

Item No.3

(Pune Bench)

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.104/2023(WZ)

Charan Bhatt

.....Applicant

Versus

Environment & Climate Change Dept. & Ors.

....Respondent(s)

Date of hearing: 11.08.2023

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

Applicant : Applicant in-person

ORDER

1. On the previous date, despite repeated calls, applicant had not appeared before us but today he has responded to call.

2. We find that the prayers are made to the effect that respondents be directed to restore the water pond as per “indicative guidelines for restoration of water bodies” (in compliance to the NGT’s Order dated 10.05.2019 in M.A. No.26/2019 in Original Application No. 325/2015). Further, it is prayed that an order be issued prohibiting any further development and granting permission on the land that was originally marked as pond area.

3. During the argument, applicant has drawn our attention to page no.64 of the paper book, which is ‘Record of Rights sheet’, which contains name of Mona Atul Patel, as owner of land 228.10.00 area. But it is not specified whether the same is in hectares or in sq. meters. He has also drawn our attention to page nos.49 to 52 of the paper book, which is an

order passed by the District Collector, Thane on an application made by the respondent No.8/Smt. Mona Atul Patel for permission to use of land at Mauje Waliv S. No.47/5, 47/7A, 47/7B, 48/6, 48/10, 48/11, 50/3, Area 26810.00 sq. mtrs. for residential and commercial, non-agricultural purposes and the said order contains in para no.3 that the constructions were not permitted in five areas, which are enumerated in tabular form. Pond area is shown to be 2903.36 sq. mtrs. Having drawn our attention to the same, it is submitted by the learned Counsel that this order clearly prohibited the respondent No.8 to make any construction either residential or commercial over pond area. But it is being alleged by the applicant that the construction over pond area is being done in violation of the said order.

4. The applicant has also drawn our attention to the indicative guidelines for restoration of water bodies, which is annexed at page no.131 of the paper book, where-in following is provided:-

“I. removal of encroachments and blockades”

- *The State Government or UT Administration should maintain records pertaining to the boundaries of each pond or lake in the respective State/UT and necessary steps should be taken and ensured removal of all encroachments in the water body spread area/water body boundary as and when required.*
- *Removal of encroachments in the drainage channels should be carried out periodically to facilitate encroachment in aeration naturally in the water body.*
- *Refrain from granting any consent for establishment for large scale projects in the catchment areas.*
- *Pond or lake boundary should be provided with fence (permanent/temporary fencing) to avoid unauthorized entry.”*

5. We find that nothing is recorded in these guidelines that if a pond is found to be situated in private land, the same cannot be allowed to be filled or reclaimed.

6. We also made a query from the applicant as to how, on the basis of evidence, he has alleged that there is proof that the land belonging to the respondent No.8 contains a pond, which is being said to be filled by raising construction over there by the said respondents.

7. We also find that respondent No.8 is shown as Mona Atul Patel M/s. Nirmal Developers, Room No. 270, 1st floor Madano Complex, A.K. Marg, Bandra, Mumbai. The said name appears to be not properly written because either M/s. Nirmal Developers appears to be some company's name of which Mona Atul Patel may be Director or something. But it has not been made clear as to how this nomenclature has been made by him because the same is not found substantiated by the reference of name of this respondent in other documents, which have been indicated by the applicant before us. We need a clarification in this regard from the applicant.

8. At this stage, we grant time by way of last opportunity to the applicant to make these clarifications, failing which we would have no option but to dismiss this application for being vague.

9. Registry is directed to put up this matter for admission on 23.08.2023.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

August 11, 2023
Original Application No.104/2023(WZ)
P.Kr