

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

(By Video Conferencing)

Original Application No. 62/2020 (WZ)
I.A. No. 21/2023 I.A. No. 25/2023

Dagadkhan Asanghatit Kamgar Vikas
Parishad, Maharashtra

.....Applicant

Versus

State of Maharashtra & Ors.

....Respondent(s)

Date of hearing: 28.03.2023

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

Applicant	:	Mr. Rahul Chaudhary, Advocate
Respondent(s)	:	Ms. Manasi Joshi, Advocate for R-2/MPCB Mr. Dattatraya T. Devale, Advocate for R-3/PMRDA Mr. Rahul Garg, Advocate for R-6/PMC

ORDER

1. From the side of Applicant, learned Counsel Mr. Rahul Chaudhary has appeared, who has drawn our attention to para no. 3 of our order dated 13.12.2022, where-by we had directed him to bring clarity in the pleadings in regard to the reliefs prayed by him. In pursuance to that, he has moved two applications (I.A. No. 21/2023 & I.A. No. 25/2023), which are identical. He has apprised us that by mistake, the same application has been uploaded twice because of which it has been numbered as I.A. No. 21/2023 & I.A. No. 25/2023. Therefore, we reject the subsequent application i.e. I.A. No. 25/2023(WZ) being the repetition of the earlier one i.e. of I.A. No. 21/2023(WZ).

2. The learned Counsel for the Applicant has apprised us that a copy of I.A. No. 21/2023(WZ) has already been served upon the other parties through e-mail and he has shown us the e-mail receipt through Video Conferencing which has been sent to all the other parties but the learned Counsel for the Respondent No. 3/PMRDA as well as learned Counsel for the Respondent No. 6/PMC have apprised us that they have not got copy of the same, therefore, we direct the learned Counsel for the Applicant to serve a copy of the same upon the learned Counsel for the Respondent Nos. 3 & 6 today itself through e-mail and within a week, reply affidavits may be filed against the amendment application by them.

3. Today from the side of Respondent No. 6, an additional affidavit dated 27.03.2023 has been filed, where-in it is submitted that the site in question is still in the possession and ownership of the State Government. The Answering Respondent vide order dated 10.02.2022 has requested the Collector, Pune to allot the site in question to the Answering Respondent to establish a Solid Waste Processing Plant, having capacity of processing 50 MT of waste per day. In view of that, the liability to pay environmental compensation should not be cast upon the Answering Respondent. It is further submitted that the Answering Respondent has already spent more than Rs. 25 lakhs in the process of transportation, processing and clearing the legacy waste at the site, which shows that it is making genuine efforts.

4. Further, it is submitted that the Respondent No. 5/PMRDA, which is the Special Planning Authority for the Village Wagholi, which is granting permission for construction in this area, as per the Maharashtra Government Resolution dated 14.07.2021 and is also collecting Development Charges for sanctioning the plans. Therefore, it is the responsibility of the PMRDA to provide civic amenities to these villages

and for this, reliance has been placed upon the Judgment of Hon'ble High Court of Bombay in the matter of *Solapur P. & B. Asso. Socy. Vs. State of Maharashtra* [SCC online (2005) (4) Mh.I..J.], where-in in para no. 10, following is held:-

“10. The Development Charge leviable under Chapter VI-A is a fee that is imposed in order to enable the Authority to provide public amenities within its area and for the maintenance and improvement of the area under its jurisdiction. An institution of use, a change of use or the development of lands and buildings falling within the territorial limits of the jurisdiction of a Planning Authority or a Development Authority places demands on the civic amenities which the authority is required by law to provide.”

5. In compliance with our earlier order dated 13.12.2022, the Respondent No. 2/MPCB has submitted an additional affidavit in response to our query made in para no. 6 of the earlier order, where-in it is clarified that the period between 27.12.2019 to 06.05.2021 has been excluded for assessing the environmental compensation for following reasons, where-in it is mentioned that on 27.12.2019, visit was made of the site in question and it was found that Wagholi MSW was in operation:-

- “ i). During the visit at Wagholi MSW Plant at Gat No. 1419 the representatives of Wagholi Grampanchayat were present and it was observed that the said MSW Plant was in operation. At the aforesaid site, daily 15 to 17 tons of mixed waste was arrived at Gat No. 1419, MSW Plant.*
- ii). It was observed that Grampanchayat wagholi had started composting manufacturing plant. In the said plant mixed waste was to spread on the floor and after sprinkling of culture, the same was kept for 10 days and the same was preserved in a tarpaulin pit and after segregating plastic waste from the mixed waste, same was sent to shredding machine for recycling.*
- iii). During the visit, manufactured compost was not observed.*
- iv). A pyrolysis plant for oil manufacturing from plastic was found installed; the said plant is used for preparation of Methane Gas and / or Charcoal. Due to mechanical problems, the said pyrolysis plant was not in operation during visit.*

- v). *Said MSW Processing plant is surrounded by residential and slum area from two sides.*
- vi). *Said fertilizer manufacturing plant and pyrolysis plant were operated by M/s M-plus Automation LLP Pune.”*

6. The learned Counsel for the Respondent No. 6/PMC has prayed that an order may be passed to the effect that the legacy waste, which is being cleared by them, should not be stopped and that the said point is allowed to be treated as feeder point, which does not mean any fresh dumping over there. When enquired as to why such an order is being required to be passed, he states that there are some local people, who are opposing the said activity.

7. In view of that without any objection from the side of the learned Counsel for the Applicant, we direct that the Respondent No. 6 would continue to clear the legacy waste at the site in question and would be allowed to treat the same as feeder point.

8. Put up this matter for disposal of the I.A. No. 21/2023 (WZ) on 24.04.2023

I.A. No. 25/2023 (WZ) stands disposed of.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

March 28, 2023
Original Application No. 62/2020 (WZ)
I.A. No. 21/2023 I.A. No. 25/2023
P.Kr