

Item No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL**
(Through Video Conferencing)

Original Application No. 119/2023(CZ)
(O.A. No.328/2022- PB)

Mr. Nitin Saxena

Applicant(s)

Versus

Urban Development and Housing Department & Ors

Respondent(s)

Date of Hearing: **04.10.2023**

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD EXPERT MEMBER**

For Applicant(s):

Mr. Harhwardhan Tiwari, Adv.

For Respondent(s):

Mr. Prashant M. Harne, Adv.

ORDER

1. Issue raised in this application as alleged is permission given by the Ministry of Environment, Forest & Climate Change issued by the SEIIA allowing construction within 50 meters of Bhoj Wetland, a Ramsar site, of International Importance, Bhopal by suppressing the material facts of lower lake and only discussing about the distance from upper lake. The State Environment Impact Assessment Authority malafidely in its report dated 17/07/2023 has merely discussed about the upper lake and malafide suppressed the facts regarding Lower Lake. Subsequently Urban Development and Housing Department issued the Gazette Notification/Order dated 21st July, 2023 whereby no construction zone near FTL

has been reduced from 50 meters to 33 meters. Further the respondents have given illegal permission for cutting of almost 390 trees, out of which many are heritage trees. Thus, the said notification reducing the no construction zone and allowing construction over ramasr site, illegal felling of trees and contamination of water of Wetland is a gross violation of the provisions of the Environment (Protection) Act, 1986 and the Rules given under the Wetlands (Conservation and Management) Rules, 2017 and the Guidelines for management planning for Ramsar sites.

2. That on 31.05.2023 the Applicant lodged its complaint and brought the said issue in knowledge of State Wetland Authority, the Respondent No.1, to look into the matter and prevent illegal construction and encroachment, cutting & felling of trees and contamination of water over and near lower lake, the wetland of international importance and recognition. Taking cognizance of the said complaint of the Applicant the State Wetland Authority issued formal letter/order directing Director town and country planning and Commissioner Nagar Nigam to comply with the guidelines with respect to wetlands and update the state wetland authority with the status of the same. However, Director Town and Country Planning completely ignored the said letter of the State Wetland Authority and continued the illegal activities over the said Ramsar Site, i.e. Bhoj Wetland.
3. Further, the Bhoj Wetland is rich in bio-diversity. Also, it provides variety of habitats to the water birds and

migratory and they occupy these habitats according to their niches.

4. It is submitted that the Member Secretary, Bhoj Wetland Authority vide letter dated 07.06.2023 has communicated the Municipal Corporation to comply section 4 of Wetland Rules 2017 strictly in letter and spirit. Further the communication dated 08.03.2022 issued by the MoEF&CC, Wetland Division in para 6 provides the minimum distance of 50 mtrs. to be observed and further that the green cover must be maintained and the trees should not be felled unless exigencies demand. Old trees should be retained based on girth and age regulations as may be prescribed by the Forest Department and further that where the trees need to be cut with the prior permission from the concerned local authority compensatory plantation in the ratio of 1:10 must be maintained.
5. Learned Counsel for the State Mr. Prashant M. Harne put in appearance and submitted to provide the copy of the application and relevant documents so that he may be able to submit the reply. Copy of the same be provided to the Learned Counsel for the State on available e-mail.
6. A substantial issue of environment has been raised.
7. Issue notice to the respondents, returnable within four weeks. Respondents are directed to submit their reply within four weeks through E-filing portal, preferably in

the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

8. Applicant is directed to take necessary steps for service to the respondents by both ways and also on available email.
9. In light of the facts as narrated we deem it just and proper to constitute a committee consisting of:-
 - i. One representative from integrated Office MoEF&CC at Bhopal.
 - ii. One representative from State Wetland Authority, Bhopal.
 - iii. One representative from Central Pollution Control Board
 - iv. One representative from State Environment Impact Assessment Authority,(SEIAA)Bhopal.
10. The Committee is directed to visit the place and submit the factual and action taken report within six weeks. The committee is further directed to ensure the compliance of the Wetland Rules 2017 and the orders issued by the Hon'ble Supreme Court of India in W.P. No. (C) 230 of 2001.
11. Applicant is directed to supply the copy of the application and relevant documents to the Committee and Respondent(s) within a week and after compliance of service, the applicant has to submit an affidavit that the notice and copy of the application have been served upon the Committee and respondent(s).
12. The report in the matter be filed by the Committee through email at ngtczbbho-mp@gov.in preferably in the form of

searchable PDF/OCR Support PDF and not in the form of
Image PDF.

List it on **21st November 2023.**

Sheo Kumar Singh, JM

Dr. Afroz Ahmad, EM

4th October, 2023
O.A No.119/2023(CZ)
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