

Item No. 5

(Pune Bench)

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

(By Video Conferencing)

Original Application No. 168/2017(WZ)
I.A No. 98/2022(WZ)

Mr. Omkar Ajit Keni

.....Applicant

Versus

The Deputy Director (Forest), Sawantwadi & Ors.

....Respondent(s)

Date of hearing: 01.02.2023

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

Applicant : Mr. Maitreya Ghorpade, Advocate

Respondent(s) : Mr. D. M. Gupte, Advocate for R-1/Forest Dept.
Mr. Aniruddha Kulkarni, Advocate for R-2/Env't. Dept.
Ms. S. B. Vaidya Pandit, Advocate for R-4/Dist. Collector
Ms. Supriya Dangare, Advocate for R-6/MSBB

ORDER

I.A No. 98/2022(WZ)

1. This I.A. has been filed by the Applicant with the prayer that the Vakalatnama of learned Counsel Mr. Maitreya Ghorpade be taken on record. We allow this application.

I.A No. 98/2022(WZ) stands disposed of accordingly.

2. The Applicant who is claiming to be a Law student and a social worker has raised issue in this application relating to pollution and environmental damage around Dhamapur Lake in Sindhudurg District, which is a reserved forest. It is further submitted that there is a structure called as 'Kasartaka' within the reserved forest land near Village Dhamapur in Sindhudurg, though the same is not officially a temple but people gather at this place and devote animal like hens. They cut the

hens and chicken is cooked in this forest area and people eat it by sitting together. They drink alcohol and throw plastic/glass bottles, polythene bags etc. there. Several complaints were made to the authorities but no action was taken. Therefore, it is prayed that the Respondent No. 1/The Dy. Direction (Forest), Respondent No. 2/State Environment Department and Respondent No. 3/Rural Development Department be immediately directed to remove the garbage dumped and scattered at the Kasartaka Site situated near Dhamapur Village, Taluka- Kudal, District- Sindhudurg; direction be issued to Respondent Nos. 1 to 5 to appoint permanent guards to monitor and take care of this reserved forest area from any non-forest use; direction be issued to the Respondents to reinstate and restore the Kasartaka Site; direction be issued to remove the concrete construction near Kasartaka Site and Dhamapur Lake; and direction be issued to Respondent No. 5/MoEF&CC to submit biodiversity assessment report for Dhamapur Lake periphery area. Apart from it, several other consequential reliefs are also prayed for.

3. This matter was first heard on 27.10.2017 and notices were directed to be issued to the Respondents. On that date, Respondent No. 1/The Dy. Director (Forest), Respondent No. 2/State Environment Department and Respondent No. 5/MoEF&CC had appeared and thereafter, on the next date i.e. on 20.11.2017, Respondent Nos. 1, 2, 5 & 6 had appeared and none had appeared on behalf of Respondent Nos. 3 & 4 despite sufficient service, hence proceedings were directed to proceed against them *ex-parte*. The order dated 17.07.2018 indicates that from the affidavit of Respondent No. 2/State Environment Department, it was apparent that the offending structure had since been demolished and all the garbage found in the area have been removed. It is recorded in the said order that nothing further survives for consideration in this case,

except directing removal of the debris arising out of the demolition of the said structure, for which, from the side of Respondent No. 1/The Dy. Director (Forest), learned Counsel Mr. D. M. Gupte, who is present today, has sought two weeks' time and the same is allowed.

4. The learned Counsel for the Respondent No. 1 has apprised that since 17.07.2018, this matter was not listed, hence he has not filed any reply affidavit in this regard and further states that the demolition has not been done so far because of some stay order from the Hon'ble High Court but he could not give details of the same and says that he would be providing the details and other facts after filing a reply affidavit, for which, he seeks two weeks' time and the same is allowed.

5. Since the service of notices has been held sufficient on all the Respondents, today from the side of Respondent No. 2/State Environment Dept., learned Counsel Mr. Aniruddha Kulkarni has appeared and we find that an affidavit has been filed on behalf of Respondent No. 2, which says in para no. 5 that the site in reference being the reserved forest, the alleged illegal and anti-environmental construction or Eco-Tourism Center has already been demolished. Although the same is being disputed by the learned Counsel for the Respondent No. 1- Mr. D. M. Gupte, saying as mentioned above. Therefore, we need clarification from the Respondent No. 2/State Environment Department in this regard by the next date positively.

6. From the side of Respondent No. 6/Maharashtra State Biodiversity Board, learned Counsel Ms. Supriya Dangare has appeared and filed reply affidavit dated 10.04.2018, where-in it is submitted that with regard to prayer clause no. (VIII) made by the Applicant to the effect that the Respondent No. 5 be directed to submit biodiversity assessment report of the Dhamapur Lake periphery, the same is not one of the functions of the

Answering Respondent as contemplated under the Biological Diversity Act, 2002, however, it is further stated that in case this Tribunal directs the Answering Respondent to conduct the same, it would be done.

7. Since we find that no purpose would be served by directing the Biodiversity Board for assessment to be made in this case as the main prayer appears to be regarding removal of the garbage from Kasartaka site and its restoration. We do not deem it appropriate to direct the Respondent No. 6 to conduct such an assessment.

8. From the side of Respondent No. 4/District Collector-Sindhudurg, learned Counsel Ms. S. B. Vaidya Pandit has appeared and apprised that by order dated 20.11.2017, this Tribunal has already passed an order against Respondent No. 4 to proceed *ex-parte* and that she is not inclined to get the same set aside as no relief has been prayed against the said Respondent.

9. None-else has appeared.

10. In view of above facts, we direct the Registry to place this matter for further consideration on 29.03.2023.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

February 01, 2023
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