

BEFORE THE NATIONAL GREEN TRIBUNAL

West Zone – PUNE

MEMORANDUM OF APPLICATION

Under Section 18(1) read with Sections 14, 15 of National Green Tribunal Act 2010

ORIGINAL APPLICATION NO. 146 OF 2025

Sagar Kantilal Devre

... Applicant

VERSUS

State of Maharashtra, Through Principal Secretary & Ors

... Respondents

INDEX

Sr.	Ax.	Date	Particulars	Page No.
1			Rejoinder of Applicant	414
2	A	2026-02-09	News Paper Article “The notice should not be formal: High Court reprimands Municipal Corporation's tree authority for cutting down trees”	421
3	B	2026-02-02	HC Bombay Judgement WP No. 3752 of 2021 “Abhijeet Mohan Anturkar Vs Tree Authority Department Pune Municipal Corporation & Ors”	423- 431

Date : 17/03/2026

Place : Pune

Filed by :



Advocate Raghunath Bhalchandra Mahabal

B.E. Mechanical, M.E. Industrial Management VJTI Mumbai,
Chartered Engineer, FIE Arbitrator – IIE India, LL.M. Mumbai

former-Analyst, NABET Accredited Consultant – EIA Coordinator
and Field Area Expert (Air Pollution, Water Pollution, Hazardous Waste, Noise)

A-2,3,4,5 Kakade Angan, Opp. Talera Hospital, Chinchwad gaon, Pune-411033

Flat Nos. A-101,201,202,203, B-201,202,203,302 Chandravijay Society,
Mahatma Phule Road, Mulund East, Mumbai – 400081, Maharashtra, India

email: mahabal60@gmail.com Phone:+91-7400116222

**“REJOINDER OF THE APPLICANT TO REPORT FILED
BY THE RESPONDENT NO 3 DATED 25.02.2026”**

I, Sagar Kantilal Devre, Age: 36 years, Occ:- Advocate, Applicant in above Original Application, do hereby state on solemn affirmation as under:-

1. I say that being Applicant abovenamed I am well conversant with the facts of this case and competent to depose before this Hon. Tribunal. I file this rejoinder to the report filed by the Respondent No. 3 to counter the wrong facts therein and to place the correct facts on record, procedural laps and I seek leave of this Hon’ble Court to that effect.

2. The present Rejoinder is filed in response to the reply on **25/02/2026** submitted by Respondent No. 3 (MCGM). The Report enclosed dated 09/02/2026 contains a crucial admission that **the proposal was pending due to non-submission of documents and details by MMRDA**, including details regarding new plantation and transplantation locations.

3. This admission goes to the root of the matter and establishes that:
The Tree Authority initiated public notice and conducted hearing without complete material particulars and without a finalized detailed proposal.

4. This renders the entire exercise under **Section 8 of the Maharashtra Trees Act, 1975** illegal and premature.

5. The proposal was pending due to non-submission of required documents and details by MMRDA, including new plantation and transplantation locations.

6. This admission is fatal.

7. If the detailed plan was not submitted:

- a.** There was no finalized alignment;
- b.** No finalized transplantation layout;
- c.** No compensatory plantation blueprint;

- d.* No completed technical justification.
- 8.** Yet:
- a.* Public notice dated 07.10.2025 was issued;
 - b.* Objections were invited within 7 days;
 - c.* Hearing was conducted on 16.10.2025.
- 9.** This means the statutory process was initiated without foundational material in contravention of the provisions of the tree act 1975 and the directions of the Hon'ble Bombay High Court.
- 10.** The entire exercise is void ab initio.

SECTION 8 OF THE TREES ACT — MANDATORY, NOT COSMETIC:

- 11.** Section 8 of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 mandates:
- a.* Adequate public notice,
 - b.* Meaningful opportunity,
 - c.* Consideration of objections.
- 12.** A “notice” without material particulars is not compliance — it is deception.

HEARING DATED 16.10.2025 — A NULLITY IN LAW

- 13.** The advertisement dated 07.10.2025 issued by the MCGM (Respondent No. 3) did not disclose:
- a.* Species and age,
 - b.* Girth,
 - c.* Exact geo-tagged locations,
 - d.* Transplantation sites,
 - e.* Compensatory plantation sites,
 - f.* Technical basis of “unavoidability”.
- 14.** Now, MCGM admits the detailed documents were not even submitted

15. Therefore, the public was invited to object to a proposal that did not legally exist in finalized form.

16. **Such notice is ultra vires Section 8.**

17. The Report states that hearing was conducted on **16.10.2025**

18. However, if:

- Detailed plan was not submitted,
- Transplantation locations were not finalized,
- Compensatory plantation details were not available, then what was the subject matter of the hearing?

19. A hearing without complete proposal documents is an empty formality.

20. The Hon'ble Bombay High Court in "***Rohit Manohar Joshi v. Tree Authority, Thane (PIL 119/2017)***" (**Exhibit F in OA, Page 256**) has held that:

- The Tree Authority must function with expert application of mind.
- Powers cannot be exercised mechanically.
- Transparency and material disclosure are mandatory safeguards.

21. In absence of complete documentation, there could not have been any expert-based decision-making.

22. **Therefore, the hearing dated 16.10.2025 is vitiated.** A hearing without material is an empty ritual.

23. In the case of "***Rohit Manohar Joshi v. Tree Authority, Thane (PIL 119/2017)***" (**Exhibit F in OA**), the Hon'ble Bombay High Court held:

- a. The object of the Act is preservation, not routine felling;
- b. Tree Authority must function with expert assistance;
- c. Powers cannot be exercised mechanically;
- d. Expert consultation is mandatory;
- e. Decisions must reflect application of mind.

24. When foundational documents were admittedly not submitted, no meaningful application of mind was possible. Therefore, the hearing is vitiated.
25. The Respondents classified 320 trees as “technically unavoidable”
But:
- a. No comparative alignment study is annexed;
 - b. No micro-realignment report is annexed;
 - c. No structural alternative evaluation is annexed;
 - d. No independent expert certification is annexed.
26. The burden of proof under the Precautionary Principle lies on the project proponent. This principle has been affirmed by the Hon’ble Supreme Court in the case of “*Vellore Citizens Welfare Forum v. Union of India (1996) 5 SCC 647*” ,” “*A.P. Pollution Control Board v. Prof. M.V. Nayudu (1999) 2 SCC 718*”

The State must demonstrate environmental benignity — not the citizen.

27. Here, the Respondents have produced assertions, not evidence.
28. Urban trees are not ornamental assets; they are ecological infrastructure.

VIOLATION OF ARTICLE 21 & PUBLIC TRUST DOCTRINE

29. The Hon’ble Supreme Court has consistently held that: Right to clean environment is part of Article 21;
30. State is trustee of natural resources.
31. Destruction of 320 mature trees without completed technical evaluation violates: Article 21 of the Constitution of India, Intergenerational Equity, Public Trust Doctrine.
32. Once felled, damage is irreversible.
33. Courts have repeatedly held that irreversible environmental damage demands heightened scrutiny.

FAILURE TO COMPLY WITH HIGH COURT DIRECTIONS

34. In the case of “*Rohit Manohar Joshi v. Tree Authority, Thane (PIL 119/2017)*” (Exhibit F in OA, Page 256), the High Court emphasized:

- a. Proper constitution of Tree Authority;
- b. Expert participation mandatory;
- c. Non-routine exercise of power;
- d. Recorded reasons reflecting expert consultation.

35. The report dated 25.02.2026 does not disclose:

- a. Names of expert members consulted;
- b. Recorded expert opinions;
- c. Minutes reflecting scientific reasoning.
- d. Administrative inspection cannot substitute statutory deliberation.

36. If detailed plan itself was incomplete, expert consultation was impossible.

Therefore, the process directly contravenes binding High Court precedent.

PROCESS REVERSED — CART BEFORE HORSE

37. The statutory scheme requires:

- a. Detailed proposal submitted;
- b. Technical scrutiny;
- c. Expert evaluation;
- d. Public notice with material particulars;\
- e. Hearing;
- f. Reasoned decision.

In the present case:

- a. Notice issued,
- b. Hearing conducted,

- c. Yet documents pending.

This is procedurally perverse.

Administrative convenience cannot override statutory safeguards.

COMPENSATORY PLANTATION CLAIMS — UNSUPPORTED

38. The Report mentions transplantation and compensatory plantation. However:

- a. No survival audit of previous projects;
- b. No maintenance mechanism;
- c. No geo-tagged plantation plan;
- d. No budgetary allocation disclosed.

39. The Hon'ble Supreme Court of India observations in Metro/Aarey matters have already noted poor survival rates of compensatory saplings.

40. A sapling does not replace a mature urban canopy tree in ecological function.

POINTS URGED

41. The process is fundamentally flawed at inception.

42. Where statutory procedure is violated, subsequent compliance cannot cure initial illegality.

43. The Hon'ble Tribunal is empowered under Sections 14 and 15 of the NGT Act, 2010 to prevent irreversible environmental harm.

44. The Respondents' own Report establishes that the statutory process began without complete material.

45. This is not a minor procedural defect.

46. It is a jurisdictional defect.

47. Development is not opposed.

48. There is gross Illegality in the Public Hearing conducted by MCGM.

PRAYERS

The Applicant respectfully prays that this Hon'ble Tribunal may be pleased to:

- A) Declare the public notice dated 07.10.2025 and hearing dated 16.10.2025 illegal and vitiated.
- B) Hold that the process initiated without finalized detailed proposal is void ab initio.
- C) Direct Respondents to restart the process strictly in compliance with:
 - a. Section 3 & 8 of the Trees Act,
 - b. High Court directions in Rohit Manohar Joshi,
 - c. Precautionary Principle jurisprudence.
- D) Continue and confirm interim protection against tree felling.
- E) Pass such further orders in the interest of environmental justice.



Date : Mumbai
Place : **17/03/2026**

Sagar Kantilal Devre
APPLICANT

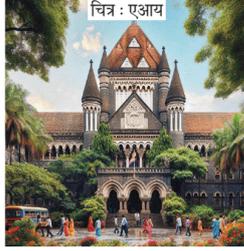
नोटिशीची औपचारिकता नसावी

झाडे तोडण्यावरून उच्च न्यायालयाने टोचले महापालिकेच्या वृक्षप्राधिकरणाचे कान

वरद पाठक
Varad.Pathak@timesofindia.com

पुणे : 'झाडे ही जणू पृथ्वीने आकाशाच्या पटलावर लिहिलेली कविताच आहे,' अशा काव्यात्मक शब्दांत वृक्षांचे महत्त्व अधोरेखित करीत मुंबई उच्च न्यायालयाने जुजबी जाहीर नोटीस देऊन वृक्षतोडीस परवानगी देणाऱ्या पुणे महापालिकेला धारेवर धरले. एरंडवणे परिसरातील बंगल्याच्या आवारातील नारळाची चार झाडे तोडण्यासाठी परवानगी देताना महाराष्ट्र (शहरी क्षेत्रे) वृक्ष संरक्षण व संवर्धन कायद्याचे उल्लंघन कायद्याचे उल्लंघन केल्याबद्दल न्यायालयाने महापालिकेच्या वृक्ष प्राधिकरणाचे कान टोचले आहेत.

झाडे तोडण्यासाठी दिली जाणारी जाहिरात किंवा नोटीस ही केवळ 'औपचारिकता' नसावी, तर त्यामध्ये संबंधित वृक्षांचा पूर्ण तपशील असणे



चित्र : एआय

न्यायालयाचे महत्त्वपूर्ण निर्देश...

- झाडे तोडण्याची नोटीस देताना त्यामध्ये नेमके ठिकाण व तोडण्यामागचे कारण स्पष्ट नमूद असावे.
- त्यावर आलेल्या हरकतीचा विचार करूनच वृक्षतोडीची परवानगी दिली पाहिजे.
- वृक्ष प्राधिकरणाने परवानगी देताना त्याची लेखी कारणे अहवालात नोंदविली पाहिजेत.
- झाडे तोडल्यावर नवीन झाडे लावून भरपाई करणे आवश्यक आहे.
- कायद्याचे उल्लंघन करून झाडे तोडल्यास संबंधित अधिकाऱ्यांवरही फौजदारी गुन्हा दाखल होऊ शकतो.

बंधनकारक आहे, असे महत्त्वपूर्ण आदेश न्यायालयाने दिले.

न्यायमूर्ती भारती डांगरे आणि न्यायमूर्ती मंजुषा देशपांडे यांनी या संदर्भातील रिट याचिका निकाली काढताना हे आदेश दिले. या आदेशाची प्रत नगरविकास विभागामार्फत राज्यातील सर्व महापालिका व नगर परिषदांना पाठविण्यात यावी, असेही न्यायालयाने आदेशात नमूद केले

आहे. त्यामुळे महापालिकेच्या वृक्षतोडीच्या परवानग्यांच्या मनमानी कारभाराला चाप लागला आहे. याप्रकरणी स्थानिक रहिवासी अभिजित अंतुरकर यांनी पुणे महापालिकेच्या वृक्ष प्राधिकरणासह अन्य विभागांविरुधात उच्च न्यायालयात रिट याचिका दाखल केली होती. त्यांच्या वतीने अॅड. अभय अंतुरकर, अॅड. हर्षवर्धन सूर्यवंशी व

अॅड. अजिंक्य उडाणे यांनी बाजू मांडली. चिपळूणकर रस्त्यावरील (लां कॉलेज रोड) खासगी आवारातील नारळाची चार झाडे तोडण्यासाठी महापालिकेच्या वृक्ष प्राधिकरणाने दिलेल्या परवानगीला याचिकेत आव्हान देण्यात आले होते. ही परवानगी देताना कायद्याचे उल्लंघन करण्यात आले असून, नियम-प्रक्रियेचे पालन न करता चार झाडांवर कुऱ्हाड

चालविण्यात आल्याचा आरोप याचिकाकर्त्यांनी केला होता.

झाडतोडीची परवानगी देण्यापूर्वी वृक्ष प्राधिकरणाने स्थानिक वृत्तपत्रात जाहीर नोटीस देऊन; तसेच तोडण्यात येणाऱ्या झाडांवर ठळक नोटीस लावून हरकती मागविण्यात याव्यात, असे कायद्याच्या मार्गदर्शक तत्वांमध्ये नमूद आहे; परंतु या प्रकरणात वृत्तपत्रात जाहीर नोटीशीत झाडांचे ठिकाण, तोडण्यामागची कारणे, परवानगी मागणाऱ्या व्यक्तीची माहिती, हरकती नोंदविण्यासाठीचे तपशील दिलेले नाहीत. त्याऐवजी अधिक माहितीसाठी महापालिकेच्या संकेतस्थळावर जाण्यास सांगून वृक्ष प्राधिकरणाने हात झटकल्याचे याचिकाकर्त्यांच्या वकिलांनी न्यायालयाच्या निदर्शनास आणून दिले. न्यायालयाने हा युक्तिवाद ग्राह्य धरताना वृक्ष प्राधिकरणाच्या नोटीशीत टोस तपशील नसल्याचे नमूद केले.

The notice should not be formality

High Court reprimands Municipal Corporation's Tree Authority for cutting down trees

Varad Pathak

Varad.Pathak@timesofindia.com

Maharashtra Times Mumbai 09-February-2026

Pune: Highlighting the importance of trees in poetic words, '**Trees are like a poem written by the earth on the sky**', the Bombay High Court has issued a detailed public notice and taken the Pune Municipal Corporation to task for allowing the felling of trees. The court has pulled up the Municipal Corporation's Tree Authority for violating the Maharashtra (Urban Areas) Tree Protection and Conservation Act while granting permission to cut down four coconut trees in the premises of a bungalow in Erandwane area.

Advertisement or notice for felling trees should not be a mere 'formality' but should contain complete details of the trees concerned.

The court gave an important order that is binding.

Justice Bharati Dangre and Justice Manjusha Deshpande gave this order while disposing of a writ petition in this regard. The court also stated in the order that a copy of this order should be sent to all the municipal

corporations and municipal councils in the state through the Urban Development Department.

Important directions of the court...

When issuing a notice to cut down trees, the exact location and reason for cutting down should be clearly stated.

Permission for felling trees should be granted only after considering the objections raised.

The Tree Authority must record written reasons for granting permission in the report.

When trees are cut down, it is necessary to compensate by planting new trees.

Criminal charges can also be filed against the relevant officials if trees are cut down in violation of the law.

This has put a stop to the arbitrary administration of tree felling permits by the Municipal Corporation.

In this matter, local resident Abhijit Anturkar had filed a writ petition in the High Court against the Pune Municipal Corporation's Tree Authority and other departments. On his behalf, Adv. Abhay Anturkar, Adv. Harshvardhan Suryavanshi and

Adv. Ajinkya Udane argued the case. The petition challenged the permission given by the Municipal Corporation's Tree Authority to cut down four coconut trees in a private premises on Chiplunkar Road (Law College Road). The law was violated while granting this permission, and the four trees were cut down with an axe without following the rules and procedures.

The petitioners had alleged that it was being carried out.

The guidelines of the law state that before granting permission for felling of trees, the Tree Authority should give a public notice in the local newspaper; and also invite objections by putting up prominent notices on the trees to be felled; but in this case, the public notice in the newspaper did not give the location of the trees, the reasons for felling, the information of the person seeking permission, and the details for registering objections. Instead, the petitioners' lawyers pointed out to the court that the Tree Authority had waved its hand by asking them to visit the Municipal Corporation's website for more information. The court, while accepting this argument, noted that the Tree Authority's notice did not contain concrete details.



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3752 OF 2021

WITH

CONTEMPT PETITION NO. 178 OF 2021

Abhijeet Mohan Anturkar .. Petitioner

Versus

Tree Authority Department
Pune Municipal Corporation & Ors. .. Respondents

...

Mr. Abhay Anturkar a/w Mr. Harshvardhan Suryavanshi i/b
Mr. Ajinkya Udane, for the Petitioner.

Mr. Vishwanath Patil, for Respondent Nos. 1 to 4- PMC.

...

**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.**

DATED : 02nd FEBRUARY, 2026

Oral Judgment : [Per Bharati Dangre, J.]:-

1. **“Trees are a poem which the earth writes upon the sky”.**

Undisputedly, saplings planted taking shape of trees give solace to the souls of the human beings who dwell on this earth and with this clear intent in mind, the Petitioner has approached this Court raising a challenge to the permission granted by the Respondent No. 2- Tree Officer of the Tree Authority Department of the Pune Municipal Corporation (“PMC”) allowing felling of four coconut trees.

The Petition alleges that the permission granted is clearly in breach of Section 8 of the Maharashtra (Urban

Rushikesh

Areas) Protection and Preservation of Tress Act, 1975, and we are confronted with a situation that the tress are already felled, pursuant to the order being passed, a prayer is made that an appropriate action as contemplated under Section 21, which extend to initiation of criminal proceedings on felling of a tree in contravention of the provisions of the Act, and the act amount to an offence.

2. Heard learned counsel for the Petitioner and the learned counsel representing Respondent Nos. 1 to 4.

The permission being granted in favour of Respondent No. 5 though being served, has failed to mark appearance.

On hearing the respective counsel, we deem it appropriate to issue Rule, which is made returnable forthwith.

3. The sequence of events before us reveal that the Respondent No. 5 preferred an application to the Tree Officer for cutting of five coconut trees standing in her premises in Survey No. 59/27, Plot No.73/3/3, Bhakti Marg, Law College Road, Erandwane, Pune.

Between the time when the application was made and the final permission was granted for cutting of four trees out of the five, the procedure contemplated under the Act and in specific Section 8 has been followed.

The sequence of events would reveal that upon this application being made, the notice inviting objections was published on 02.07.2020 and on 21.07.2020, the notice was pasted on subject trees, which were to be felled and copies of the said notices are placed before us along with the affidavit filed by the Respondent.

Rushikesh

On 06.08.2020 the resolution was passed allowing felling of the trees, but since it was COVID period, some of the members of the Committee put their signatures on 18.08.2020, and on 21.08.2020, the permission to cut the trees was finally communicated to the Respondent No. 5 by the Assistant Commissioner of Municipal Corporation cum Tree Officer, Regional Office, Pune Municipal Corporation.

The Petitioner, who is a resident residing in the neighbourhood of Respondent No. 5, has raised a serious objection about the manner in which the permission is granted, and it is the specific case of the Petitioner that the procedure that is required to be adhered to was not strictly followed, but the Respondents adopted a perfunctory approach, with pre-set mind of granting the permission, and that is how, upon the permission being granted, four coconut trees have been felled.

4. We have given our anxious consideration to the pleadings in the Petition and we have also taken note of the decision of the Division Bench, in case of **Rohit Manohar Joshi Vs. Tree Authority, Thane & Ors.**¹, when the bench considered the object underlying the **Tree Act, 1975** and **expressed a word of caution about the consequences to follow if the provisions provided in the statute are not strictly adhered to.** The said decision, highlighting the aim and object of the Trees Act being preservation of Trees in urban areas in the State, noted that the enactment regulate felling of trees and provide for planting of adequate number of trees in those areas, with an intention to prevent the disturbance of ecological balance due to

¹ 2019(1) Mh.L.J. (135)

indiscriminate felling of trees in the urban areas of the State.

Highlighting the object of the statute being to protect the existing trees and to encourage planting of more and more trees in urban areas, it is held that it is necessary to restrict the number of felling of trees, unless and until it is absolutely necessary and warranted.

5. Dealing with the procedure that has been contemplated and the Authorities of the Municipal Corporation in whom the power is vested, the Court highlighted the importance of the “Tree Authority”, with specific reference to Section 4, which warranted that the Tree Authority was to meet at least once every month to discharge its functions as contemplated under Section 8, which impose an embargo on any person to fell any tree or cause any tree to be felled in any land, whether of his ownership or on the ground situated within such urban area, except with the previous permission of the Tree Officer. The judgment has noted that the procedure preceding this permission contemplated an adequate public notice to be given by Tree Officer by advertising in local newspaper as well as by affixing a notice on the conspicuous part of the tree that is required to be felled.

6. It is these guidelines, which are alleged to be flouted as it is pointed out to us that the notice which was published in the newspaper, in fact, lacks any particulars to have the objections being raised, and Mr. Anturkar, the learned counsel for the Petitioner would invite our attention to the notice published in daily newspaper ‘Lokmat’ dated 02.07.2020, which is annexed at Exhibit-B of the affidavit-in-reply.

Rushikesh

The objection raised is that the notice do not offer any details of the proposed tree cutting and the details of the trees, with its particulars are not set out in the notice at all.

We have perused the said notice to find that, with reference to various zones, when specifically mentioned, there is a reference of the permission granted by the Assistant Commissioner-cum-Tree Officer, Pune, and it indicated that the details of these trees and the permissions could be obtained from the official website of the Pune Municipal Corporation www.punecorporation.org, with the subject matter of “PMC Departments Tree Authority Tree Cutting Replantation Docket - July 2020”.

We find substance in the submission of Mr. Anturkar, as we find that no details are offered therein, and as the statute contemplate objections to be raised, the person who want to raise an objection necessarily must be aware of the location of the trees, the reason why the trees are sought to be felled and at whose instance. We do not expect every person to visit the website of the Pune Municipal Corporation to find out, as there may be number of trees which may be involved, but an objection may be concerned with only one or few of them, may be in the area of his residence, or may be because of he feel that these trees shall not be allowed to be cut.

7. We find that paragraph 64 of the decision in **Rohit Manohar Joshi** (*supra*) has categorically stipulated that when the decision taken by the Municipal Commissioner shall be published on the website of the Municipal Corporation, the entire text of the order will have to be published. It is also directed that a public notice of the said decision giving

Rushikesh

description of the property shall be published in local newspaper having a wide circulation within the limits of Municipal Corporation, and the considering that the cities of Mumbai and Thane are metropolitan cities, the notice shall be published in Marathi, Hindi and English newspapers having wide circulation in the particular Municipal Corporation limits, and the notice published must mention that the copies of the decision have been uploaded on a particular website.

8. In light of the aforesaid observation, we find that the notice issued by the Municipal Corporation in the present case, is a perfunctory exercise, as if the object was to invite objection from the persons in the locality or those who are concerned with environment, who are likely to object to the permission, which is likely to be granted, an adequate notice is given, as regards the particulars of the trees, so that a pinpointed objection could be raised.

We note that the notice which was pasted on the trees on 29.07.2020, however, gave the details of the trees and also contain a reference to the application along with the location of the trees to be cut.

We see no difficulty in such details being included in the newspaper, when a notice is published, so that adequate opportunity can be availed by those who are interested in raising objection, out of environmental concern or for any other reason which a person deems appropriate, as in any case, the objection raised are going to be deliberated before the Tree Authority before grant of permission to fell the trees.

We therefore find substance in the submission advanced

Rushikesh

that the procedure that was followed, was not an appropriate procedure, apart from the fact that it was in violation of the object with which the notice is directed to be published by the statute, and it also violates the direction in case of **Rohit Manohar Joshi** (*supra*), a binding decision of this Court.

9. The learned counsel for the Petitioner do not press the other point that the trees were felled before the timeline prescribed and, therefore, we do not touch the said issue.

As on today, we have noted that the permission being granted on 21.08.2020 for four trees, they are already felled and, therefore, practically, no relief can be granted in favour of the Petitioner.

However, we must note that Section 21 of the Act is a provision in form of offence and penalty and it contemplate that whoever fell any tree or causes any tree to be felled in contravention of the provisions of the Act or without reasonable excuse fails to comply with any order issued or condition imposed by the Tree Officer or the Tree Authority or voluntarily obstructs any member of the Tree Authority, in discharge of the function, such act on conviction shall be punished with fine of an amount of valuation of the tree, and also with imprisonment for a term of not less than one week, which may be extended upto one year.

10. Keeping in mind the object underlying the statute, the powers have been conferred on the Tree Authority to give necessary directions from time to time, and the officers and servants subordinate shall act in compliance with such directions, and in exercise of the duty by the Tree Officer, the

Rushikesh

police department is also expected to extend all the co-operation.

The purpose of the Act is to prohibit felling of trees and to save the environment, or even if the trees are felled, it should be compensated by substituting new trees, and hence the contravention of the provisions of the Act must be looked into with all seriousness, and upon a complaint being made in that regard, the offence is liable to be registered even against an officer who has failed to follow the procedure.

Focusing upon the purpose and object of the statute, we hope and trust that the Municipal Corporation shall act with vigilance and strictly follow the procedure contemplated in the Act along with the directives issued by this Court in case of *Rohit Manohar Joshi (supra)* and treat them as binding.

11. As regards the contention of Mr. Anturkar that when the Tree Officer, conduct an inquiry, he must record some reasons in support of the conclusion drawn and when he grant the permission for felling of the tree, and we concur with the said submission, but we must record that all these reasons need not necessarily be published in the notice, but they should be made available, if at all a question is raised about the procedure not being followed or the permission granted being not justiciable.

We, therefore, must only record that as Sub-Section (3) of Section 8 contemplate giving of a public notice by advertising it in atleast one local newspaper and also affixing such notice on the conspicuous part of the tree which is to be felled, coupled with the inspection of the tree, we are of the view that whenever such inquiry is held, the reasons shall be

Rushikesh

recorded and maintained in the file by the Tree Authority, as the consideration of an application for felling of the tree, must be justified and only when it is felt necessary to grant the permission and that too on consideration of the objections that are raised. Since there is no appeal against such an order which is amenable to writ jurisdiction, we expect the reasons and the inputs to be recorded in writing and so that it can be available for examining its justiciability.

12. With the above directions, we dispose off the Writ Petition.

We direct Registrar (Judicial-II) to communicate this order to the Principal Secretary, Urban Development Department, so that it can be circulated to the heads of the Municipal Corporations as well as the Municipal Councils under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act.

The Contempt Petition listed along with the Writ Petition being not pressed, is disposed of.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)

Rushikesh