

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

(By Video Conferencing)

Execution Application No. 02/2022(WZ)

In

O.A. No. 99/2019(WZ)

I.A. No. 33/2023(WZ)

Laxman Dhondiba Thombare

.....Applicant

Versus

Chief Secretary, Govt. of Maharashtra & Ors.

....Respondent(s)

Date of hearing: 07.02.2023

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

Applicant : Ms. Supriya Dangare along-with Ms. Swayamprabha,
Advocates

Respondent(s) : Mrs. Madhavi Rahirkar h/f Mr. Nitin Deshpande, Advocate
for R-1/Chief Secy. & R-4/Dist. Collector, Pune
Mr. Aniruddha S. Kulkarni, Advocate for R-2/Env't. Dept.
Ms. Manasi Joshi, Advocate for R-3 & 6/MPCB

ORDER

I.A. No. 33/2023(WZ)

1. This I.A. has been filed by the Respondent No. 7/Roadways Solutions India Pvt. Ltd., praying there-in for getting the order dated 12.10.2022 set aside passed by this Tribunal in the present Execution Application, where-by it has been directed to proceed against Respondent No. 7 *ex-parte*. The learned Counsel for the Execution Applicant Ms. Supriya Dangare has appeared and apprised that she has no objection, if this application is allowed. We accordingly allow this application and the order dated 12.10.2022 stands set aside as against the Respondent No. 7.

2. The Respondent No. 7 is further directed to file reply affidavit within a period of 7(seven) days. As the learned Counsel for the Respondent No. 7 says that he has not been provided a copy of the Execution Application, therefore, we direct the learned Counsel for the Execution Applicant to provide a copy of the same to the learned Counsel for the Respondent No. 7 today itself through e-mail.

I.A. No. 33/2023 stands disposed of accordingly.

E.A. No. 02/2022(WZ)

3. In compliance with our previous order dated 23.12.2022, the learned Counsel for the Execution Applicant has provided copy of the memo of Civil Appeal No. 8074 of 2022, which has been preferred against the Judgment, which is being prayed to be executed.

4. In this appeal, questions framed by the Hon'ble Apex Court are (I) whether the National Green Tribunal was right in holding that the Mining activity under question was illegal despite notification dated 28.03.2020 that lays down that extraction or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines, etc. are exempted from EC? (II) "whether the Tribunal is holding that, the prior EC is necessary even for temporary permit for excavation?" (III) whether the Tribunal was right in directing an inquiry of the officers, who had been issuing temporary permit without prior EC? and order has been passed on 11.11.2022 to the effect that "until further orders, operation and execution of impugned order shall remain stayed insofar as the appellants are concerned".

5. From the side of Respondent No. 1/Chief Secretary, State of Maharashtra and Respondent No. 4/District Collector, Pune, learned Counsel Mrs. Madhavi Rahirkar holding brief of Mr. Nitin Deshpande has

appeared, from the side of Respondent No. 2/Environment Department, State of Maharashtra, learned Counsel Mr. Aniruddha S. Kulkarni has appeared and from the side of Respondent Nos. 3 & 6/MPCB, learned Counsel Ms. Manasi Joshi has appeared.

6. All the learned Counsel for the Respondents who are present today, have filed their reply affidavits only to the extent that since the Civil Appeal No. 8074 of 2022 is pending before the Hon'ble Apex Court in which proceedings have been stayed, no further detailed reply has been filed at their end.

7. From the side of the Execution Applicant, it has been vehemently pressed that the stay has been granted only as against the Appellants, which means that the direction issued to them, which are contained in para no. 15 of the Judgment, would be treated to have been stayed by which the direction was given to the "Chief Secretary, Maharashtra to enquire about the conduct of the persons responsible for granting consent to operate without EC and permitting mining without EC in violation of the directions of the Hon'ble Supreme Court". By this order, a joint committee of CPCB, SEIAA-Maharashtra, State PCB and Divisional Commissioner, Pune was directed to be constituted to assess the amount of compensation and oversee its recovery, in accordance with law.

8. It is further stated by the learned Counsel for the Execution Applicant that the PP has exceeded the limit of extraction of the miner minerals (stone) beyond the permissible limit. Therefore for that, assessment has to be made by the said Joint Committed, which part should not be treated to have been stayed by virtue of the order of Hon'ble Supreme Court. The said contention is being vehemently opposed by the learned Counsel for the MPCB, stating that the question arisen before the Hon'ble Supreme Court is as to whether prior EC is required to

be obtained in the present case or not and in case the Hon'ble Supreme Court comes to the conclusion that it was not required, then no violation would be treated to have taken place and besides that it is also prayed that the entire Judgment has to be revaluated by the Hon'ble Supreme Court, therefore, no proceedings should be allowed to go ahead in view of the stay order.

9. Since the learned Counsel for the Respondent No. 7 has been provided an opportunity to file reply affidavit within 7 days, we consider it appropriate to pass order after hearing the version of the Respondent No. 7 as well. Therefore, Registry is directed to put up this matter for hearing on 31.03.2023.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

February 07, 2023
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