

Item No.2

(Pune Bench)

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

(By Video Conferencing)

ORIGINAL APPLICATION NO.76 OF 2022 (WZ)
WITH
I.A.NO.107 OF 2022 (WZ)

Mr. Ibra Mashnaji Konapure & Ors.

....Applicants

Versus

Union of India through Secretary, MoEF&CC
and others

....Respondent(s)

Date of hearing: 07.11.2022

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

Applicants : Mr. Nitin Lonkar, Advocate

Respondents : Mr. Rahul Garg, Advocate for R-1
Mr. Airuddha Kulkarni, Advocate for R-3, R-4 & R-5
Ms. Manasi Joshi, Advocate for R-6
Mr. Narayan Bubna, Advocate for R-8
Mr. Tarun Sharma, Advocate for R-10
Mr. R.B. Mahabal, Advocate for R-11
Mr. Rajendra Narvankar, Advocate for Intervener

ORDER

1. From the side of the applicants, learned counsel Mr. Nitin Lonkar is present, who submits that he has filed the service affidavit, which is on record and according to which, the service is effected on all the respondents.

2. From the side of respondent No.1, learned counsel Mr. Raghu Garg has appeared.

3. From the side of respondent No.2, none has appeared and hence, the proceeding would go ahead *ex parte* against it.

4. From the side of respondent No. 3 – Principal Secretary, Environment Department, respondent No. 4 – MCZMA and respondent

No.5 – SEIAA, Maharashtra, learned counsel Mr. Aniruddha Kulkarni has appeared and sought one and half month's time to file reply-affidavit as well as Joint Committee's report, first meeting of which has already been held on 10.10.2022. According to him, several documents were required to be obtained from respondent No.8 – Mira-Bhayander Municipal Corporation (MBMC), which he has already received but still, some other documents are required to be obtained from National Centre for Sustainable Coastal Management (NCSCM), Chennai which would require some time. We allow his request and grant him time of one and half month for filing the reply-affidavit as well as report of Joint Committee, which was constituted by this Tribunal's order dated 19.09.2022.

5. From the side of respondent No.6 – MPCB, learned counsel Ms. Manasi Joshi has appeared and prays for two weeks' time to file reply-affidavit. The same is allowed.

6. From the side of respondent No. 7 – Urban Development Department, none has appeared and hence, the proceeding would go ahead *ex parte* against it.

7. From the side of respondent No. 8 – MBMC, learned counsel Mr. Narayan Bubna has appeared and prays for two weeks' time to file reply-affidavit. The same is allowed.

8. From the side of respondent No.9 – the Collector, Thane, none has appeared despite sufficient service. Hence, the proceeding to go ahead *ex parte* against him.

9. From the side of respondent No.10 – Mr. Narendra Lalchand Mehta, learned counsel Mr. Tarun Sharma has appeared and prays for four weeks' time to file the reply-affidavit. The same is allowed.

10. From the side of respondent No.11 – M/s Seven Eleven Hotels Pvt. Ltd., learned counsel Mr. R.B. Mahabal has appeared and submits that he has filed a short reply-affidavit with respect to only limitation and

prays that the matter should be decided on the issue of limitation first because the Original Application is time-barred. Copy of the said reply-affidavit has not been provided to the learned counsel for the applicants. We direct the learned counsel for respondent No.11 to provide the copy of the said reply-affidavit to all the other parties forthwith, if not supplied so far.

11. Learned counsel Mr. Mahabal for respondent No.11 has urged that the Joint Committee which has been constituted by this Tribunal has been appointed without hearing respondent No.11. He has reiterated his submission that the issue of limitation in the matter should be decided first. Since the Joint Committee which has been constituted by us is yet to finalize its report after visiting the spot again, we direct the said Committee to give an opportunity of hearing to all the parties/their representatives and thereafter only, submit its report.

12. The replies filed by the parties will be exchanged amongst themselves well in advance so that no further adjournment would be required to be granted. The learned counsel for respondent No.11 shall also file reply thereto before the next date.

13. In the interest of justice, we fix this matter for hearing on the issue of limitation on 21.12.2022.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

November 07, 2022
O.A. No. 76 of 2022
npj