

Item No.5

(Pune Bench)

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

[Through Physical Hearing (with Hybrid Option)]

ORIGINAL APPLICATION NO.121 OF 2023 (WZ)

Lalita Sandip Shinde

.... Applicant

Versus

Chief Executive Officer, Trimbakeshwar
Municipal Council and others

.... Respondents

Date of hearing : 26.09.2023

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

Applicant

: Mr. Lakshyaved Odhekar, Advocate along with
Ms. Indrayani R. Patani, Advocate

ORDER

1. We are passing this order in continuation of our previous order dated 25.08.2023, whereby three weeks' time was allowed to the applicant in order to bring on record the information as to who were the persons raising the alleged construction and who were the authorities who granted them permissions as well as the proof that the said area was eco-sensitive area where no such kind of permission could have been granted. It is in compliance with that order, additional affidavit dated 21.09.2023 has been filed, wherein it is submitted that the applicant personally visited the site in order to verify as to who were the persons who were raising construction because the authorities to whom she approached did not respond.

2. The applicant has also annexed photographs showing that the construction is going on at the site in question. She has filed draft

notification dated 06.07.2022 at pages 130 to 148 of the paper-book, issued by the Ministry of Environment, Forest and Climate Change, notifying 56,824 sq. kilometres area spread over several States mentioned therein, including Maharashtra, to be ecologically sensitive area and it is stated by her that at page 144 of the paper-book, the villages such as Nandgaon, Welunje and Metkawara are shown to fall in eco-sensitive area. Further it is mentioned that the map (Annexure B-2) shows the latitude and longitude of the said eco-sensitive area, which was shown as the area where the construction is being done, is falling within that area, which is identified to be eco-sensitive area.

3. The learned counsel for the applicant has also drawn our attention to pages 84 and 85 of the paper-book, which is a letter dated 28.07.2021, written by Trimbak Municipal Council, Trimbakeshwar to the Divisional Commissioner, Nashik, wherein a reference is shown to a statement of the applicant dated 05.07.2021 and based on it, it is stated that therein it has been mentioned that no permission has been granted for construction to be done in that area.

4. The learned counsel for the applicant submits that in the affidavit filed by the applicant, it is vehemently mentioned that despite best efforts made by her, she could not obtain the details as to who were the persons raising the alleged construction and who were the authorities who granted them permissions.

5. Having perused several photographs which are said to be of the place in question, it appears that some construction is likely to take place as the land has been prepared for the same and we find prima facie that it is established by the learned counsel for the applicant by producing documentary evidence that in this area which is an eco-sensitive area, permission for construction cannot be granted. Therefore, we admit this

Original Application and direct the Registry to issue notice to the respondents, returnable within four weeks.

6. We also deem it appropriate to constitute a Joint Committee comprising one member each of Chief Officer, Municipal Council, Trimbakeshwar, District Collector, Nashik and Chief Conservator Forest of Nashik. The Collector, Nashik being the nodal agency of the said Committee.

7. The Joint Committee is directed to visit the site/spot in question, after informing the applicant and submit a report as to whether any construction is going on in the area mentioned in the Original Application and whether any permission has been granted for the same and if yes, by which Authority and whether such permission could have been granted. The said report shall be submitted before us by e-mail at ngt-pune@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

8. The applicant is directed to provide copies of the Original Application and annexures thereto to the respondents, within a week.

9. The applicant is also directed to take necessary steps for service upon the respondents by both ways and also through available e-mail.

10. Put up this matter for next consideration on 10.01.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

September 26, 2023
O.A. No.121/2023(WZ)
npj