९ (५-७) पान क्र २०० (५.७ ) पाहता यामध्ये मनपाला कोणतीही परवानगी देण्यात आलेली नाही.

परिशिष्ट २ : SEAL बैठकीचे पान नं. ५ सोबत जोडलेले तक्ते रिकामे आहेत ही दिशाभूल आहे.

संगमवाडीला सर्व झाडे गाडलेली आहेत, त्या झाडांची कत्तल झाली आहे. मी ०८ मे च्या इ-मेल मध्ये फोटो जोडलेले आहेत. मी केलेल्या तक्रारीचे उत्तरही देण्यात आलेले नाही. सर्व मुद्दे

सदर माहिती, माहिती अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

353

रेकॉर्डवर घ्यावेत सर्व पंचनामे व्हायला हवेत हायवेला झाडे कापली आहेत. त्यांचे पुनर्रोपण केलेले नाही. मनपाचा पुनर्रोपणाचा मुद्दा हा दिशाभूल करणारा आहे. दुसरा ई - मेल – मुळा –मुठा नदी पुनरुज्जीवन करण्याचा मुद्दा –ऑक्टोबर २२ नुसार मनपाने मंजुरी मिळवणे आवश्यक आहे. वेगवेगळ्या प्रसंगी दिघे सर, इंजिनिअर सर बोलतात ती आकडेवारी वेगवेगळी आहे. दिलेल्या टेबलनुसार किती झाडे काढणार किती पुनर्रोपीत करणार मला तक्ता भरून द्यावा. झाडे हि आमची नाजूक बाब आहे. तुम्ही जे डॉकेट तयार केले आहे. त्यानुसार आम्ही संगमवाडी येथे गेलो होतो आम्हाला तेथे सांगण्यात आले हि जागा संरक्षण खात्यांतर्गत आहे. तेथे दिशाभूल करणारी माहिती मिळाली संरक्षण विभागाची परवानगी आहे का ? यांचे उत्तर मनपाने द्यावे.

मनपा अधिक्षक युवराज देशमुख यांचे १ मे चे ट्वीट आहे की झाडे कापली जाणार नसून झुडपे कापली जाणार आहे, पण झाडे कापली जात आहेत झुडपे नाहीत वृक्ष अधिकारी यांनी दिलेल्या नोटीसा सर्व अधिकारी चुकीचे सांगतात. नदीकाठचा जो झोन आहे तिथे झुडपे गवत पक्षी, प्राणी सरपटणारे प्राणी असतात.झाडे कापली गेल्याने त्यात पक्षी प्राणी मरून पडले आहेत. हे सर्व पक्षी / प्राणी आक्रोश करतात. त्याची हत्या करू नका झोन मध्ये विशिष्ट झाडाच्या जाती असतात त्यांचे काम तापमानचं रक्षण करणे हे असत हरित छत्र निर्माण करणे पाण्याचे बाष्पीभवन करणे क्रिया झाडांमुळे उन्हाळ्यात कार्यरत असते झाडामुळे सुविधा मिळत आल्या आहेत . त्या यापुढे हि मिळत जावो.झाडांच्या मुळामध्ये प्राणी अंडी घालतात काँक्रीटी करणामुळे ते शक्य होणार नाही. नवीन पिढी हे मान्य करतात की सिमेंट काँक्रीटीकरणामुळे गटर होणार आहे. तज्ञांच्या अभिप्रायानुसार पर्यावरणाचा ऱ्हास न होता वृक्ष संवर्धन करण्यात यावे. असे म्हटले आहे झाडांची कत्तल केल्याने भयंकर तडाखा बसणार आहे झाडांची कत्तल पुणेकरांना अजिबात मान्य नाही. मला उत्तर देण्यासाठी भरपूर वेळ घेतला आहे. २२ मार्चला केलेल्या मेल मधील मुद्दे १,२,३,४,५,६ या मुद्द्यांना सविस्तर उत्तर मिळणे अपेक्षित आहे. पण त्याचे उत्तर नाही मला लेखी उत्तर पाहिजे हे काम अनधिकृत आहे.

५) <u>कनीज सुखरानी</u>: आधीच्या वक्त्यांना माझा पाठींबा आहे. झाडाची कत्तल होऊ नये.

६) <u>सुभाष गायकवाड (ऑक्सिजन ग्रुप )</u>: महाराष्ट्र नागरी क्षेत्र झाडांचे संरक्षण व जतन अधिनियम १९७५ मध्ये ज्या बाबी आहेत त्यानुसार जी झाडे काढणार आहेत त्यांच्या बदल्यात शेकडो झाडे लागणार आहेत ती लावायला जागा कुठे आहे झाडे कोण लावणार आहेत मनपा ने आपले मत नीट मांडावे तसेच वृक्ष वाचणार की काढणार आहे. हा प्रकल्प राबविताना त्यामागचा हेतू जाणणे महत्वाचे आहे. यापूर्वी १८५० साली हा प्रकल्प करण्याचा प्रयत्न झालेला आहे १९६० सालचा ग्रंथ आहे . त्यामध्ये असा उल्लेख आहे की १८५० साली ब्रिटीशांनी राबविलेल्या प्रकल्पामुळे ७० वर्ष पुणेकरांना डासाचा त्रास सहन करावा लागला आहे बंधाऱ्याची उंची कमी केल्यानंतर डासांचा प्रादुर्भाव कमी झालेला आहे. आता प्रत्येक जन दिशाभूल करणारे उत्तर देतो आहे. सर्वजण हा प्रस्ताव रेटून नेण्याचा प्रयत्न करत आहेत. या प्रस्तावामध्ये खूप जुनी १००-१०० वर्षाची झाडे आहेत. नवीन झाडे वाढायला किती तरी वर्ष लागतात . जास्तीत जास्त झाडे वाचवावीत.

७) <u>मनिष (ऑक्सिजन ग्रुप )</u>: श्री. गायकवाड यांनी मांडलेल्या मताशी सहमत आहे पाठींबा आहे.

८) <u>मंजिरी जोशी</u> : आता पर्यंत सर्वांनी मांडलेल्या मुद्द्यांना माझा पाठींबा आहे.पुण्याच्या सांस्कृतिक वारसा नदी , झाडे आहे . झाडे पुणेकरांच्या जिव्हाळ्याचा प्रश्न आहे. झाडे तोडण्यास माझा विरोध आहे. मेट्रोने पुनर्रोपण केलेली टेकडीवरची झाडे हि जगलेली नाहीत सगळी झाडे वठलेली आहेत.

सदर माहिती, माहिती अधिकार
अधिनियम - २००५, अंतर्गत दिली आहे

354

काही वर्षांपूर्वी इंद्रधनु तर्फे झाडे फुकट वाटली होती. झाडे जगवा झाडे लावा प्रकल्प केला होता. या नदी सुधार प्रकल्पातील झाडे काढण्यास माझा विरोध आहे.

९) वीणा भाटे : उपस्थित सर्वांचे आभार सर्वांनी मांडलेल्या मताशी सहमत आहे. माझा त्यांना पाठींबा आहे. झोन मधील झाडे काढू नयेत त्याबदल्यात जी झाडे लावणार आहेत. पुनर्रोपीत करणार आहेत ती वाढायला कित्येक वर्ष लागणार आहेत. या प्रस्तावास माझा विरोध आहे.

१०) शैलेजा देशपांडे : मी सजग नागरिक आहे. वृक्षतोडीस माझी हरकत आहे. नदीकाठची वृक्षतोड झाली नाही पाहिजे. या सर्वांच्या मताशी मी सहमत आहे. मी जे सोबत फोटो टाकलेले आहेत त्यामध्ये पान, जांभूळ, रोपटे हि बाधित होणारी वृक्ष फक्त नदीकाठी येतात. झाडाच्या झाडोरा जिवंत राहिला पाहिजे. प्रसिद्ध केलेल्या डॉकेट मध्ये जे नंबर आहेत ते दिसत नाहीत त्यांची उंची वय हे चुकीचे दाखविले आहे. तज्ञांनी दिलेल्या अभिप्रायानुसार निसर्गाची मोठी हानी होणार आहे जे सुभाबुळ , कुबाभूळ आहे ते वाढवायचे जपायचे वृक्ष काढण्यास माझी हरकत आहे.

११) शताक्षी गावडे : हरकती मध्ये जरी १५० लोकांनी आक्षेप घेतला असेल तरी हजारांचे वर जास्त लोक मोर्चाद्वारे रस्त्यावर उतरली होती जी झाडे आहेत ती पुर्रोपित होऊ शकत नाहीत वृक्ष काढणे / पुनर्रोपण करणे हा प्रस्ताव थांबवीला पाहिजे . नवीन वृक्ष लागवड शास्त्रीय पद्धतीने होत नाही. प्रोजेक्ट मिटिंग मध्ये त्याचा उल्लेख नाही ७००० पेक्षा जास्त झाडे काढणार हा प्रस्ताव झाला कुठून ? मी मेल पाठविलेली आहे सबमिट करून घ्यावी या प्रस्तावास माझा विरोध आहे.

१२) संदीप चक्रवर्ती : या अगोदर मांडलेल्या हरकतीनां माझा पाठींबा आहे. या सर्वा वरोवर मी आहे मी जास्त लेक्चर देणार नाही पुणे हे स्पेशल आहे. हि सर्व वृक्ष काढली तर नवीन वृक्ष यायला खूप वर्षे लागतील

१३) हेमा चारी : आता पर्यंत मांडलेल्या सर्व हरकतीनां माझा पाठिंबा आहे.

१४) सोहम डेरे : हा प्रोजेक्ट होतो आहे हे पुण्यातील ९५ % लोकांना माहितच नाही सर्वांनी मांडलेल्या मुद्द्यांना माझा पाठींबा आहे फक्त १५० लोकांनी मेल पाठवून हरकत नोंदविली . सर्वांनी मेल पाठविले असता तर येथे बसायला जागा मिळाली नसती या सुनावणी साठी सुट्टीचा वार शनिवार , रविवार ठेवण्यात यावा.

१५) मयुरी गोकुळकर : पुणेकर नागरिकांच्या मुद्द्यांना माझा पाठींबा आहे. तोटा हा कायमस्वरूपी होणार आहे. माझी हरकत आहे.

१६) प्रिया गंभीर : सर्व नागरिकांनी सांगितलेले मुद्दे मला मान्य आहे मी पुण्याचा दक्ष नागरिक आहे सन १९८० ते १९८७ मध्ये धरणातून सोडलेले पाणी हे पलीकडे गेलेले नाही यावरून पुराची कल्पना आपल्याला येऊ शकते. झाडांनी आम्हांला वाचविले कृपया झाडांची कत्तल करू नका ही विनंती.

१७) तन्मयी शिंदे : वृक्ष तोडली तर भविष्यात वातावरणीय बदलाच खुप परिणाम होणार आहे त्याचा त्रास सहन करावा लागणार आहे. २२ वर्षात एवढा उन्हाळा सहन केला नव्हता आजकाल ४० डिग्री मध्ये इतका उन्हाळा सहन करावा लागत आहे. हजारो लाखो पक्षी त्या झाडावर अवलंबून असतात. इंजिनिअर्सला कळत नाही की बायोडायव्हर्सी काय आहे ते ! ७८० लोकांच्या स्वाक्षरीचे पत्र सादर करीत आहे ते सबमिट करून घ्यावे.

१८) गुरुदास नूलकर : सर्वांना माझा पाठींबा आहे .इथे समोर बसलेल्या अधिकाऱ्यांमध्ये कोणी इकोलॉजीस्ट, बॉटेनिस्ट आहेत का ? असतील तर हात वर करा तुम्ही आक्षेप सुनावणीला कुठली

सदर माहिती, माहिती अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

355

लोक बसवली आहेत. आतापर्यंत झालेल्या चर्चेनुसार आम्ही नैसर्गिक साहित्य वापरणार असे बोलेले जाते. आर सी सी वापणार नाहीत असे सांगिलते होते. देशमुख यांनी सांगिलते सुबाभूळ काढणार आहोत या ठिकाणी प्रोजेक्ट कन्सलटंटचा माणूस कसा उपस्थित आहे. आयुक्त साहेब यांनी उपस्थित राहिले पाहिजे होते.

१९) <u>किशोर रजपूत :</u> मा. आयुक्त, वृक्ष अधिकारी, पर्यावरणाचा संरक्षणासाठी आलेल्याचे स्वागत करीत आहे. ज्यावेळी या प्रस्तावाची जाहीर नोटीस आली त्याचा धक्का बसला नदी सुधारणेसाठी आमचा विरोध नाही वृक्ष काढण्यासाठी विरोध आहे. गारवा नष्ट होणार आहे आतापर्यंत कितीकार्यक्रम झाले त्यातून नदी स्वच्छ झाली का ? नदीचे गटारीकरण झालेले नाही नदी काठी नाक बंद करून उभे राहू शकणार नाही. नदी स्वच्छ व्हावी हि सर्वांची इच्छा आहे. पक्षांची अंडी पिल्ले वाचवावीत यासाठी प्रयत्न केले पाहिजेत या प्रकल्पामागे ६७०० झाडे काढणार आहे.पक्षांचा विचार केला तर या ठिकाणी नैसर्गिक रित्या पक्षांचा अधिवास आहे. त्यावरील घरटी त्यांची पिल्ले हे सर्व नष्ट होणार आहे. जो पक्षी पर्यावरणाचा पहिला मित्र असतो निसर्गाचा मित्र आहे त्याचा आपण सर्व्हे केलेला आहे का ? नदी सुधारणेला माझा विरोध नाही पण वृक्ष काढणेस माझा विरोध आहे. वृक्षांच्या वया इतके वृक्ष कुठे लावणार आहे यामध्ये भरपूर तफावत आहे वृक्ष काढण्यास विरोध आहे.

२०) <u>अजय फाटक :</u> नागरिकांच्या सुविधेसाठी नदी सुधारणा आवश्यक आहे काहीही बदल न करता प्रकल्प राबविता येऊ शकेल रायपिलिंग झोन जर बंद झाले तर उन्हाळयात जे वृक्षांना पाणी पुरवितात ते बंद होणार आहे झरे उन्हाळयात बंद होतात झाड हे पर्यावरणाचा घटक आहे.

२१) <u>चारुता पळसोदकर :</u> पुणे तिथे काय उणे भारत भराच्या लोकांना पुण्यात रहायला आवडते.झाड नसेल तर तपमान वाढले जाईल पाण्याचा प्रश्न वाढेल झाडांना वाचवून जर प्रकल्प होणार असेल तर हरकत नाही पुण्यात लोकांना का रहावसं वाटत तर पुण्यात पर्यावरणाची माहितगार लोक आहेत.

२२) <u>सारंग यादवाडकर :</u> आता सर्वजण बोलून गेले आहेत विनंती करतो की उपस्थित असलेल्या किती जणांन हा प्रकल्प पाहिजे त्यांनी हात वर करा कोणीही हात वर केला नाही. येथे जेवढे पुण्याचे नागरिक आलेले आहेत ते काही मूर्ख नाहीत इथे आलेले सर्वांचा झाडे काढण्याच्या प्रस्तावास विरोध आहे. युवराज देशमुख सरांनी जो मुद्दा मांडला त्यावर मी उत्तर पाठविले आहे त्यावर त्यांचे उत्तर आलेले नाही . जे रेकॉर्डिंग चालू आहे ते सर्वांना द्या. जी झाडे काढणार आहे त्या बदल्यात ६५००० ते ७०००० झाडे लावाणार त्याला जागा आहे का? कुठे लावणार आहेत ? या प्रोजेक्टला DPR आहे पान नं. १३९ झाडांचे संरक्षण करणार आहे. हेरीटेज वृक्षांचे संरक्षण करणार पुण्यातील झाडे प्रॉप्रर्टी हि प्रायव्हेट प्रॉप्रर्टी नाही तुम्ही झाडे काढायला सुरुवात केली आहे.पक्षांचा विचार केला नाही वाहन क्रमांक नसलेले डंपर्स साईट वर येतात कसे ? तुमच्याकडे कोणी सुपरवायझर स्टाफ नाही का ? कायदेशीर बाबु सगळयांना विनंती आहे घरी जा मुलांसमोर बसा त्यांच्या डोक्यावर हात ठेऊन विचारा झाडे काढणे योग्य आहे का ?

२३) <u>स्वाती गोळे :</u> पर्यावरणाशी संबंधातील कोर्स करते आहे. त्यामध्ये नदीचा अभ्यास झाला आहे. नदीला नैसर्गिक पात्र आहे ज्यात बदल घडविला जात आहे. नदीचा काठ महत्वाचा आहे त्यात बदल घडवू नयेत. या प्रकल्पाला माझा विरोध आहे.

२४) <u>अमित गोडबोले :</u> सर्वजण बोलेले आहेत त्याला माझी संमती आहे. तसेच पॉईट रिपीट करणार नाही हा जो प्रकल्प आहे तो चुकीच्या दिशेने चालला आहे हे चुकीचे चालले आहे. इमोशनली, इकोलॉजी , फिजिकल, तर्कशास्त्र पद्धतीने घेतले तर या गोष्टीला अर्थ नाही. झाडे तोडली जातात त्यासाठी खोटे

माहिती, माहितीचे अधिकार
अधिनियम-२००५, अंतर्गत दिली आहे

356

बोलून अधिकार गाजवून हे काय चाललें आहे. १७ वर्षा पासून चर्चा करता आहात अस दिसतच तोंडाला पाने पुसायचे काम चालू आहे सगळे मुद्दे विचारात घेता वृक्ष अधिकारी म्हणून तुम्हे स्टेआणणार काय यानंतर पुन्हा कधी सुट्टीला घेणार काय विकेंड पर्यंत तुमच्या अधिकारात एखादी मिटिंग घेणार का? तुमच्या दहा जणांकडून जबाबदारीने उत्तर मिळणार आहे का ?

२५) युवराज परिचे: विधान सभेत पण हा मुद्दा मांडण्यात आला कायदा येतो जातो हा कायदा आणला कोणी? आमचा या प्रकल्पाला पूर्ण विरोध आहे यासाठी आम्ही तीव्र आंदोलन करू. वृक्ष लावणार कोठे यांचे उत्तर द्या. मार्केटयार्ड ते स्वारगेट किती झाडे तोडली यांचे रेकॉर्ड उपलब्ध नसेल. हा प्रकल्प थांबवावा . तुमच्याकडे कोणत्याही प्रश्नांचे उत्तर नाही माझा विरोध आहे.

२६) गणेश शिरोडे : पुण्यात एवढे तज्ञ असताना बाहेरचे तज्ञ का ? विरोध आहे .

२७) राम थरकुडे : वृक्षतोड चालू आहे त्यांचे पुनर्रोपण कोठे करणार आहे या वृक्षतोडीला विरोध आहे.

२८) नंदकिशोर लोंढे : आयुक्तांशी चर्चा केली आहे हा विषय नागीकांच्या भावना समजून करण्यात यावा. हा विषय मा.उद्धव सो.ठाकरे , मा.श्री आदित्य ठाकरे, यांचेकडे मांडला आहे. या सर्व विषयामध्ये नागरिकांची मते संस्थेची मते विचारात घेऊन निर्णय घेण्यात यावा.

२९) नंदकुमार मंडोरा : वृक्ष तोडण्यासाठी १०००० रु. डीपॉझीट घेतो ६५००० झाडे लावणार त्यांचा तकाशा कुठे आहे.? हि झाडे लावणार कोण येथे उत्तर देणारे अधिकारी बसवा . वृक्ष काढण्यासाठी वृक्ष अधिकारी, आयुक्त,शासन अशी परवानगी दिली जाते. आयुक्तांना अधिकारआहे. झाडे तोडण्याचा प्रकल्प करताना नागरिकांचा विरोध नाही. परंतु ६००० झाडे का वाचवू शकत नाही वृक्ष संवर्धन व संरक्षण हा मुख्य मुद्दा असताना आपण काय करतो. या सुनावणीस कोणी उत्तर देत नाही प्रत्येकाचा विरोध आहे झाडे वाचवा. या प्रकल्पास विरोध आहे.

३०) उमा खैर : मी खूप लोका बरोबर काम केलेले आहे आपल्याकडे जे आहे ते सांभाळून काम केले पाहिजे हा प्रकल्प म्हणजे जुन्या गोष्टी काढून नवीन गोष्टी लावण्यासारखे आहे माझी हरकत आहे.

३१) संतोष ललवाणी : आता पर्यंत मांडलेल्या सर्व मतांशी मी सहमत आहे. निसर्गामध्ये मानवी हस्तक्षेपाची गरज नाही. जायका प्रकल्प २०१६ पासून प्रलंबित आहे. हा प्रकल्प इतका पुढे का रेटला जातो आहे. ५००० पुणेकर विरोध करण्यासाठी रस्त्यावर उतरले होते. या प्रकल्पास विरोध करणारे पुणेकर आहेत त्यांचा विचार करावा.

३२) नितीन जगताप: ४००० पेक्षा अधिक झाडतोडी संदर्भात सुनावणी घेतली जात आहे. या सुनावणीसाठी आयुक्तांनी उपस्थित राहणे गरजेचे आहे. हा प्रस्ताव संमत झाला आहे का ? २०० पेक्षा जास्त झाडांना राज्य शासनाची परवानगी घेतली आहे का? बाळूंज , करंज हि झाडे देशी आहेत काय ? मग त्याचा उल्लेख डॉकेट मध्ये कसा करण्यात आला ? पुनर्रोपण केल्या जाणाऱ्या वृक्षांची जगण्याची हमी कोण देणार आहे. काहीं झाडांचे पुनर्रोपण केले तर ती जगू शकत नाही तर त्यांचे काय ? या प्रकल्पास विरोध आहे मुळा –मुठा नदीची मालकी हि कोणाकडे आहे मनपाकडे त्याची मालकी आहे का ? शासन व प्रशासन म्हणून तुम्ही काम करीत आहात. आपण हा विषय आयुक्तांपुढे मांडावा व त्याचा विचार करावा.

३३) प्रीतम मानवे : नदी प्रकल्पास सुबाभूळ झाडे आहेत की दुसरे वृक्ष आहेत.

सदर माहिती, माहिती अधिकार
अधिनियम - २००५, अंतर्गत दिली आहे

357

३४) श्रीयश ओसवाल: मी पर्यावरण प्रेमी नागरिक आहे. येथे कोणी तज्ञ असण्याची गरज नाही.झाडे कापू नका. इतकाच विषय आहे. चुकीचे मार्गदर्शन करू नका. व्याजाने पैसे घेऊन सुशोभिकरण का करता आहात.

३५) वैद्य मृणाल : ९५% लोकांना या वृक्षतोड प्रस्तावाबाबत माहीतच नाही पेपर मध्ये बातमी वाचल्यानंतर लोकांना माहित पडले आहे. झाडे कापून काय विकास होणार आहे. या प्रकल्पास आमचा विरोध आहे.

३६) प्रदीप घुमारे : आज घेतलेल्या आक्षेप सुनावणी बैठकीत मी सर्व अधिकाऱ्यांचा आभारी आहे. इतक्या प्रचंड प्रमाणात होणाऱ्या वृक्षतोडीमुळे निसर्गाची मोठ्या प्रमाणात हानी होणार आहे.तापमानात बदल होणार आहे. आज संपूर्ण जगात नदी सुधार प्रकल्प राबविले जात आहेत. तेथे प्रवाह बदलले जात नाहीत. या प्रकल्पास माझा विरोध आहे.

३७) सारंग यादवाडकर : या नद्या अंत्यत भीषण अवस्थेत आहेत. येथे सर्वांचे म्हणणे ऐकुन त्यावर तुम्ही काय उत्तर दिले त्यांचे कारण काय हे उत्तर लेखी पाहिजे हे काम बंद ठेवले तर उत्तम राहील.

३८) वैशाली पाटकर : डॉकेट मध्ये ६००० झाडे नमूद केले होते मुळा –मुठा नदी मध्ये जे नाले आहेत (आंबील ओढा ) यामध्ये भीषण प्रकार आपण पाहिले आहेत. आता सुद्धा वातावरण बदलात पावसाचे प्रमाण वाढणार आहे. पूर येऊ नये यासाठी आपण प्रयत्न केला पाहिजे.एकही झाड कापले जाणार नाही.आजची सुनावणी आहे ती अधिकृत आहे का ? वृक्ष प्राधिकरण अध्यक्ष / आयुक्त उपस्थित असणे गरजेचे आहे. जाहिराती मध्ये ६००० झाडांचा उल्लेख आहे. आणि प्रस्तावा मध्ये आम्ही मोजलेल्या झाडांची संख्या ७५३९ आहे.

वरील प्रमाणे उपस्थित असलेल्या हरकत घेणाऱ्या नागरिकांनी आपले मत मांडले , वृक्ष प्राधिकरण समिती सदस्य सचिव यांनी सुनावणीचे शेवटी सांगितले सर्वांच्या सूचनांचा विचार केला जाईल. आच्छादन वाढविले जाईल. प्रत्येकाला उत्तर दिले जाईल व आपल्या मतांचा आदर केला जाईल.

| | | | |
|---|---|---|---|
| (~~नानासाहेब गुजर~~) | (चंद्रसेन नागटिळक ) | (सोमनाथ बनकर ) | (रवी बेदारे ) |
| महापालिका सहा. आयुक्त | महापालिका सहा. आयुक्त | महापालिका सहा. आयुक्त | महापालिका सहा. आयुक्त |
| तथा वृक्ष अधिकारी | तथा वृक्ष अधिकारी | तथा वृक्ष अधिकारी | तथा वृक्ष अधिकारी |
| डोले पाटील रोड क्षेत्रीय कार्या | येरवडा –कळस धानोरी क्षेत्रीय कार्या | नगररोड –वडगावशेरी क्षेत्रीय कार्या | शिवाजीनगर –घोलेरोड क्षेत्रीय का |
| पुणे महानगरपालिका | पुणे महानगरपालिका | पुणे महानगरपालिका | पुणे महानगरपालिका |

सदर माहिती, माहिती अधिकार अधिनियम–२००५, अंतर्गत दिली आहे

True Copy

Advocate

Exhibit-X 358

Gmail

Ravindra Sinha <sinha.ravindra@gmail.com>

# Re: Submission of objections at PMC Tree Authority hearing held on 8th May 2023 to be considered by Maharashtra State Tree Authority

1 message

**Ravindra Sinha** <sinha.ravindra@gmail.com> Fri, Jun 23, 2023 at 4:25 PM
To: psec.env@maharashtra.gov.in, dir1.mev-mh@nic.in, sec.forest@maharashtra.gov.in, sec.ud2@maharashtra.gov.in, vikramkumar@punecorporation.org, mco@punecorporation.org
Cc: Bhupender.yadav@sansad.nic.in, Sahnk@cag.gov.in, CM@maharashtra.gov.in, DCM@maharashtra.gov.in, Ccftpune@mahaforest.gov.in, divcom.pune@maharashtra.gov.in, collector.pune@maharashtra.gov.in, sepicpune@gmail.com, cewrd.punewrd@maharashtra.gov.in, min.env@maharashtra.gov.in
Bcc: Tanmayi <earthlingtara1003@gmail.com>, Pushkar Kulkarni GMAIL <pvk927@gmail.com>, Ronita Bhattacharya <ronita.b6@gmail.com>, Vaishali Patkar <vpshali25@gmail.com>, Sarang Yadwadkar <yadwadkarsarang@gmail.com>

Ravindra Sinha objections PMC Hearing 8th May 2...

To,

Tree Authority Chairman
Municipal Commissioner
Pune Municipal Corporation,
PMC Main Building, Congress House Road
Shivajinagar, Pune-411 005

Maharashtra State Tree Authority
Environment and Climate Change Department
Government of Maharashtra
15th Floor, New Administrative Building,
Mantralaya
Mumbai - 400032

Reference :
1. PMC Tree Authority letter Ref no 372 Dated 30/05/2023 containing minutes of the hearing.
2. Submissions in writing made by undersigned to the PMC Tree Authority at the hearing held on 08/5/2023
3. Submissions in writing made by undersigned to PMC Tree Authority regarding missing statement in the written minutes of hearing.

Subject – Request for inclusion of submissions missing from the written minutes of the meeting of the public hearing by the PMC Tree Authority held on 8/5/2023 at G.B. Hall, PMC Building, Pune.

Dear Sir,

With reference to the above I the undersigned would like to inform you about the omission of my complete statement from the written minutes of the meeting of the public hearing of the PMC Tree Authority held on 8/5/2023.

The PMC audio recording of the hearing has recorded my entire submissions made at the hearing however it has been omitted from the written minutes.

Therefore kindly incorporate my statement in the written minutes and confirm the same.

Please note below the transcript of the audio recording of my submission made at the hearing.

**Start of Transcription -**

*" Namaskar, I Ravindra Sinha am a citizen of Pune.*

*I would like to present my detailed objections point to point and bring it your notice.*

*Our objections are basically on following aspects of the PMCs proposal for tree cutting, felling and transplantation.*

359

First of all, as an ordinary citizen, I am relying on Indian Constitution Article 51-A (g), where it is duty of every citizen of India to protect the natural environment and hence our objections

First objection

The proposal by PMC is to fell and transplant 7539 trees, that is felling of 3110 trees and transplantation of 4439 trees. This, we are objecting as illegal as there is no functional Tree Authority in PMC.

The tree authority is administered now by the Municipal Commissioner as Chairman Tree Authority who is not present for this hearing. Technically the Tree Authority consists of 15 members which has equal members from elected representatives as well as from NGOs.

The Municipal Commissioner has certain powers when the Tree Authority is not in existence, he can take decisions , but which are those decisions ? These are decisions related to normal tree cutting, related to building related etc, or where tree is dangerous.

Here PMC is the project proponent of the riverfront development and also the applicant for cutting/transplanting trees and the hearing is also by PMC, so the proposer is hearing their own proposal, such an obvious conflict of interest is highly objectionable.

The approval of decisions of Tree Authority in such case has to be ratified by the general body in next meeting, but here when will GB happen, after trees are felled ? Such procedure is itself deemed to be illegal.

Next is regarding advertisements in newspapers

As per law the notice is to be given in newspapers, so PMC has given it in two newspapers which are not the highest circulated newspapers in Pune, thus the information was known only to very few people. Moreso in the newspapers notices there was no mention that this notice is for cutting felling of more than 7500 trees in the Mula Mutha riverbank for the RFD Project. There is no mention of facts and only mention of docket on website, this was a deliberate omission of facts. Still there was opportunity for PMC to inform people before public notice in March by giving press release, conducting sabhas but that also did not happen , this was a deliberate omission of facts.

Third point is that the locations are riparian forests, the density of trees from Naik island onwards ( as shown in images in annexure ), these are riparian forests which are deemed forests as per the Forest Conservation Act , here the rules of Wildlife Protection Act also apply, as there are birds, animals ,reptiles, aquatic life many of which are protected species as per Schedule I of the Wildlife Protection Act. The open directory of birds has sightings of over 150 birds , this place are their habitats ,some are migratory birds, there is no inspection or approval from Forest Department.

The PMC Biodiversity Committee and Pune District Biodiversity Committee have not submitted any report regarding this proposal.

Fifth point is that all rivers, water bodies are under the jurisdiction of the Water Resources Department, Govt of Maharashtra. Water Resource Department approval is also required for any tree felling under the riverbanks, because the trees are supposed to be strengthening the embankments, trees are natural protection to the embankments. For any water body ,stream, river the jurisdiction first is with state government and then PMC jurisdiction, even if the Maharashtra Protection & Preservation of Tree Act applies, also the State Irrigation Act applies in this jurisdiction. There is no approval on record.

Now coming to point related to the dockets , the dockets in the annexure ,here the age of trees mentioned span an extreme range ,for example the ages mentioned for some trees is 5 years to 25 years, you have mentioned 5 years and 25 years trees in one category, and in other 8 years to 30 years which is misleading , there are native trees which on observation can be made out to over 50 years in age, these qualify as heritage trees as per the Maharashtra Preservation Tree Act Amendments 2021. This amounts to the underreporting of the real data. We are objecting to the same.

Point 7 you have given only summary of the two member expert committee. In the docket ( Annexure 4 ) the two member committee has themselves mentioned in the summary that this will damage the environment, that this is the natural habitat of birds and flora and fauna.

Point 8, PMC as a project proponent has not disclosed to the elected public representatives, i.e. the general body, and standing committee of PMC, that the project will require cutting/removal of trees for the Riverfront Development Project. This is act of deliberate omission by PMC.

Point no 9, PMC in its RFD proposal to SEIAA and SEAC ( Annexure 5 ) Green Belt Development, total area - not applicable , no of trees to be cut – not applicable, no of trees to be planted – not applicable, list of proposed native trees – not applicable , timeline for completion– not applicable. here PMC has themselves stated that no tree will be impacted and now suddenly then this has come.

360

*Point no 10 – There is no EC approval, there is no EC approval regarding tree felling, transplantation, there is no permission provided from the State Government.*
*These all points are the official objections which is tabled in the hearing."*

**End of Transcription.**

Please do the needful and send the corrected minutes to the undersigned.

Thanking you,

Ravindra Sinha
Flat no C-703,Camellia Apartments
Baner Pashan Link Road, Pashan, Pune 411 021
Email – sinha.ravindra@gmail.com
Tel – 7774001188

Enclosures –

1. PMC minutes of meeting ref no - 372 Dated 30/05/2023
2. Submissions in writing to the PMC Tree Authority at the hearing held on 08/5/2023
3. Submissions in writing made by undersigned to PMC Tree Authority regarding missing statement in the written minutes of hearing.

cc- For information of the Maharashtra State Tree Authority

**To,**
**Secretary - Environment & Climate Change Dept**
Chairman - Maharashtra State Tree Authority
15th Floor, New Administrative Building,Mantralya
Mumbai - 400 032
psec.env@maharashtra.gov.in

**Director - Environment & Climate Change Dept**
Member Secretary- Maharashtra State Tree Authority
15th Floor, New Administrative Building,Mantralya
Mumbai - 400 032
dir1.mev-mh@nic.in

**Secretary - Maharashtra State Forest Department**
Member - Maharashtra State Tree Authority
Government of Maharashtra
New Administrative Building,Mantralya
Mumbai - 400 032
Email Id : - sec.forest@maharashtra.gov.in

**Secretary - Urban Development Ministry UD-2**
Member -Maharashtra State Tree Authority
Government of Maharashtra
New Administrative Building
Mantralaya , Mumbai 400032
sec.ud2@maharashtra.gov.in

True Copy
Advocate

Exhibit - Y Colly 361

RNI No. MAHENG / 2009 / 35528




# महाराष्ट्र शासन राजपत्र

## असाधारण भाग आठ

वर्ष ९, अंक ५२] शुक्रवार, ऑगस्ट २५, २०२३/भाद्रपद ३, शके १९४५ [पृष्ठे २, किंमत : रुपये २७.००

असाधारण क्रमांक ९५

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (*3*) of article 348 of the Constitution of India, the following translation in English of the Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act, 2023 (Mah. Act. No. XLIII of 2023), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

SATISH WAGHOLE,
Secretary (Legislation) to Government,
Law and Judiciary Department.

---

## MAHARASHTRA ACT No. XLIII OF 2023.

*(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 25th August 2023).*

An Act further to amend the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975.

Mah. XLIV of 1975.

**WHEREAS** it is expedient further to amend the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975, for the purposes hereinafter appearing; it is hereby enacted in the Seventy-fourth Year of the Republic of India, as follows:—

**1.** This Act may be called the Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act, 2023. Short title.

Amendment of section 6A of Mah. XLIV of 1975.

2. In section 6A of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975, (hereinafter referred to as "principal Act"), clauses (*iii*) and (*iv*) shall be deleted. Mah. XLIV of 1975.

Amendment of section 8 of Mah. XLIV of 1975.

3. In section 8 of the principal Act,—

*(1)* in sub-section (*3*), in clause (*a-1*), first, second and third provisos shall be deleted;

*(2)* sub-section (*5B*) shall be deleted.

ON BEHALF OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, PRINTED AND PUBLISHED BY DIRECTOR, RUPENDRA DINESH MORE, PRINTED AT GOVERNMENT CENTRAL PRESS, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004 AND PUBLISHED AT DIRECTORATE OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATIONS, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004 EDITOR : DIRECTOR, RUPENDRA DINESH MORE.

363



## STATEMENT OF OBJECTS AND REASONS

The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975, (Mah. XLIV of 1975) has been enacted for the purpose of protection and preservation of trees in urban areas in the State, by regulating felling of trees and providing for planting of adequate number of new trees in those areas.

Section 6A of the said Act provides for the duties of the Maharashtra State Tree Authority. Section 8 of the said Act provides for the restrictions on felling of trees. The provisos to clause (*a-1*) of sub-section (*3*) of said section 8 provides that, the applications regarding felling of more than two hundred trees of five years or more and regarding felling of heritage trees, shall be referred by the Tree Authority or Tree Officer to the Maharashtra State Tree Authority.

2. With growing pace of urbanization and industrialization in the urban areas in the State, 'Ease of Doing Business' is one of the best way to promote development and attract investors in the State of Maharashtra. The Central Government is also constantly promoting 'Ease of Doing Business' through decentralization of powers, reducing the number of permits, granting permissions within the stipulated time frame in the various fields.

3. In view of this, it is necessary to empower the local tree authority to grant permission for felling of all types of trees without referring the applications to the Maharashtra State Tree Authority. The Government, therefore, considers it expedient to amend sections 6A and 8 of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975, suitably.

4. This Bill seeks to achieve the above objectives.

Mumbai,
Dated the 24th July, 2023.

EKNATH SHINDE,
Chief Minister.

**Vidhan Bhavan :**
Mumbai,
Dated the 25th July, 2023.

JITENDRA BHOLE,
Secretary (1) (I/C),
Maharashtra Legislative Assembly.

True Copy
Advocate

ON BEHALF OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, PRINTED AND PUBLISHED BY DIRECTOR, RUPENDRA DINESH MORE, PRINTED AT GOVERNMENT CENTRAL PRESS, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004 AND PUBLISHED AT DIRECTORATE OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATIONS, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004. EDITOR : DIRECTOR, RUPENDRA DINESH MORE.

Exhibit - 2

364

MADHVI GOMATHIESWARAN
ADVOCATE

To,

7th September 2023

1. Maharashtra State Tree Authority
   Environment and Climate Change Department
   Government of Maharashtra
   15th Floor, New Administrative Building,
   Mantralaya, Mumbai – 400032.

2. M/s. Pune Municipal Corporation,
   Through its Commissioner,
   Chairman Tree Authority PMC,
   PMC Main Building, Congress House Road,
   Shivajinagar, Pune- 411 005.

**Subject: Legal notice pertaining to Application dated 06.06.2023 for cutting/ transplanting a total of over 7496 trees for the Pune River Rejuvenation Project/River front Development Project.**

1. I write to you on behalf of my Clients Shalvi Pawar, Tanmayi Shinde, Anagha Purohit, Samruddhi Kondekar, Janhavee Palsodkar, Khushi Goyal, Omkar Ganu, Akash Agarwal, and others.

2. My Clients are public-spirited citizens of Pune.

3. My Clients are aggrieved by the decision of the Pune Municipal Corporation to seek permission to fell/transplant a total of 7496 trees for the River Front Development Project in Pune.

4. Apart from the irreparable damage that will be caused to the ecology of Pune if such trees are permitted to be cut, my Clients are disturbed to see the

First Floor, Masjid Manor, 16, Homi Modi Street, Fort, Mumbai – 400 023.
Phone: +91 9677819893. Email: madhvi.gmth@gmail.com.

365

MADHVI GOMATHIESWARAN
ADVOCATE

duplicitous, mala fide and illegal manner in which the Pune Municipal Corporation has taken steps to cut the trees in question.

5. On behalf of my clients, I wish to place on record the brazen illegalities in processing the felling/ transplanting of over 7496 trees engaged in by the PMC.

6. It is pertinent to note that the Pune Municipal Corporation has stated in each of the documents pertaining to the River Front Development Project, such as the Detailed Project Report and the Environmental Impact Assessment (**"EIA"**) Report, that no trees would be required to be cut for the River Front Development Project. Accordingly, the minutes of the meeting of the State Environmental Impact Assessment Authority (**"SEIAA"**) where the River Front Development project was discussed and indeed the final Environmental Clearance (**"EC"**) granted to the project on 16.11.2019 states that no trees would be cut for the project and understandably so, since the preservation of trees to support a River front is a sine qua non for a healthy environment. However, as of March 2023 it is evident that the Pune Municipal Corporation had illegally started felling trees in and around the Kalyani Nagar bridge and behind Kailash Crematorium for the River Front Development project without any clearance for the same, and without complying with the mandatory provisions of law.

7. No trees can be felled for the River Front Development Project as can be seen from the EC dated 16.11.2019 which has clearly not recorded any felling of trees.

First Floor, Masjid Manor, 16, Homi Modi Street, Fort, Mumbai – 400 023.
Phone: +91 9677819893. Email: madhvi.gmth@gmail.com.

MADHVI GOMATHIESWARAN
ADVOCATE

366

8. Without modifying the EC, the Project Proponent, Pune Municipal Corporation (PMC) commenced the process of felling/transplanting 7496 trees for the River Front Development Project. The Tree Authority has not been constituted. Though equal number of representatives from non-official organizations having expertise in the field of planting and preservation of trees have to be inducted in the Authority, this has not been done. Since the Tree Authority has not been constituted, the Commissioner who is the Chairperson, has been acting as the Tree Authority. There is a clear conflict of interest since the PMC is the Project Proponent as well as the Tree Authority.

9. Before taking any action on the proposal for felling/transplanting over 7496 trees, it is necessary that the Tree Officer personally carry out a survey of the area where the trees are to be felled/transplanted. While carrying out the survey, the tree officer is required to identify heritage trees as well as trees which are of age 5 years or more and while doing so, is required to follow the instructions given by the State Government in circulars 21.09.2021 and 22.09.2021. By the circular dated 21.09.2021, the State Government has set out a procedure for identifying heritage trees. Under another circular dated 22.09.2021, the Environment Department has set out the procedure for determining the age of a tree. Various methods for doing this have been set out. The Tree Officer is required to prepare an inventory of the trees in the manner set out in the circulars.

10. However, no such survey has been carried out by the Tree Officer, instead a hurried survey in an unscientific manner has been conducted by the contractor of the Project Proponent, PMC.

First Floor, Masjid Manor, 15, Homi Modi Street, Fort, Mumbai - 400 023.
Phone: +91 9677819890. Email: madhvi.gmth@gmail.com.

367

MADHVI GOMATHIESWARAN
ADVOCATE

11. My clients are unaware about the nature of the report which has been submitted to the Commissioner. The Commissioner has prepared his proposal/application on the basis of the report.

12. The Tree Officers from different wards have prepared 5 dockets in respect of the River Front Development Project, Pune and have uploaded it on the website in the first week of March. However, the public notice issued in only 2 newspapers does not mention the total number of trees which will be affected, the location, species, age and the project, and the necessity of cutting such a large number of trees.

13. My clients and other citizens have submitted their objections during the period of 17th March 2023 to 20th March 2023. A hearing was held on 8.05.2023 by the PMC. However, only the officers from the Garden Department and Tree Officers from different wards were present but the Chairman of the Tree Authority was absent.

14. To the surprise of my clients when the minutes of the hearing were received, major objections raised by the citizens/residents were left out and therefore my clients addressed a letter dated 23.06.2023 requesting that the objections raised by the residents be recorded. However there has been no reply and the minutes of the hearing has not been corrected.

15. It has now come to the notice of my clients that an application dated 6.6.2023 has been sent to the Maharashtra State Tree Authority (MSTA) by the PMC,

First Floor, Masjid Manor, 16, Homi Modi Street, Fort, Mumbai – 400 023.
Phone: +91 9677819893. Email: madhvi.gmth@gmail.com.

MADHVI GOMATHIESWARAN
ADVOCATE

368

seeking permission to fell 3067 trees and transplant 4429 trees under the Maharashtra (Urban Areas) Protection And Preservation Of Trees Act 1975 for the River Front Development Project. This application has been sent by the PMC Commissioner based on an unscientific report prepared by the contractor without considering the inputs and suggestions/objections of the residents and without taking the assistance of experts in the field.

16. My clients have now been informed that on 30th June 2023 there was a hearing before the MSTA when the application of the PMC Commissioner was considered. It is surprising that no hearing has been given to my clients and to those who have raised specific objections to the felling of such a large number of trees. The written objections have also not been incorporated in the application submitted by the PMC Commissioner. My clients are in possession of the minutes of the meeting and on behalf of my clients, we request you to consider the following:

(i) That the River Front Development Project does not require cutting/felling/transplanting of such a large number of trees. That instead of calling for a plan for a rigorous protocol for the maintenance of trees which are transplanted and are to be planted as a part of the compensatory plantation, the MSTA should ensure that the existing trees are protected and preserved. That the object of the Act is to protect and preserve tree and not to unilaterally fell trees.

(ii) That the procedure for the survey and scrutiny of the area and trees has not been followed under the provisions of the Tree Act and in particular, the procedure for identifying and locating heritage trees and trees of age 5 years or more.

First Floor, Masjid Manor, 16, Homi Modi Street, Fort, Mumbai – 400 023.
Phone: +91 9677319893. Email: madhvi.gmth@gmail.com.

369

MADHVI GOMATHIESWARAN
ADVOCATE

(iii) Aside from the mandatory provisions under the Act, the Tree Authority is required to comply with the State Government's circular dated 21.09.2022 and 22.09.2022. This has not been done.

17. You are therefore requested to consider the objections of my clients and the residents, and to give a fresh hearing so that all the objections raised hereinabove as well as the detailed objections raised before the Tree Officer are considered. Please note that no clearance/permission for cutting of trees as applied for by the Pune Municipal Corporation can be granted by you without providing my Clients with an opportunity to present their objections for the same before the Maharashtra State Tree Authority.

18. Without prejudice to the position of my Clients that no permission can be granted to the Pune Municipal Corporation for cutting of trees for the River Front Development Project, my Clients are hereby bringing to your attention that in the event the Maharashtra State Tree Authority or the PMC Commissioner, on behalf of the Tree Authority, decides to grant permission to the Pune Municipal Corporation for cutting trees for the River Front Development project, the said permission cannot be effectuated for a period of 15 days from the date of the clearance being granted as per provisions of the Section 8(3)(a) of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975.

19. Please therefore note that in the unfortunate event that the Maharashtra State Tree Authority decides to permit the cutting of trees by the Pune Municipal Corporation for the River Front Development Project, the said permission cannot be acted upon or in any way effectuated by any party until a mandatory period of 15 days lapses from the date of such a permission being disclosed in

First Floor, Masjid Manor, 16, Homi Modi Street, Fort, Mumbai – 400 023.
Phone: +91 9677819893. Email: madhvi.gmth@gmail.com.

MADHVI GOMATHIESWARAN
ADVOCATE

370

the public domain on the website of the Authority.

20. In the judgment of the Hon'ble Bombay High Court in the matter of *Deepak Balakrishna Vahikar v State of Maharashtra* [PIL 93/2009], it was held that the Tree Authority of the Pune Municipal Corporation *"shall regularly maintain its website for publishing the relevant information relating to the tree census as also tree cutting and/or transplantation. The Tree Authority shall display on its website all the requisite information in the form of a docket in respect of each and every application received and/or processed by the Tree Authority in regard to cutting or transplantation of trees(s)."*

21. In another order of the Hon'ble Bombay High Court dated 20.12.2019 in the matter of *Thane Nagrik Prtishtan and Anr v the Mumbai Metropolitan Regional Development Authority and Ors,* PIL 78/2019, the Hon'ble Bombay High Court also made observations on the importance of the publicbeing made aware of the details of an application for tree cutting and the permissions granted therein, particularly with regard to the number of trees and the purpose for which they are sought to be cut.

22. It is further noteworthy that even the Hon'ble Delhi High Court, in the matter of *Bhavreen Kandhari v Shri C D Singh and Ors* in Cont Case (C) 1149/2022 has directed that tree cutting permissions must be uploaded onthe relevant official website within 48 hours of being granted. It is therefore submitted that it is settled law and also a well-established practice for tree cutting permissions to be uploaded on the relevant official government websites.

First Floor, Masjid Manor, 16, Homi Modi Street, Fort, Mumbai – 400 023.
Phone: +91 9677819893. Email: madhvi.gmth@gmail.com.

371

MADHVI GOMATHIESWARAN
ADVOCATE

23. Please note that a failure on the part of the Maharashtra State Tree Authority to intimate my Clients about a date of hearing where they can present their objections to the Application of the Pune Municipal Corporation, as well a failure of the Maharashtra State Tree Authority to upload its decision on its website and otherwise publish its decision in the Public domain and then keep any such clearance in abeyance for 15 days will render the said permission to be bad in law and such a permission can be subjected to legalchallenge by aggrieved persons, including but not limited to my Clients.

24. Similarly any failure on part of PMC Tree Authority, PMC Municipal Commissioner to upload its decision on its website and otherwise publish its decision in the Public domain and then keep any such clearance in abeyance for 15 days will render the said permission to be bad in law and such a permission can be subjected to legal challenge by aggrieved persons, including but not limited to my Clients.

25. Please note that this notice is being issued without prejudice to my Clients rights and entitlements under the law.

26. A copy of this notice has been retained in my office for further action.

Sincerely,

True Copy

Advocate

Madhvi Gomathieswaran
Advocate

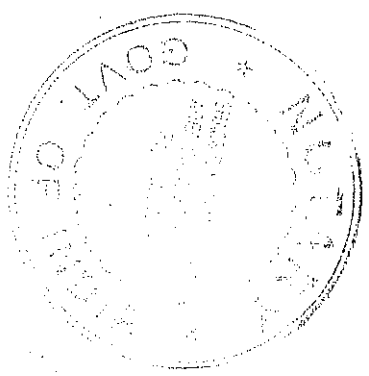
First Floor, Masjid Manor, 16, Homi Modi Street, Fort, Mumbai - 400 023.
Phone: +91 9677819893. Email: madhvi.gmth@gmail.com.

Exhibit - AA 372

On Sat, May 13, 2023 at 1:06 PM Ravindra Sinha <sinha.ravindra@gmail.com> wrote:

To,

Maharashtra State Tree Authority



373

Environment and Climate Change Department
Government of Maharashtra
15th Floor, New Administrative Building,
Mantralaya
Mumbai - 400032

Tree Authority Chairman
Municipal Commissioner
Pune Municipal Corporation,
PMC Main Building, Congress House Road
Shivajinagar, Pune-411 005

**Subject - Objections to proposed cutting and transplantation of 7539 trees ( 3110 trees to be cut and 4429 trees to be transplanted ) in the Mula Mutha riverbanks as per PMC notice no 1/1336/Dt 28/2/23 released by PMC in newspapers Indian Express and Lokmat dated 1/3/1023.**

Reference - Our objections submitted to PMC on 20/3/2023 and on the date of hearing 08/05/2023.

Dear Sirs,

Please find attached the following documents submitted to PMC by the undersigned with duly acknowledged receipt from PMC. Please consider the same along with the below summary in your records while appraising the proposal of PMC.

Attachments :
a) Objection letter submitted to PMC on 20/3/2023
b) Submissions in writing to the PMC Tree Authority at the hearing held on 08/5/2023
c) Objections raised during the Tree Authority hearing submitted in writing by the citizens on 08/05/2023

Summary -

The Indian Constitution Article 51-A (g), says that "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers, and wildlife and to have compassion for living creatures.

As per Environment Protection Act 1986 it is the obligation of the state to provide a healthy environment to the citizens.

It is therefore highly objectionable that PMC should propose to cut full-grown age-old trees in the riparian zone of Mula Mutha river which is the natural habitat of endemic flora and fauna.

We hereby submit our formal objections to the PMC proposal for tree cutting/transplant on the banks of the Mula and Mula Mutha rivers in Pune and demand that this proposal be scrapped in its entirety.

| Point no | Our detailed objections |
|---|---|
| 1 | 1a) The proposal by PMC to cut and transplant a total of 7539 trees is illegal as there is no functional Tree Authority in PMC. The tenure of the last general body was over in Feb 2022 and since then the PMC has been under a state-nominated administrator.<br><br>The Tree Authority comprises 15 elected representatives and up to an equal number of members of the NGOs, and experts which as of this date is nonexistent.<br><br>Maharashtra (Urban Areas)Protection and Preservation of Trees Act, 1975 states in their DUTIES OF TREE AUTHORITY **(7.)** Notwithstanding anything contained in the relevant Act or in any other law for the time being in force, and subject to any special or general directions given by the State Government, the Tree Authority shall be responsible for—<br>*(a)* 1[protection and preservation] of all trees in all lands within its jurisdiction;<br>**It is hereby submitted that without a functional, democratic, and representative Tree Authority, the decision to propose cutting and transplanting thousands of trees is highly objectionable.**<br><br>1b) The Tree Authority of PMC currently is the state-appointed administrator ie - PMC Municipal Commissioner who heads PMC which is also the project proponent of riverfront development and also the applicant for cutting/transplanting trees and also the first level approver for the tree cutting/transplantation proposal. **Such an obvious conflict of interest is highly objectionable.** |

374

| | |
|---|---|
| | 1c) The Maharashtra (Urban Areas)Protection and Preservation of Trees Act, 1975 Sec 3(4) requires approval of decisions of Tree Authority of the general body in the next meeting,<br><br>**However, given that the damage to trees is irreversible and the general body is not elected yet, any decisive action on the part of the state administrator acting as Tree Authority is equivalent to circumventing the process of democratic decision making which is highly objectionable.** |
| 2 | 2a) PMC has not published the requisite detailed notice in several leading newspapers in Pune city as required. It was only published in two newspapers **( Annexure I )** on 1st March 2023 whereas Pune has more than 30 newspapers.<br><br>2b) The notice issued in newspapers **( Annexure I )** does not contain any details of the **number of trees, location, project details, etc,** it only refers to the docket online on the PMC website. Therefore such a notice is flawed as it conceals the **requisite information by an act of deliberate omission of facts.**<br><br>2c) The general public was deliberately not informed by other means like official press releases by PMC to disseminate important information about a project of such magnitude with severe environmental impacts. |
| 3 | The dockets uploaded on the PMC website **(Annexure IV )** do not provide inspection reports of the **Maharashtra State Forest Department** as required by law.<br><br>The riparian zone of rivers is a densely forested area and is a habitat for endemic flora and fauna and it is a deemed forest under **Forest Protection Act.** Any proposal to cut or transplant trees from riparian zones will negatively impact the aquatic life, birds, animals, and reptiles many of which are protected species as per the **Wildlife Protection Act.**<br><br>**( Annexure II ) - Bird sightings listed on ebird.org at Mula Mutha riverbanks** |
| 4 | The dockets uploaded on the PMC website do not provide inspection reports of the **Pune District Biodiversity Management Committee** nor any inspection report of the Wetland Committee which are statutory committees under the office of the District Collector. |
| 5 | The **Water Resources Department State, Government of Maharashtra** has jurisdiction over water bodies of the state including rivers.<br><br>There are no permissions provided by WRD for the tree-cutting, and transplantation proposal. |
| 6 | The PMC dockets have glaring **omissions** which are hereby placed on record<br><br>5. a) The age of trees mentioned spans an extreme range, for example, the age mentioned for some trees is (5 years to 25 years) and (8 years to 30 years) for certain species.<br><br>It raises serious questions regarding the methodology used for calculating the age of trees and hence such flawed reports are objectionable.<br><br>5. b) Maximum native trees in the riparian zone are more than 50 years old and, most of the trees in the docket qualify as heritage trees as per the Maharashtra Preservation Tree Act Amendments 2021.<br><br>**However, the dockets qualify the ages of most trees in the range of 5 to 25 years. We object to the gross underreporting of the real ages of trees in the riparian zone of the Mula Mutha.**<br><br>**( Annexure III ) - Extracts from Dockets of PMC** |
| 7 | 7a) The Expert Committee **report** is not attached to the docket- The experts are required to have inspected and surveyed the trees, made observations, taken photographs, etc, and made their expert comments. This detailed report is not shared by PMC, only the one-page summary was part of the docket.<br><br>7b)The observations of the expert committee members state that the areas under riparian forests are habitats of birds, local flora and fauna and the removal of trees from the riparian zones will adversely impact their habitats and the environment. This itself is evidence that the riparian forests should not be disturbed in any manner.<br><br>**( Annexure IV ) - Expert committee summary sheets in PMC Dockets** |
| 8 | The project proponent PMC has not disclosed to the general public or the elected public representatives, **ie the general body, and standing committee of PMC**, that the project will require cutting/removal of trees for the Riverfront Development Project along the 44km stretch of Mula and Mula Mutha rivers<br><br>**The failure to disclose facts to the decision-making stakeholders is a deliberate act of omission.** |

375

| | |
|---|---|
| 9 | The project proponent PMC has not informed the State Environment Impact Assessment Agency ( SEIAA ) State Environment Appraisal Committee ( SEAC ) in their DPR/submissions that the RFD project will require cutting/removal of trees while seeking environmental clearance for the Riverfront Development Project along the 44km stretch of Mula and Mula Mutha rivers<br><br>**The failure to disclose facts to the assessment and clearing authorities is a deliberate act of omission.**<br><br>**(Annexure V) - SEIAA Minutes of Meeting** |
| 10 | There is no EC clearance for cutting, and transplanting trees for the Riverfront Development Project along the 44km stretch of the Mula and Mula Mutha rivers<br><br>It is objectionable that the PMC has proposed tree felling, removal, and transplantation without EC approval.<br><br>**As there is no EC approval, the PMCs proposal for felling, removal, and transplantation of trees for the Riverfront Development Project along the 44km stretch of Mula and Mula Mutha rivers is illegal and needs to be entirely scrapped.** |

**We hereby demand that the proposal by PMC for tree cutting and transplantation of 7539 trees in the riparian zones of Mula, and Mula Mutha rivers be rejected in its entirety by the Maharashtra State Tree Authority.**

Thanking you,

Ravindra Sinha
Flat no C-703,Camellia Apartments
Baner Pashan Link Road
Pashan,Pune 411 021
Tel 7774001188
Email - sinha.ravindra@gmail.com

Copy to -
Shri Bhupender Yadav
Cabinet Minister
Hon'ble Minister for Environment, Forest & Climate Change
New Delhi
Bhupender.yadav@sansad.nic.in
Sahnk@cag.gov.in

Shri Eknath Shinde
Hon Chief Minister
Environment Minister
Government of Maharashtra
Mantralaya , Mumbai - 400021
CM@maharashtra.gov.in

Shri Devendra Fadnavis
Hon Dy Chief Minister
Government of Maharashtra
Mantralaya , Mumbai - 400032
DCM@maharashtra.gov.in

Shri Sudhir Mungantiwar
Minister for Forests
Government of Maharashtra
Mantralaya , Mumbai - 400032
min.env@maharashtra.gov.in

Secretary - Environment & Climate Change Dept

376

Chairman - Maharashtra State Tree Authority
15th Floor,New Administrative Building,Mantralya
Mumbai - 400 032
psec.env@maharashtra.gov.in

**Director - Environment & Climate Change Dept**
Member Secretary- Maharashtra State Tree Authority
15th Floor,New Administrative Building,Mantralya
Mumbai - 400 032
dir1.mev-mh@nic.in

**Secretary - Maharashtra State Forest Department**
Member - Maharashtra State Tree Authority
Government of Maharashtra
New Administrative Building,Mantralya
Mumbai - 400 032
Email Id : - sec.forest@maharashtra.gov.in

**Secretary - Urban Development Ministry UD-2**
Member -Maharashtra State Tree Authority
Government of Maharashtra
New Administrative Building
Mantralaya , Mumbai 400032
sec.ud2@maharashtra.gov.in

Shri Praveen N.R.
Chief Conservator of Forests - Pune Division
Van Bhavan,Bhamburda,Van Vihar ,Gokhale Nagar PUNE 411016
Ccftpune@mahaforest.gov.in

Shri Saurabh Rao
Divisional Commissioner - Pune Division
RajBhavan, Pune 411 001
divcom.pune@maharashtra.gov.in

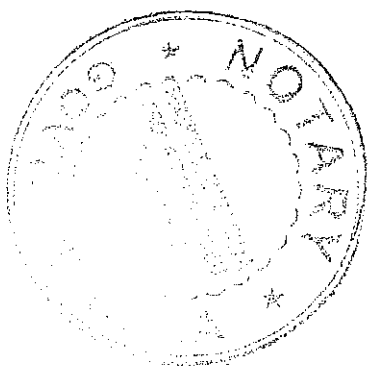
Shri Rajesh Deshmukh
District Collector Pune , Chairman District Bio Diversity Committee
New Collector Office, Pune - 411 001
collector.pune@maharashtra.gov.in

Chief Engineer - Pune Division
Water Resources Department
Sinchan Bhavan
Mangalwar Peth,Pune 411 001
sepicpune@gmail.com
cewrd.punewrd@maharashtra.gov.in

**2 attachments**

**PMC Tree Authority Minutes Ref 372 dt 30052023.pdf**
17636K

**Ravindra Sinha statment missing from MOM 22nd June 2023.pdf**
3794K



True Copy
Advocate

Exhibit - BB 377

मुख्य अभियंता (प्रकल्प) कार्यालय
३ रा. मजला, मुख्य इमारत
पुणे महानगरपालिका
शिवाजीनगर,पुणे- ४११००५
जा. क्र.:- 9209
दि.:- 28/06/2023

प्रति,
मा.प्रधान सचिव
पर्यावरण व वातावरणीय बदल विभाग,
हुतात्मा राजगुरू चौक,मादाम कामा मार्ग,
मंत्रालय, मुंबई ४०००३२

यांजकडे सविनय सादर....

विषय :- पुणे महानगरपालिकेच्या नदी सुधार प्रकल्पांतर्गत स्ट्रेच ९,१० व ११ अंतर्गत नदीच्या डाव्या व उजव्या बाजूच्या वृक्ष काढणे / पुनर्रोपण करणेबाबतच्या प्रस्तावाबाबत.

संदर्भ :- पुणे महानगरपालिका वृक्ष प्राधिकरण कार्यालय शिवाजीनगर क्षेत्रीय कार्यालयाचे जा.क्र. ट्री /४२४ दि.०६/०६/२०२३ रोजीचा दाखल प्रस्ताव.

महोदय,

विषयांकित बाबत संदर्भांकित अन्वये पुणे महानगरपालिकेच्या नदी सुधार प्रकल्पांतर्गत स्ट्रेच ९,१० व ११ च्या नदीच्या डाव्या व उजवी बाजूचे वृक्ष पूर्ण काढणे / पुनर्रोपण करणेबाबत मान्यता मिळणे करता प्रस्ताव दाखल करण्यात आला आहे. सदर दाखल प्रस्तावाच्या अनुषंगाने झालेल्या चर्चेनुसार पुढील प्रमाणे पूर्तता करण्यात येत आहे.

१) मे.उच्च न्यायालयाच्या आदेशान्वये त्रीसदस्यीय कमिटी नियुक्त असून सदर कमिटीद्वारे केलेल्या तपासणीनुसार सादर अहवालाप्रमाणे झाडांची उंची, वयाप्रमाणे कार्यवाही करण्यात आली आहे. त्यानुषंगाने दाखल प्रस्तावामधील झाडांचा क्रम, संख्या,Location या बाबत तपासणी करण्यात आली आहे.

२) पुणे महानगरपालिकेच्या नदी सुधार प्रकल्पांतर्गत स्ट्रेच ९,१० व ११ अंतर्गत नदीच्या डाव्या व उजव्या बाजूच्या वृक्ष काढणे / पुनर्रोपण करणेच्या प्रस्तावाअंतर्गत करावयाच्या नवीन वृक्ष लागवड व पुनर्रोपण करण्याच्या वृक्षाबाबत जागांची यादी व Location Plan पत्रासोबत जोडले असून याद्वारे सुमारे ६९४०० वृक्ष लागवड व पुनर्रोपण करणे प्रस्तावित आहे.

३) पुणे महानगरपालिकेच्या नदी सुधार प्रकल्पांतर्गत स्ट्रेच ९,१० व ११ अंतर्गत नदीच्या डाव्या व उजव्या बाजूच्या वृक्ष काढणे / पुनर्रोपण करणेच्या ऐवजी सुमारे प्रस्तावित वृक्षारोपण कार्यवाही करताना वृक्षांची उंची सुमारे ३.०० मी.आहे. निविदा कालावधी सुमारे ३ वर्षाचा असून त्यानंतर प्रकल्पीय काम पूर्ण झाल्यानंतर पुढील पाच वर्षे देखभाल दुरुस्ती करणेची जबाबदारी संबधित ठेकेदाराची आहे पर्यायाने ७ वर्ष सदर वृक्षांची देखभाल करणे शक्य होणार आहे.

सदर वस्तुस्थिती मा.समितीपुढे सादर होणेस विनंती आहे.

मा.स.कळावे.

मुख्य अभियंता (प्रकल्प)
पुणे महानगरपालिका

प्रत:- माझी वसुंधरा अभियान संचालनालय १०१,
पाहिला मजला प्लॉट नं २०६,दलामल हाऊस,
जमनालाल बजाज मार्ग, नरीमन पॉईंट मुंबई ४०००२१.

9/07/23

378

## Various locations for tree plantation for Mula-Mutha River Rejuvenation Project

| Sr. No. | Location | Trees can be Planted |
|---|---|---|
| 1 | River Side on proposed upper promenade | 12000 |
| 2 | DP road bund garden to mundhwa, RHS | 3500 |
| 3 | DP road shivane to Kharadi, LHS | 3500 |
| 4 | Green belt COEP to bund garden (20m * 3.70m) | 7400 |
| 5 | Naik Bet | 2000 |
| 6 | Army sports institute | 2000 |
| 7 | Oxygen Park, Kharadi, Sr.no 30 | 3000 |
| 8 | Amenity Spaces (Annexure) | 3000 |
| 9 | Green belt Park Reservation (5.2km * 20 m) Stretch 10-11 LHS | 10000 |
| 10 | Mundhwa keshavnagar sr.no. 9 to 14 part | 10000 |
| 11 | DP road along Wadgaonsheri, Kharadi, Mundhwa | 10000 |
| 12 | Bibvewadi indira nagar, PMPML plot sr.no.660, Area- | 1000 |
| 13 | Special drive in PMC school No. of schools-100 | 2000 |
| Total Trees to be planted | | 69400 |

True Copy

Advocate

379

Exhibit - CC

**Municipal Commissioner Office**
Pune Municipal Corporation
Shivajinagar Pune- 5
Out ward No-MCO/ project / 2016
Date: 21st August 2023

To,

**The Member Secretary (SEAC-3),**
Environment Department,
Government of Maharashtra,
15th Floor, New Administrative Building,
Mantralaya, Mumbai – 400032

**Subject :-** Correction in Minutes of 174th SEAC-3 meeting held on 14th June for Environmental Clearance for Pune River Rejuvenation Project by Pune Municipal Corporation (PMC)

**Ref :-** 1. Single Window Number: SW/119445/2023
2. Proposal Number: SIA/MH/INFRA2/418742/2023
3. Minutes of Meetings of 174th SEAC-3 Meeting (Day 3) held on 14th June 2023

Sir,

We are in receipt of Minutes of 174th SEAC-3 Meeting (Day 3) held on 14th June 2023 for "Pune River Rejuvenation Project by Pune Municipal Corporation (PMC)" (Proposal Number: SIA/MH/INFRA2/418742/2023).

We have duly noted the decision of SEAC-3 and thank them for recommending the proposal to SEIAA for Environmental Clearance.

In the minutes, due to misprint, there are few details in "Brief Information of the proposal" that needs correction/ revision. We have attached detailed Consolidated Statement with corrections required.

Also, in the minutes, Page no. 45 of 47, paragraph 2, it is mentioned as, "*The committee noted that following stretches of two rivers....*". Since, our proposal involves three rivers i.e. Mula River, Mutha River and Mula-Mutha Sangam to Kharadi, so we request you to kindly amend the line to "*The committee noted that following stretches of three rivers....*"

We regret the inconvenience caused.

We kindly request you to revise the minutes of 174th SEAC-3 meeting held on 14th June 2023 for our proposal no. SIA/MH/INFRA2/418742/2023, so that the same information is reflected in SEIAA as well our EC and oblige.

Thanking You
Yours faithfully,

Municipal Commissioner
Pune Municipal Corporation

**Enclosure: Consolidated statement for required corrections.**

380

# CONSOLIDATED STATEMENT

| S. No. | Particulars | Remarks As per Minutes of 174th SEAC-3 meeting | | Correction as required |
|---|---|---|---|---|
| 1. | Proposal Number | SIA/MH/INFRA2/424828/2023 | | No change |
| 2. | Name of Project | PUNE RIVER REJUVENATION PROJECT | | No change |
| 3. | Project category | 8 (b) – B1 Category As per Schedule of EIA Notification, 2006 | | No change |
| 4. | Type of Institution | Government | | No change |
| 5. | Project Proponent | Name | No change | |
| | | Registered Office address | No change | |
| | | Contact number | No change | |
| | | e-mail | No change | |
| 6. | Consultant | M/s. Fine Envirotech Engineers | | No change |
| 7. | Applied for | Expansion/ Amendment | | No change |
| 8. | Details of previous EC | Environmental Clearance Obtained Dated: 16th November, 2019<br>EC Reference No: SEIAA-EC-0000002088 | | No change |
| 9. | Location of the project | Three River:<br>• Mula River: Mumbai-Pune Bypass to Sangam Bridge (22.2 Km).<br>• Mutha River: Mumbai-Pune Bypass to Mula-Mutha Sangam (10.4 Km).<br>• Mula-Mutha River: Mula-Mutha Sangam to Kharadi (11.8 Km). | | No change |
| 10. | Latitude and Longitude | Latitude: 18°31'49.84"N and Longitude: 73°51'36.78"E | | No change |
| 11. | Total Plot Area (m2) | 8200000 sq.mt. | | No change |
| 12. | Deductions (m2) | Not Applicable | | No change |
| 13. | Net Plot area (m2) | 8200000 sq.mt. | | |
| 14. | Proposed FSI | Not Applicable | | No change |

381

| | | | |
|---|---|---|---|
| | **area (m2)** | | |
| 15. | **Proposed non-FSI area (m2)** | Not Applicable | 8664 sq.mt. |
| 16. | **Proposed TBUA (m2)** | 8664 sq.mt. | No change |
| 17. | **TBUA (m2) approved by Planning Authority till date** | Not Applicable | 8664m2 as approved by Pune Municipal Corporation |
| 18. | **Ground coverage (m2) & %** | 32, 00,000 (39%) | NOT APPLICABLE (Since, there is no FSI area) |
| 19. | **Total Project Cost (Rs.)** | Rs. 4700 Crores | No change |
| 20. | **CER as per MoEF & CC circular dated 01/05/2018** | **Activity** / **Location** / **Cost (Rs.)** / **Duration** | |
| | | OM dated 30.9.2020 U/n F. No- 22 65/2017.IA.III supersedes earlier OM under even number dated 1st May, 2018 regarding guidelines in respect to CER. | No change |

**21. Details of Building Configuration:**
**<Please use following legends: Floor = F, Parking = Pk, Podium = Po, Stilt =St, Lower Ground = LG, Upper Ground = UG, Basement = B, Shops = Sh>**

| **Previous EC** | | **Proposed Configuration** | | **Reason for Modification** | **Change** |
|---|---|---|---|---|---|
| **Building Name** | **Total Area (sq.m.)** | **Building Name** | **Total Area (sq.m.)** | | |
| Toilet | 0 | Toilet | 624 | Addition | No change |
| Kiosk and food court | 0 | Kiosk and food court (30% of food court) | 3000 | Addition | No change |
| Security room | 0 | Security room | 540 | Addition | No change |
| Ticket counters | 0 | Ticket counters | 150 | Addition | No change |
| Site office | 0 | Site office | 210 | Addition | No change |
| Utility rooms/ Storage rooms | 0 | Utility rooms/ Storage rooms | 3600 | Addition | No change |
| Janitor Room | 0 | Janitor room | 540 | Addition | No change |

382

| | | | | | | |
|---|---|---|---|---|---|---|
| 22. | **Total number of tenements** | Not applicable | | | | |
| 23. | **Water Budget** | **Construction Phase (CMD)** | | **Operation Phase (CMD)** | | |
| | | Fresh Water | 220 | Fresh Water | 180 | No change |
| | | Recycled (Flushing) | 0 | Recycled (Flushing) | 0 | No change |
| | | Recycled (Gardening) | 0 | Recycled (Gardening | Nil | No change |
| | | Swimming Pool | 0 | Swimming Pool | 0 | No change |
| | | Total | 220 | Total | 180 | No change |
| | | Waste Water Generation | 63 | Wastewater Generation | 16.2 | No change |
| | | Information (assumed 1000 Labour during construction phase & 1800-2000 M2 every day and construction phase is considered as 7 years)<br>Domestic = 70 m3/day (@70 LPCD & supply at 1 common point)<br>Construction = 150 m3/day | | Assuming 12000 floating population and 10% consumption<br>Drinking Water Demand will be 36 KLD (@30 LPCD)<br>Flushing Water Demand will be 18 KLD (@15 LPCD) | | No change |
| 24. | **Water Storage Capacity for Firefighting /UGT** | Not Applicable | | | | No change |
| 25. | **Source of water** | Pune Municipal Corporation, Pune | | | | No change |
| 26. | **Rainwater Harvesting (RWH)** | **Level of the Ground water table:** | | Pre-Monsoon: 20.4 m bgl<br>Post Monsoon: 04 m bgl | | No change |
| | | **Size and no of RWH tank(s) and Quantity:** | | Not Applicable | | No change |
| | | **Quantity and size of recharge pits:** | | Not Applicable | | No change |
| | | **Details of UGT tanks if any:** | | Not Applicable | | No change |
| 27. | **Sewage and Wastewater** | **Sewage generation in CMD:** | | 16.2 | | No change |
| | | **STP technology:** | | The sewage generated will be connected to existing and upgraded sewer networks to connect to STPs as proposed under JICA Proposal. | | No change |

383

| | | | | | |
|---|---|---|---|---|---|
| | | Capacity of STP (CMD): | | The sewage generated will be connected to existing and upgraded sewer networks to connect to STPs as proposed under JICA Proposal. | No change |
| 28. | **Solid Waste Management during Construction Phase** | **Type** | **Quantity (kg/day)** | **Treatment / disposal** | |
| | | Dry waste | 60 | The waste generated will be segregated into biodegradable & non-biodegradable waste. The segregated waste then will be handed over to PMC facility | No change |
| | | Wet waste | NA | | No change |
| | | Construction waste | 8621450 m3 | 3264.3 Tonnes per annum of C&D waste shall be generated by the dismantling of structures like check dams, weirs and other low lying structures causing obstruction to the flow of water. Moreover, 55 Tonnes per annum of C&D waste shall be generated by the demolition of structures like damaged/old pavements, compound walls, flooring etc. present in the project boundary, necessary for the construction of flood protection embankments. Obstructive structures that are demolished shall be sent out of the site as per guideline issued under C& D Waste Management plan to Authorized landfill site/ collection centre of PMC. PMC has in-house facility for C&D waste conversion; hence the C&D waste shall be handed over to PMC for further utilization and disposal. | Quantity: 3319 TPA<br><br>3264.3 Tonnes per annum of C&D waste shall be generated by the dismantling of structures like check dams, weirs and other low lying structures causing obstruction to the flow of water. Moreover, 55 Tonnes per annum of C&D waste shall be generated by the demolition of structures like damaged/old pavements, compound walls, flooring etc. present in the project boundary, necessary for the construction of flood protection embankments. Obstructive structures that are demolished shall be sent out of the site as per guideline issued under C& D |

384

| | | | | | |
|---|---|---|---|---|---|
| | | | | | Waste Management plan to Authorized landfill site/ collection centre of PMC. PMC has in-house facility for C&D waste conversion; hence the C&D waste shall be handed over to PMC for further utilization and disposal. |
| 29. | **Solid Waste Management during Operation Phase** | **Type** | **Quantity (kg/day)** | **Treatment / disposal** | |
| | | Dry waste: | -- | The waste generated will be segregated into biodegradable & non-biodegradable waste. The segregated waste then will be handed over to PMC facility | No change |
| | | Hazardous Waste: | NA | NA | No change |
| | | Biomedical Waste | NA | NA | No change |
| | | E-Waste | NA | NA | No change |
| | | STP Sludge (dry) | NA | The sewage generated will be connected to existing and upgraded sewer networks to connect to STPs as proposed under JICA Proposal. | No change |
| 30. | **Green Belt Development** | **Total RG area (m2):** | | 2970000 sq.mt. | No change |
| | | **Existing trees on plot:** | | 22150 nos. | 49,435 (27,285 existing trees shall be retained) |
| | | **Number of trees to be planted:** | | 30000 nos. | 30,000 trees of native species shall be planted within the project boundary. As per prevailing PMC guidelines an additional 57,400 trees shall be planted at various locations within Pune city. A |

| | | | | |
|---|---|---|---|---|
| | 385 | | | breakup of the same has been attached as an annexure. |
| | | **Number of trees to be cut:** | 11000 nos. | No change |
| | | **Number of trees to be transplanted:** | 11150 no.s | No change |
| 31. | **Power requirement:** | **Source of power supply:** | MSEDCL and 11X615 transformers, as required | No change |
| | | **During Construction Phase (Demand Load):** | 5.5 MW | No change |
| | | **During Operation phase (Connected load):** | -- | No change |
| | | **During Operation phase (Demand load):** | -- | No change |
| | | **Transformer:** | 11X615 KvA transformers | No change |
| | | **DG set:** | NA | No change |
| | | **Fuel used:** | NA | No change |
| 32. | **Details of Energy saving** | Wherever possible Energy Saving by PV Solar Panels for common area lighting will be explored. | | |

| 33. | **Environmental Management plan budget during Construction phase** | **Type** | **Details** | **Cost/ Annum (Rs. In Lacs)** | |
|---|---|---|---|---|---|
| | | Capital | Dust Suppression Measures & Barricading | 20 | No change |
| | | | Green Belt development | 1025 | No change |
| | | | Solid waste management facility | 50 | No change |
| | | | Environmental Monitoring | 15 | No change |
| | | | Occupational Health for Workers | 35 | No change |
| | | | Total | 1145 | No change |

| 34. | **Environmental Management plan Budget during Operation phase** | **Component** | **Details** | **Recurring Cost per annum Rs. (INR in Lakhs)** | **Capital Cost Rs. (INR in Lakhs)** | |
|---|---|---|---|---|---|---|
| | | Water Pollution Control | Mobile STP Operation & Maintenance | 25 | 1500 | No change |
| | | Environment Monitoring and Management | Monitoring charges for air, water, noise, soil etc. | 15 | -- | No change |
| | | Green Belt development | Nil | 40 | 1020 | No change |
| | | Solid waste | Nil | 20 | 300 | No change |

386

| | | | | | | |
|---|---|---|---|---|---|---|
| | | Management | | | | |
| | | Swimming Pool | 1 Swimming Pool of capacity 300 cum | 140.45 | 10.0 | To be removed. This has been misprint due to typing error. |
| | | Solid Waste Management | Providing dustbins and collection facility | 65.0 | 23.0 | Recurring cost – INR 20Lakhs/ annum Capital Cost – INR 300 Lakhs (This has been misprint due to typing error) |
| | | Occupational Health For Worker | Includes cost of medical checkup, PPE & first aid kit, first aid facility | 20 | -- | No change |
| | | e-Waste | Nil | NA | NA | No change |
| | | Energy Saving Measures | Nil | NA | NA | No change |
| | | RWH | Nil | NA | NA | No change |
| | | Swimming Pool | Nil | NA | NA | No change |
| | | **Total** | | **120** | **2820** | No change |
| **35.** | **Traffic Management** | Parking area is provided for the tourists visiting area after development. | | | | No change |
| **36.** | **Details of Court cases / litigations w.r.t. the project and project location if any.** | EXECUTION APPLICATION NO.13 OF 2022 (WZ) IN APPEAL NO. 12 OF 2020 (WZ), BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN ZONE BENCH, PUNE | | | | No change |

387

# ANNEXURE

**Table 1: Number of trees to be planted (Point no. 30)**

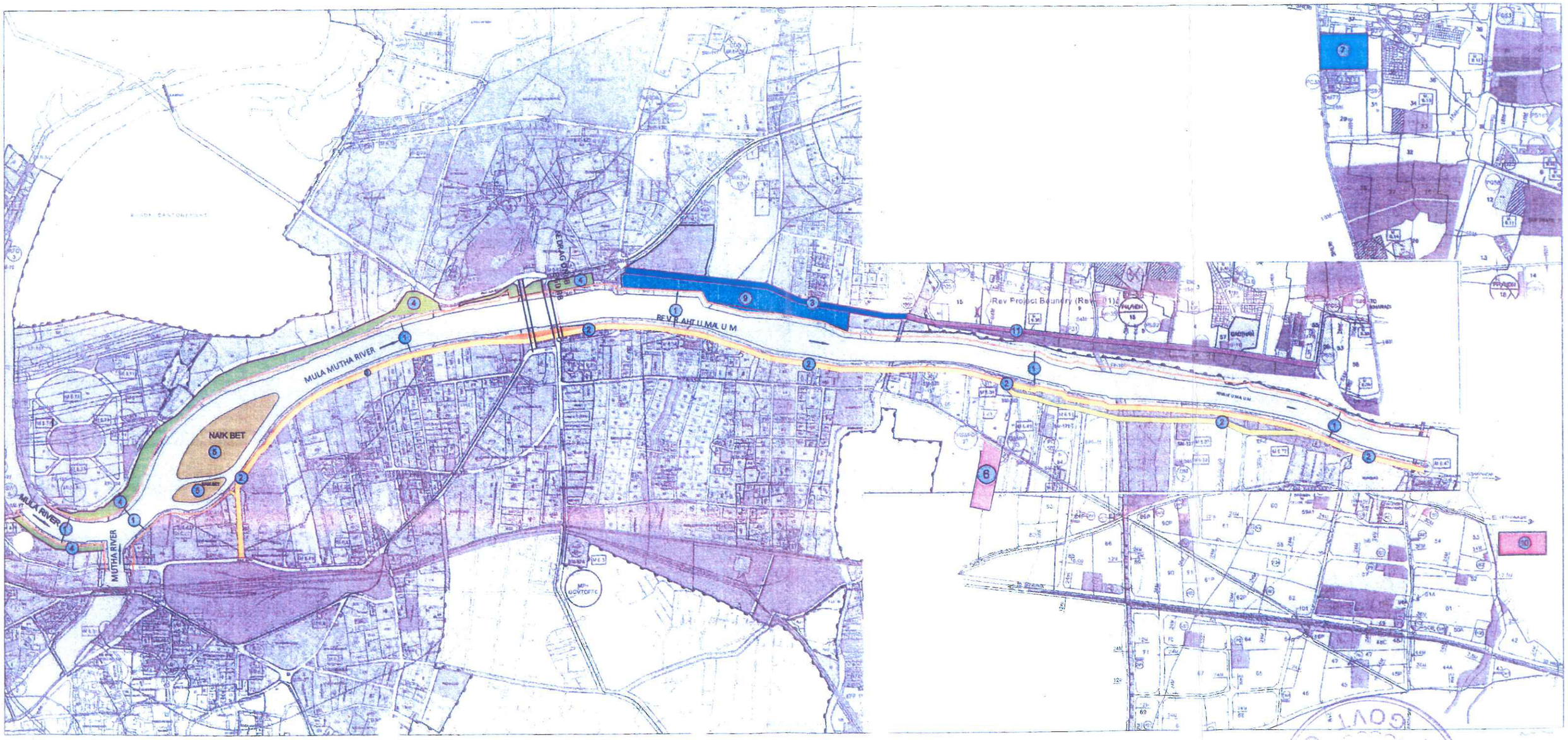
| Sr. No. | Location | Number of trees |
|---|---|---|
| 1 | **Within proposed project of River Rejuvenation** | **30,000** |
| 2 | DP road bund garden to mundhwa, RHS | 3,500 |
| 3 | DP road shivane to Kharadi, LHS | 3,500 |
| 4 | Green belt COEP to bund garden (20m3.70m) | 7,400 |
| 5 | Naik Bet | 2,000 |
| 6 | Army sports institute | 2,000 |
| 7 | Oxygen Park, Kharadi, Sr.no 30 | 3,000 |
| 8 | Amenity Spaces | 3,000 |
| 9 | Green belt Park Reservation (Stretch 10 &11) | 10,000 |
| 10 | Mundhwa Keshav Nagar sr.no. 9 to 14 parts | 10,000 |
| 11 | DP road along Wadgaonsheri, Kharadi, Mundhwa | 10,000 |
| 12 | Bibvewadi indira Nagar, PMPML plot sr.no.660 | 1,000 |
| 13 | Special drive in PMC school No. of schools-100 | 2,000 |
| | **Total trees to be planted** | **87,400** |

388

## Various locations for tree plantation for Mula-Mutha River Rejuvenation Project

| Sr. No. | Location | Trees can be Planted |
|---|---|---|
| 1 | River Side on proposed upper promenade | 12000 |
| 2 | DP road bund garden to mundhwa, RHS | 3500 |
| 3 | DP road shivane to Kharadi, LHS | 3500 |
| 4 | Green belt COEP to bund garden (20m * 3.70m) | 7400 |
| 5 | Naik Bet | 2000 |
| 6 | Army sports institute | 2000 |
| 7 | Oxygen Park, Kharadi, Sr.no 30 | 3000 |
| 8 | Amenity Spaces (Annexure) | 3000 |
| 9 | Green belt Park Reservation (5.2km * 20 m) Stretch 10-11 LHS | 10000 |
| 10 | Mundhwa keshavnagar sr.no. 9 to 14 part | 10000 |
| 11 | DP road along Wadgaonsheri, Kharadi, Mundhwa | 10000 |
| 12 | Bibvewadi indira nagar, PMPML plot sr.no.660, Area- | 1000 |
| 13 | Special drive in PMC school No. of schools-100 | 2000 |
| Total Trees to be planted | | 69400 |

389




True Copy

Advocate

390

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. ___ OF 2023

DIST:- PUNE

Shalvi Pawar and Ors ...Petitioners

Vs

Pune Municipal Corporation & Ors ...Respondents

**AFFIDAVIT IN SUPPORT SUBMITTED BY THE PETITIONERS ABOVENAMED UNDER RULE 4, 5, 6 & 7 AS PER THE NOTIFICATION NO 1603/2010**

I, Shalvi Pawar, Petitioner No.1, age 26, residing at L-602, Laburnum Park, Magarpatta City, Pune 411028, herein, do hereby state on Solemn Affirmation as under:

1. I say that the details of the Petitioner No. 1 including her address, annual income, contact details and PAN number are as follows:

391

| SR. NO. | PARTICULARS | |
|---|---|---|
| 1. | Name | Shalvi Pawar |
| 2. | Address | L-602, Laburnum Park, Magarpatta City, Pune 411028 |
| 3. | Email Id | shalvipawar5@gmail.com |
| 4. | Contact No. | 7767916712 |
| 5. | PAN Card No. | CQLPP2706D |
| 6. | Annual Income | Rs. 4,80,000 approximately |

2. I say that the sources of information disclosed in the Petition are documents lawfully received by Petitioners and the judgments of various courts. I undertake to disclose necessary information as and when called upon by this Hon'ble Court.

3. I say that I have filed the above Petition for the reliefs more specifically set out in the Petition. I repeat, reiterate and adopt

392

each and every statement in the Petition as if the same were set out herein and form a part of this affidavit. I crave to rely and refer upon the Petition.

4. I hereby state that thorough research has been conducted in the matter raised through the Petition and all the relevant material in respect to such has been annexed to the Petition.

5. I say that whatever is stated in the Petition is true and correct to the best of my knowledge and based on the information which I believe to be true.

6. I undertake to pay costs as ordered by this Hon'ble Court, if it is ultimately held that this Petition is frivolous or has been filed for extraneous considerations or that it lacks bona-fide.

7. I hereby submit that the entire litigation costs, including advocate's fee and other charges are being borne by the Petitioners. The Petitioners have provided the details of their PAN card within the Petition.



393

8. I say that I undertake to pay such sum by way of damages or costs as this Hon'ble Court may award as compensation in the event of a party affected sustaining prejudice by any order that might be made on any interim application.

9. I say that there is no personal gain, private motive or oblique reason for filing this Public Interest Litigation.

10. I repeat and reiterate and adopt each and every statement in the Petition as if the same were set out herein and form a part of this affidavit.I crave leave to refer and rely upon the Public Interest Litigation.

11. I say that I have not filed any civil or criminal case/petition or any other petition before any court on the same subject matter as that of the present Public Interest Litigation Petition.

12. I say that if the ad-interim reliefs are not granted grave loss, harm injury and prejudice will be caused to the citizens of Pune

394

and if granted, no grave loss, harm, injury, or prejudice will be caused to the Respondents.

13.I therefore, pray that the Petition be made absolute with cost and ad-interim reliefs may be granted.

Solemnly declared at Mumbai )
On this 3rd day of ___ October 2023 ) Petitioner No.1
(Shalvi Pawar)

Identified by me,

**MADHVI GOMATHIESWARAN/ SHREYA MOHAPATRA**

Advocates for the Petitioners

Before me,

BEFORE ME
S. K. TAMBAWALLA
ADVOCATE HIGH COURT
B-23, Taheri Manzil
Nesbit Road, Mazgaon
Mumbai - 400 010
3/10/23
NOTARY & REGISTERED
Sr No. 5349 dt. 3/10/23

395

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. ___ OF 2023

DIST:- PUNE

Shalvi Pawar and Ors ...Petitioners

Vs

Pune Municipal Corporation & Ors ...Respondents

**AFFIDAVIT IN SUPPORT SUBMITTED BY THE PETITIONERS ABOVENAMED UNDER RULE 4, 5, 6 & 7 AS PER THE NOTIFICATION NO 1603/2010**

I, Tanmayi Shinde, Petitioner No.2, age 22 years residing at Sr. No. 24, Paschima Resi, B3/1,Vitthalwadi, Sinhgad, do hereby state on Solemn Affirmation as under: -

1. I say that the details of the Petitioner No. 2 including her address, annual income, contact details and PAN number are as follows:

396

| SR. NO. | PARTICULARS | |
|---|---|---|
| 1. | Name | Tanmayi Shinde |
| 2. | Address | Sr. No. 24, Paschima Resi, B3/1, Vitthalwadi, Sinhgad, Road, Pune – 51 |
| 3. | Email Id | earthlingtara1003@gmail.com |
| 4. | Contact No. | 7888168187 |
| 5. | PAN Card No. | MDFPS8221K |
| 6. | Annual Income | Rs. 1,50,000 approximately |

2. I say that the sources of information disclosed in the Petition are documents lawfully received by Petitioners and the judgments of various courts. I undertake to disclose necessary information as and when called upon by this Hon'ble Court.

3. I say that I have filed the above Petition for the reliefs more specifically set out in the Petition. I repeat, reiterate and adopt

397

each and every statement in the Petition as if the same were set out herein and form a part of this affidavit.I crave to rely and refer upon the Petition.

4. I hereby state that thorough research has been conducted in the matter raised through the Petition and all the relevant material in respect to such has been annexed to the Petition.

5. I say that whatever is stated in the Petition is true and correct to the best of my knowledge and based on the information which I believe to be true.

6. I undertake to pay costs as ordered by this Hon'ble Court, if it is ultimately held that this Petition is frivolous or has been filed for extraneous considerations or that it lacks bona-fide.

7. I hereby submit that the entire litigation costs, including advocate's fee and other charges are being borne by the Petitioners. The Petitioners have provided the details of their PAN card within the Petition.



398

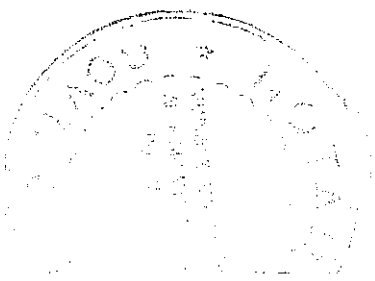
8. I say that I undertake to pay such sum by way of damages or costs as this Hon'ble Court may award as compensation in the event of a party affected sustaining prejudice by any order that might be made on any interim application.

9. I say that there is no personal gain, private motive or oblique reason for filing this Public Interest Litigation.

10. I repeat and reiterate and adopt each and every statement in the Petition as if the same were set out herein and form a part of this affidavit. I crave leave to refer and rely upon the Public Interest Litigation.

11. I say that I have not filed any civil or criminal case/petition or any other petition before any court on the same subject matter as that of the present Public Interest Litigation Petition.

12. I say that if the ad-interim reliefs are not granted grave loss, harm injury and prejudice will be caused to the citizens of Pune



399

and if granted, no grave loss, harm, injury, or prejudice will be caused to the Respondents.

13.I therefore, pray that the Petition be made absolute with cost and ad-interim reliefs may be granted.

Solemnly declared at Mumbai ) T.A Shinde
On this 3rd day of ___ October 2023 ) Petitioner No.2
(Tanmayi Shinde)

Identified by me,

**MADHVI GOMATHIESWARAN/ SHREYA MOHAPATRA**

Advocates for the Petitioners

Before me,

BEFORE ME
S. K. TAMBAWALLA
ADVOCATE, HIGH COURT
B-23, Taheri Manzil
Nesbit Road, Mazgaon
Mumbai - 400 010 3/10/23

NOTARY & REGISTERED
Sr No. 17350 dt. 3/10/23

NOTARY GOVT. OF INDIA SHABBIR K. TAMBAWALA AREA GREATER MUMBAI Regn. No. 8308 NOTARIAL

400

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. ___ OF 2023

DIST:- PUNE

Shalvi Pawar and Ors ...Petitioners

Vs

Pune Municipal Corporation & Ors ...Respondents

**AFFIDAVIT IN SUPPORT SUBMITTED BY THE PETITIONERS ABOVENAMED UNDER RULE 4, 5, 6 & 7 AS PER THE NOTIFICATION NO 1603/2010**

I, Aakash Agarwal, Petitioner No.3 age 23, residing at D-101, Gate No. 2, Phase 1,Gangadham, Marketyard,Pune - 37, do hereby state on Solemn Affirmation as under:

1. I say that the details of the Petitioner No. 3 including his address, annual income, contact details and PAN number are as follows:



401

| SR. NO. | PARTICULARS | |
|---|---|---|
| 1. | Name | Aakash Agarwal |
| 2. | Address | D-101, Gate No. 2, Phase 1,Gangadham, Marketyard,Pune - 37 |
| 3. | Email Id | aakash26agarwal@gmail.com |
| 4. | Contact No. | 94203 18401 |
| 5. | PAN Card No. | DCWPA0114A |
| 6. | Annual Income | Rs. 85,000 approximately |

2. I say that the sources of information disclosed in the Petition are documents lawfully received by Petitioners and the judgments of various courts. I undertake to disclose necessary information as and when called upon by this Hon'ble Court.

3. I say that I have filed the above Petition for the reliefs more specifically set out in the Petition. I repeat, reiterate and adopt each and every statement in the Petition as if the same were set

402

out herein and form a part of this affidavit.I crave to rely and refer upon the Petition.

4. I hereby state that thorough research has been conducted in the matter raised through the Petition and all the relevant material in respect to such has been annexed to the Petition.

5. I say that whatever is stated in the Petition is true and correct to the best of my knowledge and based on the information which I believe to be true.

6. I undertake to pay costs as ordered by this Hon'ble Court, if it is ultimately held that this Petition is frivolous or has been filed for extraneous considerations or that it lacks bona-fide.

7. I hereby submit that the entire litigation costs, including advocate's fee and other charges are being borne by the Petitioners. The Petitioners have provided the details of their PAN card within the Petition.

8. I say that I undertake to pay such sum by way of damages or costs as this Hon'ble Court may award as compensation

403

in the event of a party affected sustaining prejudice by any order that might be made on any interim application.

9. I say that there is no personal gain, private motive or oblique reason for filing this Public Interest Litigation.

10. I repeat and reiterate and adopt each and every statement in the Petition as if the same were set out herein and form a part of this affidavit.I crave leave to refer and rely upon the Public Interest Litigation.

11. I say that I have not filed any civil or criminal case/petition or any other petition before any court on the same subject matter as that of the present Public Interest Litigation Petition.

12. I say that if the ad-interim reliefs are not granted grave loss, harm injury and prejudice will be caused to the citizens of Pune and if granted, no grave loss, harm, injury, or prejudice will be caused to the Respondents.

404

13.I therefore, pray that the Petition be made absolute with cost and ad-interim reliefs may be granted.

Solemnly declared at Mumbai )
On this 3rd day of October 2023 ) Petitioner No.3
(Aakash Agarwal)

Identified by us,

**MADHVI GOMATHIESWARAN/ SHREYA MOHAPATRA**

Advocates for the Petitioners

Before me,

BEFORE ME
S. K. TAMBAWALLA
ADVOCATE, HIGH COURT
B-23, Taheri Manzil
Nesbit Road, Mazgaon
Mumbai - 400 010
3/10/23
NOTARY & REGISTERED
S.No. 15357 dt. 3/10/23

405

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. ___ OF 2023

**DIST:- PUNE**

Shalvi Pawar and Ors ...Petitioners

Vs

Pune Municipal Corporation & Ors ...Respondents

**AFFIDAVIT IN SUPPORT SUBMITTED BY THE PETITIONERS ABOVENAMED UNDER RULE 4, 5, 6 & 7 AS PER THE NOTIFICATION NO 1603/2010**

I, Anagha Purohit, Petitioner No. 4 Age 26 years, residing at B-203, The Legend, Bibvewadi, Pune-411037, do hereby state on Solemn Affirmation as under:

1 .I say that the details of the Petitioner No. 4 including her address, annual income, contact details and PAN number are as follows:

406

| SR. NO. | PARTICULARS | |
|---|---|---|
| 1. | Name | Anagha Purohit |
| 2. | Address | B-203, The Legend, Bibvewadi, Pune-411037 |
| 3. | Email Id | anagha.adp@gmail.com |
| 4. | Contact No. | 7498468152 |
| 5. | PAN Card No. | CUGPP6516A |
| 6. | Annual Income | Rs. 3,00,000 approximately |

2. I say that the sources of information disclosed in the Petition are documents lawfully received by Petitioners and the judgments of various courts. I undertake to disclose necessary information as and when called upon by this Hon'ble Court.

3.I say that I have filed the above Petition for the reliefs more specifically set out in the Petition. I repeat, reiterate and adopt each

and every statement in the Petition as if the same were set out herein and form a part of this affidavit.I crave to rely and refer upon the Petition.

4.I hereby state that thorough research has been conducted in the matter raised through the Petition and all the relevant material in respect to such has been annexed to the Petition.

5. I say that whatever is stated in the Petition is true and correct to the best of my knowledge and based on the information which I believe to be true.

6. I undertake to pay costs as ordered by this Hon'ble Court, if it is ultimately held that this Petition is frivolous or has been filed for extraneous considerations or that it lacks bona-fide.

7. I hereby submit that the entire litigation costs, including advocate's fee and other charges are being borne by the Petitioners. The Petitioners have provided the details of their PAN card within the Petition.

408

8. I say that I undertake to pay such sum by way of damages or costs as this Hon'ble Court may award as compensation in the event of a party affected sustaining prejudice by any order that might be made on any interim application.

9.I say that there is no personal gain, private motive or oblique reason for filing this Public Interest Litigation.

10.I repeat and reiterate and adopt each and every statement in the Petition as if the same were set out herein and form a part of this affidavit.I crave leave to refer and rely upon the Public Interest Litigation.

11.I say that I have not filed any civil or criminal case/petition or any other petition before any court on the same subject matter as that of the present Public Interest Litigation Petition.

12.I say that if the ad-interim reliefs are not granted grave loss, harm injury and prejudice will be caused to the citizens of Pune and if

409

granted, no grave loss, harm, injury, or prejudice will be caused to the Respondents.

13. I therefore, pray that the Petition be made absolute with cost and ad-interim reliefs may be granted.

Solemnly affirmed at Mumbai )
Dated this 3rd day of October 2023 ) Petitioner No. 4
(Anagha Purohit)

Identified by

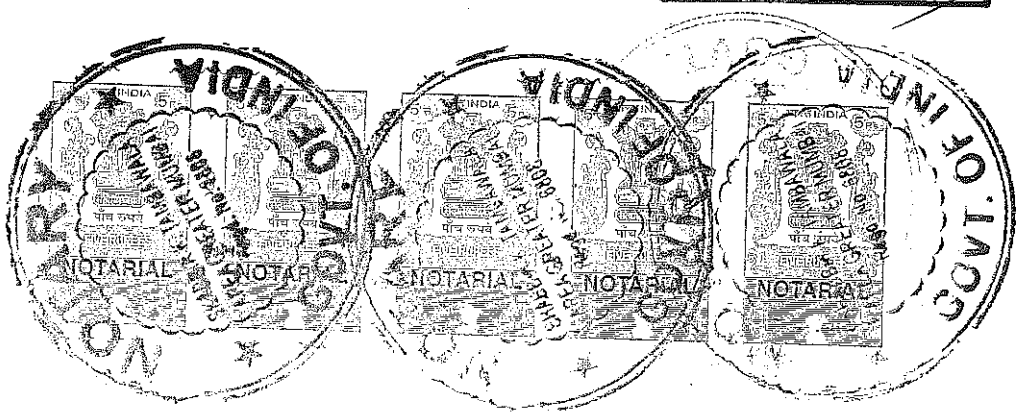
**MADHVI GOMATHIESWARAN/ SHREYA MOHAPATRA**

Advocates for the Petitioner.

Before me

BEFORE ME
S. K. TAMBAWALLA
ADVOCATE, HIGH COURT
B-23, Taheri Manzil
Nesbit Road, Mazgaon
Mumbai - 400 010 3/10/23

NOTARY & REGISTERED
Sr. No. 5352 dt. 3/10/23



410

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. ___ OF 2023

**DIST:- PUNE**

Shalvi Pawar and Ors ...Petitioners

Vs

Pune Municipal Corporation & Ors ...Respondents

**AFFIDAVIT IN SUPPORT SUBMITTED BY THE PETITIONERS ABOVENAMED UNDER RULE 4, 5, 6 & 7 AS PER THE NOTIFICATION NO 1603/2010**

I, Samruddhi Kondekar, Petitioner No.5 Age: 26 years residing at C4/501, Lake Town, Bibwewadi, Pune 411037, do hereby state on Solemn Affirmation as under:

1. I say that the details of the Petitioner No. 5 including her address, annual income, contact details and PAN number are as follows:

911

| SR. NO. | PARTICULARS | |
|---|---|---|
| 1. | Name | Samruddhi Kondekar |
| 2. | Address | Address:C4/501, Lake Town, Bibwewadi, Pune 411037 |
| 3. | Email Id | samruddhi2897@gmail.com |
| 4. | Contact No. | 9673372170 |
| 5. | PAN Card No. | GWWPK1315N |
| 6. | Annual Income | Rs. 1,20,000 approximately |

2. I say that the sources of information disclosed in the Petition are documents lawfully received by Petitioners and the judgments of various courts. I undertake to disclose necessary information as and when called upon by this Hon'ble Court.

412

3.I say that I have filed the above Petition for the reliefs more specifically set out in the Petition. I repeat, reiterate and adopt each and every statement in the Petition as if the same were set out herein and form a part of this affidavit.I crave to rely and refer upon the Petition.

4.I hereby state that thorough research has been conducted in the matter raised through the Petition and all the relevant material in respect to such has been annexed to the Petition.

5.I say that whatever is stated in the Petition is true and correct to the best of my knowledge and based on the information which I believe to be true.

6.I undertake to pay costs as ordered by this Hon'ble Court, if it is ultimately held that this Petition is frivolous or has been filed for extraneous considerations or that it lacks bona-fide.

7.I hereby submit that the entire litigation costs, including advocate's fee and other charges are being borne by the Petitioners. The

413

Petitioners have provided the details of their PAN card within the Petition.

8.I say that I undertake to pay such sum by way of damages or costs as this Hon'ble Court may award as compensation in the event of a party affected sustaining prejudice by any order that might be made on any interim application.

9.I say that there is no personal gain, private motive or oblique reason for filing this Public Interest Litigation.

10.I repeat and reiterate and adopt each and every statement in the Petition as if the same were set out herein and form a part of this affidavit.I crave leave to refer and rely upon the Public Interest Litigation.

11.I say that if the ad-interim reliefs are not granted grave loss, harm injury and prejudice will be caused to the citizens of Pune and if granted, no grave loss, harm, injury, or prejudice will be caused to the Respondents.



414

12.I say that I have not filed any civil or criminal case/petition or any other petition before any court on the same subject matter as that of the present Public Interest Litigation Petition.

13.I therefore, pray that the Petition be made absolute with cost and ad-interim reliefs may be granted.

Solemnly affirmed at Mumbai )

Dated this 30 day of October 2023 ) Petitioner No.5
(Samruddhi Kondekar)

Identified by

**MADHVI GOMATHIESWARAN/ SHREYA MOHAPATRA**

Advocates for the Petitioner.

Before me

BEFORE ME
S. K. TAMBAWALLA
ADVOCATE, HIGH COURT
B-23, Taheri Manzil
Nesbit Road, Mazgaon
Mumbai - 400 010 3/10/23

NOTARY & REGISTERED
Sr. No. 15353 dt. 3/10/23



415

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO. ___ OF 2023**

**DIST:- PUNE**

Shalvi Pawar and Ors ...Petitioners

Vs

Pune Municipal Corporation & Ors ...Respondents

**AFFIDAVIT IN SUPPORT SUBMITTED BY THE PETITIONERS ABOVENAMED UNDER RULE 4, 5, 6 & 7 AS PER THE NOTIFICATION NO 1603/2010**

I, Omkar Ganu, Petitioner No.6, Age: 23 years residing at 11 A-1, Damodar Nagar Kai. Narayan Jagtap Marg-Canol Road Near Mahadev Nagar Hingane Khurd Sinhagd Road, Anandnagar Pune, Maharashtra 411051, do hereby state on Solemn Affirmation as under:-

1. I say that the details of the Petitioner No. 6 including his address, annual income, contact details and PAN number are as follows:

416

| SR. NO. | PARTICULARS | |
|---|---|---|
| 1. | Name | Omkar Ganu |
| 2. | Address | A-1,Damodar Nagar Kai, Narayan Jagtap Marg-Canol Road Near Mahadev Nagar Hingane Khurd Sinhagd Road,Anandnagar Pune, Maharashtra 411051 |
| 3. | Email Id | yasganu@gmail.com |
| 4. | Contact No. | 9420481366 |
| 5. | PAN Card No. | BSJPG0188F |
| 6. | Annual Income | Rs. 3,50,000 approximately |

2. I say that the sources of information disclosed in the Petition are documents lawfully received by Petitioners and the judgments of various courts. I undertake to disclose necessary information as and when called upon by this Hon'ble Court.

417

3.I say that I have filed the above Petition for the reliefs more specifically set out in the Petition. I repeat, reiterate and adopt each and every statement in the Petition as if the same were set out herein and form a part of this affidavit.I crave to rely and refer upon the Petition.

4.I hereby state that thorough research has been conducted in the matter raised through the Petition and all the relevant material in respect to such has been annexed to the Petition.

5.I say that whatever is stated in the Petition is true and correct to the best of my knowledge and based on the information which I believe to be true.

6.I undertake to pay costs as ordered by this Hon'ble Court, if it is ultimately held that this Petition is frivolous or has been filed for extraneous considerations or that it lacks bona-fide.

7.I hereby submit that the entire litigation costs, including advocate's fee and other charges are being borne by the

418

Petitioners. The Petitioners have provided the details of their PAN card within the Petition.

8.I say that I undertake to pay such sum by way of damages or costs as this Hon'ble Court may award as compensation in the event of a party affected sustaining prejudice by any order that might be made on any interim application.

9.I say that there is no personal gain, private motive or oblique reason for filing this Public Interest Litigation.

10.I repeat and reiterate and adopt each and every statement in the Petition as if the same were set out herein and form a part of this affidavit.I crave leave to refer and rely upon the Public Interest Litigation.

11.I say that if the ad-interim reliefs are not granted grave loss, harm injury and prejudice will be caused to the citizens of Pune and if granted, no grave loss, harm, injury, or prejudice will be caused to the Respondents.

419

12.I say that I have not filed any civil or criminal case/petition or any other petition before any court on the same subject matter as that of the present Public Interest Litigation Petition.

13. I therefore, pray that the Petition be made absolute with cost and ad-interim reliefs may be granted.

Solemnly affirmed at Mumbai )

Dated this 3rd day of September 2023 ) Petitioner No.6
(Omkar Ganu)

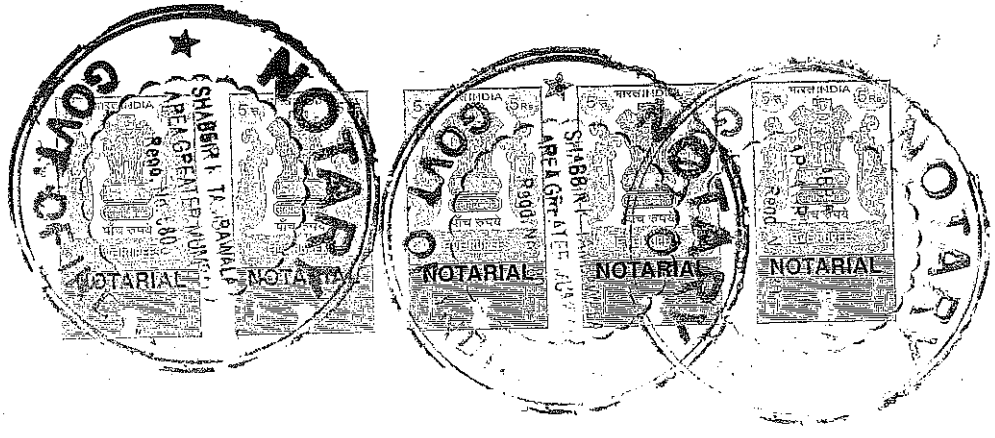
Identified by

**MADHVI GOMATHIESWARAN/ SHREYA MOHAPATRA**

Advocates for the Petitioner.

Before me

BEFORE ME
S. K. TAMBAWALLA
ADVOCATE, HIGH COURT
B-23, Taheri Manzil
Nesbit Road, Mazgaon
Mumbai - 400 010
3.10.23
NOTARY & REGISTERED
Sr. No. 75354 dt. 3/10/22



420

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO. ___ OF 2023**

Shalvi Pawar and Ors ...Petitioners

Vs

Pune Municipal Corporation & Ors ...Respondents

**AFFIDAVIT IN SUPPORT SUBMITTED BY THE PETITIONERS ABOVENAMED UNDER RULE 4, 5, 6 & 7 AS PER THE NOTIFICATION NO 1603/2010**

I , Jahnavee Palsodkar, Petitioner No.7 Age: 21 years, residing at G-701, Rohan Garima, Shivaji Housing Society, Senapati Bapat Road, Behind Hotel JW Marriott, Pune-411016, do hereby state on Solemn Affirmation as under:

1. I say that the details of the Petitioner No. 7 including her address, annual income, contact details and PAN number are as follows:

421

| SR. NO. | PARTICULARS | |
|---|---|---|
| 1. | Name | Jahnavee Palsodkar |
| 2. | Address | 701, Rohan Garima, Shivaji Housing Society, Senapati Bapat Road, Behind Hotel JW Marriott, Pune-411016 |
| 3. | Email Id | jahnavee.climate@gmail.com |
| 4. | Contact No. | 7774039010 |
| 5. | PAN Card No. | GPUPP0838C |
| 6. | Annual Income | Student- Unemployed |

2.I say that the sources of information disclosed in the Petition are documents lawfully received by Petitioners and the judgments of various courts. I undertake to disclose necessary information as and when called upon by this Hon'ble Court.

3.I say that I have filed the above Petition for the reliefs more specifically set out in the Petition. I repeat, reiterate and adopt each

422

and every statement in the Petition as if the same were set out herein and form a part of this affidavit.I crave to rely and refer upon the Petition.

4.I hereby state that thorough research has been conducted in the matter raised through the Petition and all the relevant material in respect to such has been annexed to the Petition.

5.I say that whatever is stated in the Petition is true and correct to the best of my knowledge and based on the information which I believe to be true.

6.I undertake to pay costs as ordered by this Hon'ble Court, if it is ultimately held that this Petition is frivolous or has been filed for extraneous considerations or that it lacks bona-fide.

7.I hereby submit that the entire litigation costs, including advocate's fee and other charges are being borne by the Petitioners. The Petitioners have provided the details of their PAN card within the Petition.

423

8.I say that I undertake to pay such sum by way of damages or costs as this Hon'ble Court may award as compensation in the event of a party affected sustaining prejudice by any order that might be made on any interim application.

9.I say that there is no personal gain, private motive or oblique reason for filing this Public Interest Litigation.

10.I repeat and reiterate and adopt each and every statement in the Petition as if the same were set out herein and form a part of this affidavit.I crave leave to refer and rely upon the Public Interest Litigation.

11.I say that if the ad-interim reliefs are not granted grave loss, harm injury and prejudice will be caused to the citizens of Pune and if granted, no grave loss, harm, injury, or prejudice will be caused to the Respondents.

12.I say that I have not filed any civil or criminal case/petition or any other petition before any court on the same subject matter as that of the present Public Interest Litigation Petition.

424

13.I therefore, pray that the Petition be made absolute with cost and ad-interim reliefs may be granted.

Solemnly affirmed at Mumbai )
Dated this 31 day of October 2023 ) Petitioner No.7
(Jahnavee Palsodkar)

Identified by

**MADHVI GOMATHIESWARAN/ SHREYA MOHAPATRA**

Advocates for the Petitioner.

Before me

BEFORE ME
S. K. TAMBAWALLA
ADVOCATE, HIGH COURT
B-23, Taheri Manzil
Nesbit Road, Mazgaon
Mumbai - 400 010
31/10/23

NOTARY & REGISTERED
Sr. No. 15355 dt. 31/10/23

NOTARY SHABBIR K. TAMBAWALLA AREA GREATER MUMBAI NOTARIAL GOVT. OF INDIA

425

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. ___ OF 2023

Shalvi Pawar and Ors ...Petitioners

Vs

Pune Municipal Corporation & Ors ...Respondents

**AFFIDAVIT IN SUPPORT SUBMITTED BY THE PETITIONERS ABOVENAMED UNDER RULE 4, 5, 6 & 7 AS PER THE NOTIFICATION NO 1603/2010**

I Khushi Goyal, Petitioner No.8, Age: 24 years, residing at A/1 Sushma Apartment, 585/21 Salisbury Park, Suryakant Khatu Road, Gultekdi, Market Yard, Pune 411037 the Petitioner No. 8 herein, do hereby state on Solemn Affirmation as under:

1.I say that the details of the Petitioner No. 8 including her address, annual income, contact details and PAN number are as follows:

426

| SR. NO. | PARTICULARS | |
|---|---|---|
| 1. | Name | Khushi Goyal |
| 2. | Address | Sushma Apartment, 585/21 Salisbury Park, Suryakant Khatu Road, Gultekdi, Market Yard, Pune 411037 |
| 3. | Email Id | goyalkhushi2706@gmail.com |
| 4. | Contact No. | 8657475774 |
| 5. | PAN Card No. | BXNPG3100Q |
| 6. | Annual Income | Rs. 1,20,000 approximately |

2.I say that the sources of information disclosed in the Petition are documents lawfully received by Petitioners and the judgments of various courts. I undertake to disclose necessary information as and when called upon by this Hon'ble Court.

3.I say that I have filed the above Petition for the reliefs more specifically set out in the Petition. I repeat, reiterate and adopt each

427

and every statement in the Petition as if the same were set out herein and form a part of this affidavit.I crave to rely and refer upon the Petition.

4.I hereby state that thorough research has been conducted in the matter raised through the Petition and all the relevant material in respect to such has been annexed to the Petition.

5.I say that whatever is stated in the Petition is true and correct to the best of my knowledge and based on the information which I believe to be true.

6.I undertake to pay costs as ordered by this Hon'ble Court, if it is ultimately held that this Petition is frivolous or has been filed for extraneous considerations or that it lacks bona-fide.

7.I hereby submit that the entire litigation costs, including advocate's fee and other charges are being borne by the Petitioners. The Petitioners have provided the details of their PAN card within the Petition.

428

8.I say that I undertake to pay such sum by way of damages or costs as this Hon'ble Court may award as compensation in the event of a party affected sustaining prejudice by any order that might be made on any interim application.

9.I say that there is no personal gain, private motive or oblique reason for filing this Public Interest Litigation.

10.I repeat and reiterate and adopt each and every statement in the Petition as if the same were set out herein and form a part of this affidavit.I crave leave to refer and rely upon the Public Interest Litigation.

11.I say that if the ad-interim reliefs are not granted grave loss, harm injury and prejudice will be caused to the citizens of Pune and if granted, no grave loss, harm, injury, or prejudice will be caused to the Respondents.

12.I say that I have not filed any civil or criminal case/petition or any other petition before any court on the same subject matter as that of the present Public Interest Litigation Petition.

429

13.I therefore, pray that the Petition be made absolute with cost and ad-interim reliefs may be granted.

Solemnly affirmed at Mumbai )

Dated this 3rd day of October 2023 ) Petitioner No.8
(Khushi Goyal)

KSAGoyal

Identified by

MADHVI GOMATHIESWARAN/ SHREYA MOHAPATRA

Advocates for the Petitioner.

Before me

BEFORE ME
S. K. TAMBAWALLA
ADVOCATE, HIGH COURT
B-23, Taheri Manzil
Nesbit Road, Mazgaon
Mumbai - 400 010
3/10/23

NOTARY & REGISTERED
Sr. No. 5376 dt. 3/10/23

NOTARY GOVT. OF INDIA

430

**IN THE HON'BLE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO. _____OF 2023

**DISTRICT: PUNE**

In the matter of Articles 14, 21 and 226 of the Constitution of India;

AND

In the matter of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975;

AND

In the matter of the Maharashtra (Urban Areas) Protection and Preservation

431

of Trees (Amendment) Act, 2023;

AND

In the matter of the judgment dated 20th September 2013 of this Hon'ble Court in PIL No. 93 of 2009

AND

In the matter of Order dated 18th, 19th, 20th and 23rd April 2018 passed by this Hon'ble Court in PIL No. 119 of 2017 with PIL 46 of 2015;

AND

432

In the matter of the Application of the Pune Municipal Corporation to cut 3110 trees and transplant 4429 trees for the Riverfront Development Project in Pune under the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975

1. Shalvi Pawar )
   Age: 26 years )
   Address: L-602, Laburnum Park, )
   Magarpatta City, Pune 411028. )
   Annual Income: 3,00,000 )
   PAN No: CQLPP2706D )

2. Tanmayi Shinde, )
   Age: 22 years )
   Address: Sr. No. 24, Paschima Resi, B3/1, )
   Vitthalwadi, Sinhgad, )

433

Road, Pune – 411051 )

Annual Income: NIL )

PAN No: MDFPS8221K )

3. Aakash Agrawal, )

Age:23 )

Address:D-101, Gate No. 2, Phase 1, )

Gangadham, Marketyard, Pune – 411037. )

Annual Income: Rs. 85,000 )

PAN No: DCWPA0114A )

4. Anagha Purohit, )

Age: 26 years )

Address: B-203, The Legend, )

Bibvewadi, Pune-411037. )

Annual Income- Rs. 3,00,000 )

PAN No: CUGPP6516A )

5. Samruddhi Kondekar, )

Age: 26 years )

Address:C4/501, Lake Town, )

Bibwewadi, Pune 411037. )

439

Annual Income: Rs. 1,20,000 )

PAN No: GWWPK1315N )

6. Omkar Ganu, )

Age: 23 years )

Address: 11 A-1Damodar Nagar Kai. )

Narayan Jagtap Marg-Canol Road, )

Near Mahadev Nagar Hingane, )

Khurd Sinhagd Road, )

Anandnagar Pune, Maharashtra 411051. )

Annual Income: 3,50,000 )

PAN No: BSJPG0188F )

7. Jahnavee Palsodkar, )

Age: 21 years )

Address:G-701, Rohan Garima, )

Shivaji Housing Society, )

Senapati Bapat Road, )

Behind Hotel JW Marriott, Pune-411016. )

Annual Income: NA )

PAN No: GPUPP0838C )

435

8. Khushi Goyal, )
Age: 24 years )
Address:A/1 Sushma Apartment, )
585/21 Salisbury Park, )
Suryakant Khatu Road, )
Gultekdi, Market Yard, Pune 411037. )
Annual Income: Rs. 1,20,000 )
PAN No:BXNPG3100Q )...Petitioners

VERSUS

1. Pune Municipal Corporation )
Through its commissioner )
Pune Municipal CorporationMain Building, )
Near. Mangla Theatre, Shivajinagar, )
Pune- 411 005. )

2. The Chairman, Tree Authority, )
Through the Commissioner/Administrator, )
Pune Municipal Corporation, )
Main Building, Shivajinagar )
Pune 411 005. )

436

3. The Secretary , Environment and )
Climate Change Department, )
In his capacity as Chairperson of )
Maharashtra State Tree Authority, )
15th Floor, New Administrative Building, )
Mantralya, Mumbai - 400 032. )
psec.env@maharashtra.gov.in )

4. Director – Environment and )
Climate Change Department, )
5th Floor, New Administrative Building, )
Mantralaya, Mumbai - 400 032. )

5. District Collector Pune, )
Chairman District Bio-Diversity Committee)
New Collector Office, Pune - 411 001. )

6. Chief Conservator of Forests - Pune Division)
Van Bhavan, Bhamburda,Van Vihar, )
Gokhale Nagar, Pune 411016. )

437

7. Chief Engineer , Pune Division, )
Water Resources Department )
Sinchan Bhavan, )
Mangalwar Peth,Pune 411 001. )

8. Urban Development Department, )
Government of Maharashtra, )
Through the Principal Secretary – I, )
4th Floor, Madam Cama Road, )
Mantralaya, Mumbai – 400032. )

9. Ministry of Environment, )
Forests and Climate Change, )
Through the Joint Secretary, )
2nd Floor, Agni Block, )
Indira Paryavaran Bhawan, )
Jorbagh Road, New Delhi – 110 003. )
Contact Number: 91-11-20819220 )
Email address: secy-moef@nic.in ) ...Respondents



**VAKALATNAMA**

438

To,

The Registrar,

High Court, Civil Appellate Side,

Mumbai

Sir,

We, Shalvi Pawar, age 26, residing at L-602, Laburnum Park, Magarpatta City, Pune 411028, the Petitioner No. 1 herein, Tanmayi Shinde, age 22 years residing at Sr. No. 24, Paschima Resi, B3/1,Vitthalwadi, Sinhgad, the Petitioner No. 2 herein, Aakash Agarwal, age 23, residing at D-101, Gate No. 2, Phase 1,Gangadham, Marketyard, Pune - 37, the Petitioner No. 3, Anagha Purohit, Age 26 years, residing at B-203, The Legend, Bibvewadi, Pune-411037, the Petitioner No. 4 herein, Samruddhi Kondekar, Age: 26 years residing at C4/501, Lake Town, Bibwewadi, Pune 411037, the Petitioner No. 5 herein, Omkar Ganu, Age: 23 years residing at 11 A-1, Damodar Nagar Kai. Narayan Jagtap Marg-Canol Road Near Mahadev Nagar Hingane Khurd Sinhagd Road, Anandnagar Pune, Maharashtra 411051, the Petitioner No. 6 herein, Jahnavee Palsodkar, Age: 21 years, residing at G-701, Rohan Garima, Shivaji Housing Society, Senapati Bapat Road, Behind Hotel JW Marriott, Pune-411016,

439

the Petitioner No. 7 herein and Khushi Goyal Age: 24 years, residing at A/1 Sushma Apartment, 585/21 Salisbury Park, Suryakant Khatu Road, Gultekdi, Market Yard, Pune 411037 the Petitioner No. 8 herein, do appoint Ms. Madhvi Gomathieswaran and Ms. Shreya Mohapatra to act, appear and plead on our behalf in the above matter.

IN WITNESS WHEREOF WE HAVE SET AND SUBSCRIBED OUR HANDS TO THIS WRITING, on this ____day of September, 2023 at Mumbai.

Accepted by

**MADHVI GOMATHIESWARAN/ SHREYA MOHAPATRA**

Advocates for the Petitioner

First Floor, Masjid Manor,

16 Homi Modi Street

Fort, Mumbai- 400 023

Email: madhvi.gmth@gmail.com

Mobile: 9677819893

Advocate Code: MAH/2497/2022; MAH/2082/2023

Petitioner No.1

(Shalvi Pawar)

440

T.A Shinde

Petitioner No.2

(Tanmayi Shinde)

Aakash

Petitioner No. 3

(Aakash Agarwal)

Petitioner No. 4

(Anagha Purohit)

Kondekar

Petitioner No. 5

(Samruddhi Kondekar)

Petitioner No. 6

(Omkar Ganu)

Jahnavee

Petitioner No. 7

(Jahnavee Palsodkar)

K S A Goyal

Petitioner No. 8

(Khushi Goyal)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO. ___ OF 2023**

Shalvi Pawar and Ors )...Petitioners

Vs

Pune Municipal Corporation & Ors )...Respondents

**PUBLIC INTEREST LITIGATION**

On this dated October 2023

**MADHVI GOMATHIESWARAN/ SHREYA MOHAPATRA**

Advocates for the Petitioner

First Floor, Masjid Manor,

16 Homi Modi Street

Fort, Mumbai- 400 023

Email: madhvi.gmth@gmail.com

Mobile: 9677819893

Advocate Code: MAH/2497/2022; MAH/2082/2023

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO. 161 OF 2023**

Shalvi Pawar & Ors. .. Petitioners

Versus

Pune Municipal Corporation & Ors. .. Respondents

Ms. Gayatri Singh, Senior Advocate a/w Ms. Madhavi Gomathieswaran for petitioners.

Mr. Abhijit P. Kulkarni i/by Mr.Rahul Garg, Ms. Sweta Shah, Mr. Krushna Jaybhay and Mr. Gourav Shahane for respondent no.1/PMC.

Mr. P. P. Kakade, Government Pleader a/w Mrs. R. A. Salunkhe, AGP for respondent/State.

Mr. Parag A. Vyas a/w Ms. Anusha P. Amin & Ms. Karuna Yadav for respondent no.9.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. & ARIF S. DOCTOR, J.**

**DATE: 12th OCTOBER, 2023**

**P.C.:**

**1.** Heard Ms. Gayatri Singh, learned senior advocate for the petitioners, Mr. Kakade, learned Government Pleader representing the respondents/State, Mr. Kulkarni, learned counsel representing the respondent/Pune Municipal Corporation and Mr. Vyas, learned counsel representing the respondent no.9.



::: Uploaded on - 16/10/2023 ::: Downloaded on - 05/12/2023 12:49:18 :::

**2.** This Public Interest Litigation petition prays for the following reliefs: -

a. *That this Hon'ble Court be pleased to issue a Writ of Declaration or any other appropriate writ, order or direction declaring the Maharashtra Act No. XLIII of 2023 which received the assent of the Governor on 25th August 2023 as ultra vires Article 14 and 21 of the Constitution of India and the Maharashtra (Urban Areas) Protection and Preservation of Tress Act, 1975;*

b. *This Hon'ble Court be pleased to issue a Writ of Mandamus or any other writ, order or direction in the nature of Mandamus, directing the Respondent No.1 to cancel the project which requires the felling/ transplanting of trees.*

c. *That this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other writ, order or direction in the nature of a Mandamus restraining the Respondent No.2 from giving any permission for the cutting/transplanting of trees for the River Front Development Project and from taking any action on the proposal dated 6th June 2023 sent by the Project Department;*

d. *This Hon'ble Court be pleased to issue a Writ of Mandamus or any other writ, order or direction in the nature of Mandamus, directing the Respondent No.1 and 2 to forthwith cease and recall any process it has undertaken for applying for permission for cutting and*



::: Uploaded on - 16/10/2023 ::: Downloaded on - 05/12/2023 12:49:18 :::

*transplanting trees under the Maharashtra (Urban Areas) Protection and Preservation of Tress Act, 1975 for the River Front Development Project in Pune City;*

e. *Pending hearing and final disposal of the Petition to stay the operation and implementation of Maharashtra Act No. XLIII of 2023;*

f. *Pending hearing and final disposal of the Petition restraining the Respondent No.2 from giving any permission for the cutting/transplanting of trees for the River Front Development Project and from taking any action on the proposal dated 6th June 2023 sent by the Project Department;*

g. *Pending hearing and final disposal of the Petition direct the Respondent No.1 and 2 to forthwith cease and recall any process it has undertaken for applying for permission for cutting and transplanting trees under the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 for the River Front Development Project in Pune City;*

h. *For the grant of ad-interim relief in terms of prayer (e), (f) and (g) above.*

i. *For such further and other reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.*

j. *For the costs of this petition.*

**3.** As far as prayer clause (a) is concerned, a challenge has been made to Section 2 of the Maharashtra (Urban Areas)



::: Uploaded on - 16/10/2023 ::: Downloaded on - 05/12/2023 12:49:18 :::

Protection and Preservation of Trees (Amendment) Act, 2023 (Mah. Act. No. XLIII of 2023) (hereinafter referred to as "Amending Act 2023"), whereby Clauses (iii) and (iv) in Section 6A of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (hereinafter referred to as "the Principal Act") have been deleted.

**4.** To appreciate the issue qua prayer clause (a), we may extract Section 6A of the Principal Act which was inserted by Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act, 2021 (Mah. Act No. IX of 2021) (hereinafter referred to as "Amending Act 2021"), which reads as follows: -

> *"**6A.** Notwithstanding anything contained in the relevant Act or in any other law for the time being in force, and subject to any special or general directions given by the State Government, the Maharashtra State Tree Authority shall be responsible for, -*
>
> *(i) monitoring the functioning of the Tree Authority;*
>
> *(ii) protection and conservation of heritage trees across the State;*
>
> *(iii) decide applications referred to it by the Tree Authority, regarding felling of more than two hundred trees of age five years or more;*
>
> *(iv) decide applications referred to it by the Tree Authority, regarding felling of heritage trees;*
>
> *(v) any other functions related to protection and conservation of trees."*



::: Uploaded on - 16/10/2023 ::: Downloaded on - 05/12/2023 12:49:18 :::

**5.** We may also extract Section 2 of the Amending Act, 2023, which reads as follows: -

> "***2.*** *In section 6A of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975, (hereinafter referred to as "principal Act"), clauses (iii) and (iv) shall be deleted."*

**6.** It has been argued on behalf of the petitioners that from a perusal of the statement of objects and reasons of Amending Act 2021, it is apparent that Section 6A in the Principal Act was inserted entrusting certain functions to Maharashtra State Tree Authority (hereinafter referred to as "State Authority") with a view to control, minimize and regulate the felling of large number of trees in the urban areas of the State, as indiscriminate felling of large number of trees was acknowledged. The submission, thus, is that acknowledging the ill-consequences of felling of large number of trees in the urban areas of the State, Section 6A was added in the Principal Act and protection and conservation of heritage trees across the State were entrusted to the State Authority. By insertion of Section 6A, the State Authority was also entrusted to decide applications regarding felling of more than two hundred trees of age 5 years or more and also to decide applications regarding felling of heritage trees. Heritage tree has been defined in Section 2 (1a) inserted in the Principal Act by the Amending Act 2021 to mean, a tree categorized as such by the Tree Authority, in accordance with the norms as may be notified by the Government.

**7.** Our attention has been drawn to two notifications dated 22nd September, 2021 issued by the Government of



::: Uploaded on - 16/10/2023 ::: Downloaded on - 05/12/2023 12:49:18 :::

Maharashtra whereby the 'heritage tree' has been notified to be a 'tree' of any species and of estimated age of 50 years or more. The second notification issued by the Government of Maharashtra, dated 22nd September, 2021 prescribed for three methods to determine the age of tree. In view of the aforesaid notifications and the amendments made in the Principal Act in the year 2021 by inserting Section 6A, it has been submitted that by the impugned provisions of the Amending Act 2023, the State Authority has now been divested of the powers to decide applications regarding felling of more than two hundred trees of age five years or more and also to decide applications regarding felling of heritage trees. It has, thus, been urged by the learned counsel for the petitioners that the purpose for which Section 6A was inserted by Amending Act of 2021 gets defeated by enactment of impugned provisions vide Amending Act of 2023. It has also been argued that by taking away the powers from the State Authority for deciding the applications in respect of felling of more than two hundred trees of age of five years or more and to decide the applications regarding felling of heritage trees, the indiscriminate felling of trees will become rampant, which is not in public interest and on this count the submission is that the impugned provisions of Amending Act 2023 are *ultra vires*.

**8.** *Per contra*, the learned Government Pleader and the learned counsel representing the respondent/Corporation have opposed prayer clause (a) by submitting that the instant PIL petition does not lay any sustainable foundation for challenging the said statutory provisions and accordingly in



::: Uploaded on - 16/10/2023 ::: Downloaded on - 05/12/2023 12:49:18 :::

their contentions they have urged in unison that the prayer clause (a) is liable to be rejected out-rightly.

**9.** We have considered the rival submissions made by the learned counsel representing the respective parties. An act of legislature can be challenged primarily on two grounds; firstly, on the ground of legislative competence and secondly, if the alleged offending provisions of any piece of legislation violates any of the fundamental rights enshrined in part III of the Constitution of India or any other constitutional provisions. So far as the legislative competence of Maharashtra Legislative Assembly in enacting the Amending Act 2023 is concerned, no such foundation has been laid in the PIL petition. As far as the infringement of any fundamental rights or any constitutional provisions is concerned, the learned counsel for the petitioners submits that since divesting the State Authority of its powers to consider applications regarding felling of more than two hundred trees of age five years or more and also regarding felling of heritage trees will result in indiscriminate felling of trees, such provisions violate the fundamental right to life under Article 21 of the Constitution of India.

**10.** We are afraid, we cannot agree with the said submission made by the learned counsel for the petitioners. What all has been done by the Amending Act 2023 is that the power to decide applications regarding felling of more than two hundred trees of age five years or more and the applications regarding felling of heritage trees has been divested from the State Authority, however, as a result of the said enactment now such functions shall be exercised by the Local Tree Authority in terms of the provisions contained in Section 8 of



::: Uploaded on - 16/10/2023 ::: Downloaded on - 05/12/2023 12:49:18 :::

the Principal Act. Section 8 of the Principal Act is extracted herein below: -

> *"**8.** (1) On and after the date on which this Act is brought into force in any urban area, notwithstanding any custom, usage, contract or law for the time being in force, no person shall fell any tree or cause any tree to be felled in any land, whether of his ownership or otherwise, situated within that urban area, except with the previous permission of the Tree Officer.*
>
> *(2) If any person, including an officer of the urban local authority or an officer of the State Government or the Central Government, proposes to fell a tree, he shall apply in writing to the Tree Authority for permission in that behalf. The application shall be accompanied by the description of the tree and a site plan, indicating the position of the tree required to be felled and the reasons therefor.*
>
> *(3) (a) On receipt of such application, the Tree Authority shall cause the Tree Officer to personally inspect the tree and hold enquiry and submit a report to the Tree Authority within a period of thirty days from the date of receipt of such application. Adequate public notice shall be given by the Tree Officer by advertising in local newspapers as well as by affixing a notice on a conspicuous part of the tree that is required to be fell. Thereafter, the Tree Authority may give permission with or without conditions or refuse it, within a period of sixty days from the date of receipt of the application. However, no tree shall be fell until fifteen days after*



::: Uploaded on - 16/10/2023 ::: Downloaded on - 05/12/2023 12:49:18 :::

*such permission is given :*

*Provided that, no such permission shall be refused if, in the opinion of the Tree Authority, the tree is dead, or diseased or wind-fallen, or it constitutes a danger to life or property, or obstructs traffic; and if any objection is received against such permission, the matter shall be placed before the Tree Authority for reconsideration, and a decision shall be taken within two weeks after giving a hearing to the person who has raised the objection.*

*(b) A report of permissions granted by the Tree Authority for felling trees shall be submitted at least once in six months to the concerned urban local authority in whose jurisdiction the Tree Authority is functioning.*

*(4) If the Tree Authority fails to inform the applicant of its decision within sixty days, from the date of receipt of the application by it, or if the receipt of the application has been acknowledged by it within this period, from the date of acknowledgement of the receipt of the application, the permission applied for shall be deemed to have been granted.*

*(5) Where permission to fell a tree is granted Tree Authority may grant it subject to the condition that the applicant shall plant another tree of the same or other suitable local species on the same site or other suitable place within thirty days from the date the tree is felled, or such extended time as the Tree Officer may allow in this behalf."*



::: Uploaded on - 16/10/2023 ::: Downloaded on - 05/12/2023 12:49:18 :::

**11.** From a perusal of the scheme as contained in Section 8 of the Principal Act, it is clear that no one can fell trees unless he applies in writing to the Tree Authority for permission in that behalf. 'Tree Authority' in the Principal Act has been established by virtue of Section 3, according to which every urban local body is under a mandate to constitute a Tree Authority, consisting of the Chairman and other not less than five and not more than fifteen persons from amongst the members of the local authority, to be appointed in such manner and for such period as that authority may determine.

**12.** Thus, what was done by enacting the Amending Act 2021 was that certain functions which under the Principal Act were assigned to be performed by the Local Tree Authority were entrusted to the State level Tree Authority. As a result of the impugned provisions contained in Amending Act 2023, nothing substantial has changed except that the power to grant permission to fell trees has been re-conferred on the Local Tree Authority divesting the State Tree Authority of such powers. Accordingly, so far as the regulation of felling the tree is concerned, even after Amending Act 2023 the same remains intact.

**13.** For the aforesaid reasons, the apprehension in the mind of the petitioners that there is no regulatory mechanism to check cutting of trees, is unfounded. It is only that earlier this power was vested in the State Tree Authority, which is now vested in the Local Tree Authority. No other ground has been urged by the learned counsel for the petitioners for challenging the impugned provisions of the Amending Act 2023.



::: Uploaded on - 16/10/2023 ::: Downloaded on - 05/12/2023 12:49:18 :::

**14.** In view of the aforesaid, challenge to the impugned provisions of the Amending Act 2023 utterly fails and hence prayer clause (a) is hereby rejected.

**15.** If we examine the other prayers made in the PIL petition, what we notice is that the same relate to the River Front Development Project being undertaken by the respondent/Corporation. The concern expressed in the PIL petition is in relation to indiscriminate cutting of trees for the said development project and accordingly, a direction has been sought to the respondent/Corporation for not giving any permission for cutting/transplanting of trees for the said project.

**16.** It has been brought to our notice that certain proceedings were taken up before the National Green Tribunal, Western Zone Bench at Pune (hereinafter referred to as "NGT") in respect of the same project and the Environmental Clearance (EC) granted to the project proponent was challenged. The said challenge resulted in the judgment by the NGT, dated 29th November, 2022. The execution proceedings of the said judgment are pending before the NGT and in the meantime the matter was taken up before the Hon'ble Supreme Court by filing Civil Appeal (Civil Appeal Diary No(s). 9039 of 2023), however, the said appeal was dismissed by the Hon'ble Supreme Court by means of order dated 27th March, 2023 observing therein that no good ground or reason to interfere with the judgment of the NGT was found. While dismissing the said appeal, Hon'ble Supreme Court has observed that it will, however, be open to the appellants (before the Supreme Court) to raise such pleas and



::: Uploaded on - 16/10/2023 ::: Downloaded on - 05/12/2023 12:49:18 :::

contentions as available, in case it is found that the project proponent is not acting in terms of the order passed or if there is any violation of the directions given by the NGT. An order dated 31st July, 2023 passed by the NGT has been brought to our notice, wherein it has been observed that a statement was made on behalf of the Pune Municipal Corporation that no trees shall be removed or cut without obtaining necessary permission of the Competent Authority. It is also stated that the project proponent of the River Front Development Project has sought certain amendments in the EC which is under consideration before the State Expert Appraisal Committee-III (SEAC-III) and decision shall be taken soon. The order dated 31st July, 2023 passed by the NGT further records a statement made on behalf of the State Environment Impact Assessment Authority (SEIAA), State of Maharashtra that an application for amendment in the EC has been moved before them which is under consideration.

**17.** Having regard to the aforesaid facts and the nature of concern raised in the PIL petition, we are of the opinion that while considering the prayer for amendment in the EC, the SEAC/SEIAA shall take into consideration the submissions of the petitioners as well regarding felling of the trees for the project in question. The SEAC/SEIAA while processing and considering any application seeking amendment in the EC, has to necessarily consider various aspects impacting the environment, which will include the impact of any project requiring felling of trees as well.

**18.** Thus, so far as the other prayers are concerned, we provide that the petitioners may approach the SEAC/SEIAA,



::: Uploaded on - 16/10/2023 ::: Downloaded on - 05/12/2023 12:49:18 :::

wherever the matter relating the amendment in the EC in relation to the project in question is pending, within two weeks from today. In case the petitioners approach either of the authorities, the concern of the petitioners shall be addressed while considering amendment in the EC as has been sought by the project proponent/respondent-Corporation.

**19.** The PIL petition stands disposed of in the aforesaid terms.

**(ARIF S. DOCTOR, J.)** **(CHIEF JUSTICE)**

PRAVIN DASHARATH PANDIT
Digitally signed by PRAVIN DASHARATH PANDIT
Date: 2023.10.16 15:00:43 +0530



::: Uploaded on - 16/10/2023 ::: Downloaded on - 05/12/2023 12:49:18 :::

2023:BHC-AS:30802-DB



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO.163 OF 2023**

Parisar Sanrakshan Sanwardhan Sanstha
Through its Authorised Representative
Ranjit Gadgil & Ors. ... Petitioners
V/s.
The Pune Municipal Corporation,
Through the Municipal Commissioner
& Ors. ... Respondents

Ms. Ronita Bhattacharya for the Petitioner.
Mr. Abhijit P. Kulkarni i/by Rahul Garg, Sweta Shah, Krushna Jaybhay & Gaurav Shahane for Respondent Nos.1 and 2.
Mr. Rohit Sachadeo for Respondent No.3-PMRDA.
Mr. P. P. Kakade, GP, Mr. M. M. Pabale, AGP for Respondent No.4.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &**
**ARIF S. DOCTOR, J.**

**DATE : 12th OCTOBER 2023**

**P.C. :**

Heard Ms. Ronita Bhattacharya, learned Counsel representing the Petitioners, Mr. Abhijit Kulkarni, learned Counsel representing Respondent Nos.1 and 2 and Mr. Rohit Sachadeo, learned Counsel representing Respondent No.3.



::: Uploaded on - 16/10/2023 ::: Downloaded on - 02/12/2023 16:17:43 :::

2. By instituting these proceedings under Article 226 of the Constitution of India, an issue of general public interest has been raised regarding the procedure adopted by the Pune Municipal Corporation and its authorities in granting permission to the proposed felling of trees, so as to facilitate the road widening of Ganeshkhind Road, Sancheti upto University in Pune.

3. Learned Counsel for the Petitioners submits that the permission accorded by Notification dated 18th September 2023 to fell the trees is absolutely contrary to the statutory provisions contained in the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 ('Act of 1975'). It has been pointed out by the learned Counsel for the Petitioners that as per the requirement of Section 8 of the Act of 1975, the Tree Officer is required to hear the objections and suggestions in respect of the trees, which are proposed to be felled and that the period for having objections shall not be less than seven days. The Tree Officer is thereafter to submit his report



::: Uploaded on - 16/10/2023 ::: Downloaded on - 02/12/2023 16:17:43 :::

alongwith the objections and suggestions to the Tree Authority, which shall then take an appropriate decision accordingly.

4. It has been argued that contrary to the said provisions, in the instant case, the notice was published on 6th September 2023 inviting objections and suggestions, in respect of the permission sought, to be furnished by the members of the general public between the period from 7th September 2023 to 18th September 2023 and on the date of the expiry of the said period, i.e., 18th September 2023 permission has been granted for removal of 105 trees, with the further stipulation that 87 trees shall be replanted. In her submissions, the learned Counsel for the Petitioners has thus stated that the statutory provisions as contained in Section 8 of the Act of 1975 having not been followed, it renders the permission accorded by the Tree Authority, as patently illegal and thus incapable of being acted upon. Various judgements have been cited before the Court in support of the said submissions by the learned Counsel for the Petitioners, who thus argued that on the basis of such permission granted for felling of trees, no action can be taken,



::: Uploaded on - 16/10/2023 ::: Downloaded on - 02/12/2023 16:17:43 :::

otherwise the same would be in violation of the statutory provisions contained in the Act of 1975.

5. Mr. Kulkarni, learned Counsel representing the Respondent-Pune Municipal Corporation has however submitted that the procedure, as prescribed in the Act of 1975, has been followed and in fact the trees are required to be cut and removed for the construction of Metro Project in Pune, which is essentially required. However, Mr. Kulkarni is unable to refute the fact that it is only on the last date of the period within which the objections and suggestions were required to be submitted by the members of the general public, i.e., 18th September 2023 itself, the permission has been accorded.

6. The State Legislature has enacted the Act of 1975 with the object of regulating felling of trees in the urban areas in the State of Maharashtra and has accordingly created Tree Authorities under Section 3 of the Act of 1975, which have been established in every local urban body. In terms of provisions contained in Section 2(e), the Tree Officers have also been



::: Uploaded on - 16/10/2023 ::: Downloaded on - 02/12/2023 16:17:43 :::

appointed in urban local bodies, who are Officers appointed as such by the Tree Authorities for the purpose of administrating the Act of 1975. Section 8 of the Act of 1975 puts certain restrictions on felling of trees and provides that in case any person proposes to fell a tree, he needs to apply in writing to the Tree Officer for permission in that behalf. Further, the requirement of Sub-section (2) of Section 8 is that such an applicant shall furnish a site plan indicating the position of the tree, etc., which is proposed to be cut and the reasons for the same. As per the Proviso of Sub-section (2) of Section 8, where a significant number of trees are proposed to be removed, the alternate design alongwith the number of trees required to be cut is also to be submitted alongwith the application seeking permission for felling the said trees.

7. As per the scheme contained in Section 8, the Tree Officer, on the receipt of the application, has to give public notice by advertising it. He has also to personally inspect the tree and hold an inquiry. The Tree Officer is further required to determine the age of the tree proposed to be cut as per the



::: Uploaded on - 16/10/2023 ::: Downloaded on - 02/12/2023 16:17:43 :::

criteria and the methods as may be notified by the State Government. Section 8 further provides that after expiry of the period of submission of the objections and suggestions, the Tree Officer shall submit his report alongwith the objections and suggestions to the Tree Authority or an officer mentioned in Sub-section (6), as the case may be. As per Sub-section (6), if the number of trees, in respect of which permission is sought, is 25 or less, the application seeking permission can be decided by the Tree Officer himself, otherwise the final decision is to be taken by the Tree Authority.

8. We, thus, see a meaningful purpose in having such an elaborate procedure as prescribed in Section 8 of the Act of 1975. One of the purposes of having such a procedure is to take into consideration the objections and suggestions to be submitted to any such proposal for felling of trees by the members of the general public, who, as in this matter, in our opinion, are also the stakeholders having substantial interest, since it concerns the environment and there can be no manner of doubt as to the adverse environmental impact that either



::: Uploaded on - 16/10/2023 ::: Downloaded on - 02/12/2023 16:17:43 :::

indiscretionate or unnecessary felling of trees may cause. The purpose of providing such procedure under Section 8 is also that the objections and suggestions submitted by the members of the general public are taken into consideration appropriately and that is why the requirement under Section 8 is that the Tree Officer, after receiving the objections and suggestions, shall submit the same to the Tree Authority alongwith his inquiry report, etc.

9. It is true that the Tree Authority is the final authority empowered to take a decision in the matter, however, he needs to consider not only the report and recommendations submitted by the Tree Officer, but also the objections and suggestions, which may be filed by the members of the general public. If we examine the facts of the present case in light of Section 8 of the Act of 1975, what we find is that the last date of submission of objections and suggestions by the members of the general public, as per the notice published by the Tree Officer, was 18th September 2023 and it is on the same day that the permission has been accorded by the Tree Authority. We, thus,



::: Uploaded on - 16/10/2023 ::: Downloaded on - 02/12/2023 16:17:43 :::

find that the Tree Authority while issuing the impugned Notification dated 18th September 2023, hardly had any time either to consider the report and recommendations made by the Tree Officer or to take into consideration the objections and suggestions, which he might have received through the Tree Officer, from the members of the general public. Such a course adopted by the Tree Authority, in our considered opinion, does not conform to the statutory provisions available in Section 8 of the Act of 1975. The same has to be strictly followed both, in form and in substance. Failure to ensure strict compliance with the provisions of the Act would render the provisions of Section 8 as also the salutary objects of the Act nugatory apart from having grave and deleterious effects on the environment. Such a course cannot, at any cost, be permitted.

10. At this juncture, Mr. Kulkarni, learned Counsel for the Respondent-Pune Municipal Corporation, on the basis of instructions received from the Additional Municipal Commissioner, submits that no action, pursuant to the impugned Notification dated 18th September 2023, shall be



::: Uploaded on - 16/10/2023 ::: Downloaded on - 02/12/2023 16:17:43 :::

taken and no tree shall be removed, however the Tree Officer and the Tree Authority shall conduct the exercise of considering the prayer for felling of trees afresh, after issuing a public notice in terms of the provisions of Section 8 of the Act of 1975 and will consider the objections and suggestions, which may be filed or submitted, pursuant to the public notice to be published afresh, by the members of the general public. Accordingly, in view of the submissions made by Mr. Kulkarni, on the instructions received by him from the Additional Municipal Commissioner, Pune, we dispose of this Public Interest Litigation with the following directions :-

(i) In terms of requirement of Section 8 of the Act of 1975, the Tree Officer shall publish a fresh public notice giving a period of at least seven days for furnishing the objections and suggestions, in view of the permissions sought for felling of trees.



::: Uploaded on - 16/10/2023 ::: Downloaded on - 02/12/2023 16:17:43 :::

(ii) The Tree Authority while publishing a public notice in terms of Sub-section (3) of Section 8 of the Act of 1975 shall also personally inspect the trees, hold an inquiry and shall mention in the advertisement, if the trees to be removed are the heritage trees, as also shall determine the age of the trees sought to be removed as per the criteria and method, which may have been notified by the Government.

(iii) Once the period of objections and suggestions expires, the Tree Officer shall furnish the entire material along with the report and recommendation, if any, to the Tree Authority, which shall consider the material, that may be made available and take appropriate decision on the prayer for felling of trees.

(iv) We specifically direct that till the entire exercise in terms of this order as also keeping



::: Uploaded on - 16/10/2023 ::: Downloaded on - 02/12/2023 16:17:43 :::

in view the provisions contained in Section 8 of the Act of 1975 is undertaken and completed afresh, no further felling of trees shall take place pursuant to the impugned Notification dated 18th September 2023, which shall abide by the fresh decision to be taken under this order.

(v) The learned Counsel representing the Pune Municipal Corporation undertakes to communicate the gist of today's order immediately to the Authorities concerned without waiting for its certified copy or the order being uploaded.

(vi) We make it clear that the Court has not adjudicated any other issue(s) raised in this Public Interest Litigation except the issue relating to the procedure to be followed for according permission to a prayer for felling of trees.



::: Uploaded on - 16/10/2023 ::: Downloaded on - 02/12/2023 16:17:43 :::

11. With aforesaid observations and directions, the Public Interest Litigation stands, accordingly, disposed of.

**(ARIF S. DOCTOR, J.)** **(CHIEF JUSTICE)**



::: Uploaded on - 16/10/2023 ::: Downloaded on - 02/12/2023 16:17:43 :::

# PMC Newspaper Notice dated 03.11.2023 inviting objections for Tree felling

Maharashtra Times, Advertisement No. 1/1209

## पुणे महानगरपालिका
## वृक्ष प्राधिकरण
## जाहीर नोटीस

अद्वितीय & Unique

महाराष्ट्र (नागरी क्षेत्र) झाडांचे संरक्षण व जतन अधिनियम १९७५, महाराष्ट्र (नागरी क्षेत्रे) वृक्ष संरक्षण व संवर्धन नियम २००९, मे. उच्च न्यायालय, मुंबई यांचे जनहित याचिका क्र. ९३ / २००९ मधील दिनांक २०/९/२०१३ रोजीचे आदेश तसेच मे. महाराष्ट्र शासनाने वेळोवेळी पारित केलेले अध्यादेश, सुधारणा यांस अनुसरून व मे. उच्च न्यायालय, मुंबई जनहित याचिका क्र. १६३/२०२३, दिनांक १२/१०/२०२३ रोजी देण्यात आलेल्या आदेशानुसार जाहीर नोटीस देण्यात येते की, पुणे महानगरपालिकेच्या हद्दीतील परिमंडळ क्र. २ कडील शिवाजीनगर-घोले रोड क्षेत्रिय कार्यालयाकडील गणेशखिंड रोड येथील पुणे महानगरपालिकेच्या पथ विभागामार्फत चालू असलेल्या रस्ता रुंदीकरणाच्या कामास अडथळा करणारे वृक्ष संख्या १ ते २५ पुढील वृक्ष पूर्ण काढणे / पुनर्रोपण करणेस परवानगी देण्याबाबतचा प्रस्ताव संबंधित क्षेत्रिय कार्यालयाचे संबंधित मा. महापालिका सहाय्यक आयुक्त तथा वृक्ष अधिकारी, पुणे महानगरपालिका यांचे मार्फत व मा.वृक्ष तज्ञ समिती यांनी केलेल्या पाहणीचा अहवाल मा. अध्यक्ष तथा महापालिका आयुक्त, वृक्ष प्राधिकरण समिती, पुणे महानगरपालिका यांच्या समोर मान्यतेसाठी सादर करण्यात येणार आहे.

सदरहू प्रस्तावाचे निर्देशपत्र (Docket) पुणे महानगरपालिकेच्या www.punecorporation.org/www.pmc.gov.in या संकेतस्थळावर "Publication - key document-Reports & DPR या लिंकवर डाऊनलोड करता येईल अशा स्वरूपात तसेच सोयत दिलेल्या QR कोडवर उपलब्ध करून देणेत आलेली आहे.

सदरहू प्रस्तावांमधील वृक्षासंबंधी कोणाचेही आक्षेप असल्यास त्यासंदर्भात योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह लेखी हरकत अर्ज अथवा तक्रार संबंधित क्षेत्रीय कार्यालयात संबंधित मा. महापालिका सहाय्यक आयुक्त तथा वृक्ष अधिकारी, पुणे महानगरपालिका यांचेकडे दि. ०६/११/२०२३ ते दि. २०/११/२०२३ पर्यंत नोंदविण्यात याव्यात. मुदती मध्ये योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह आक्षेप अर्ज सादर करण्यात यादा, योग्य कारण व वस्तुस्थितीदर्शक पुराव्यासह आक्षेप अर्ज सादर न केल्यास तसेच मुदतीनंतर आलेले आक्षेप अर्ज फेटाळण्यात येतील याची नोंद घेण्यात यावी.

स्वाक्षरी/-
(अशोक घोरपडे), मुख्य उद्यान अधिक्षक
तथा सदस्य सचिव, वृक्ष प्राधिकरण
पुणे महानगरपालिका

जाहिरात क्र. १/१२०९, दि. ३/११/२०२३