

Item No.4

(Pune Bench)

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

[Through Physical Hearing (with Hybrid Option)]

ORIGINAL APPLICATION NO.84 OF 2022 (WZ)

Lalitkumar Namdeo Chaudhari

.... Applicant

Versus

State of Maharashtra & Ors.

.... Respondents

Date of hearing : 09.10.2023

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

Applicant : Applicant-in-person present through VC

Respondents : Mr. Aniruddha Kulkarni, Advocate for R-1
District Collector, Jalgaon, representing R-2,
R-3 and R-4
Mr. Rajesh Patil, Assistant Director of Town
Planning, Jalgaon – R-7
Mr. Nirmal Dayama, Advocate for R-8

ORDER

1. From the side of the applicant, the applicant has appeared in person through VC and did admit that he, by mistake, could not implead the District Collector, Jalgaon as one of the respondents as per our directions in paragraph No.6 of the order dated 16.08.2023. We find that in the array of the parties, at serial No.4, the District Level Committee through the Collector, Jalgaon has been impleaded as respondent. Today, the District Collector, Jalgaon is present through VC and has apprised us that there is no such District Level Committee in existence as of now, because the said Committee was constituted for limited purpose which is over. Therefore, we direct the applicant to delete the District Level Committee from the array of respondents and instead thereof, to

implead the District Collector, Jalgaon as respondent No.4 and serve a copy of the Original Application along with annexures thereto, whereupon newly added respondent No.4 – District Collector may file reply-affidavit within two weeks.

2. From the side of respondent No.1 – Principal Secretary, Department of Environment, learned standing counsel Mr. Aniruddha Kulkarni has appeared and states that he does not want to file the reply as it is a formal party.

3. From the side of respondent No.2 – Principal Secretary, Department of Urban Development, respondent No. 3 – the Divisional Commissioner, Nashik and he himself, the District Collector, Jalgaon, who is present through VC, submits that for these three respondents, he may be treated to be representing and that he would file the reply-affidavit in this matter within two weeks. He also states that he did not visit the site in question regarding which the Joint Committee report has submitted and assures that he would visit the site and give a clear picture and the details as to what illegal construction was found , photographs thereof and also a sketch map thereof. He also submits that the demarcation of the blue line is to be done by the Irrigation Department, which is not working under his control but he would coordinate with the Irrigation Department and ensure that the said blue line is drawn at the earliest in order to ascertain as to what are the constructions which are lying in the blue line of river illegally, which needs to be demolished.

4. None has appeared from the side of respondent No. 5 – Executive Engineer, Minor Irrigation Department and respondent No.6 – Executive Engineer, Maharashtra Jeevan Pradhikaran Circle, despite sufficient service.

5. From the side respondent No.7, Mr. Rajesh Patil, Assistant Director, Town Planning has appeared and states that he has submitted parawise reply to his counsel, who was required to submit the written reply before this Tribunal. But we do not find the same to have been filed before us. We grant two weeks' time by way of last opportunity to respondent No.7 to file the reply.

6. From the side of respondent No. 8 – Chief Officer, Faizpur Municipal Council, learned counsel Mr. Nirmal Dayama has appeared and seeks four weeks' to file the reply. The same is granted by way of last opportunity.

7. The Joint Committee report has been served on all the respondents. Therefore, if any objection is to be filed against the same, the same may be filed within two weeks.

8. In the Joint Committee report, following is mentioned:

“3.2 Observations:-

During visit following observations were observed as,

3.2.1 The site is located at Dhadi river bridge, Faizpur at coordinates 21.166450, 75.862742. To the upstream of the bridge construction above 900 Mtrs and the open drain about same length was found constructed in the river bed.

3.2.2 Also the guard was (Protection wall) found constructed along the road.

3.2.3 One number of ghat is found constructed.

3.2.4 The Municipal council has planted 28 nos. of trees in 130 x 25 meters area to down stream of the bridge on Bruhanpur-Ankaleshwar SH.

3.2.5 There are 3 nos. of Nallas entering into the river bed.

3.2.6 The Restriction line (Blue Line) and Control Line (Red Line) of Dhadi river is not fixed by the Irrigation department Jalgaon. As per their letter it will take process of 1 year and 6 months.

3.2.7 Dhadi river is non-perennial and non notified and dry throughout the year hence

3.2.8 flood line is not demarcated by irrigation department. However the high flood line is mentioned in the DPR plan of Faizpur Municipal council, map enclosed.

3.2.9 As per prima facie observation it seems that there will be no effect of the above construction on regular flow of Dhadi river.

3.2.10STP is not provided by Municipal Council. Total sewage generation is 3.5 MLD. Untreated sewage is discharged into Dhadi river through three nallas.”

9. From the above, it is not clear as to whether the bridge, which is said to be 900 mtrs long and open drain of the same length, which are found to have been constructed on the river bed, were there and their location. It is also mentioned that the protection wall was constructed along the road and one ghat was also found constructed, three nallas are also said to be entering into river bed. It is not disclosed as to whether these nallas are flowing with treated or untreated water in the river bed. There are several other observations also made in this report, but the main issue which was raised in this application relates to the illegal construction in the river bed of river Dhadi, which was required to be demolished as per the applicant. Therefore, we direct the District Collector, Jalgaon to clear the picture in respect of the illegal construction found to be there in the river bed of Dhadi river, giving sketch and photograph thereof, on the next date positively. The District Collector shall also coordinate with the Irrigation Department and in case there is any difficulty in coordination, we may direct the higher authority by passing appropriate order in that regard.

10. The replies and/or report, which are to be filed in future, shall be shared amongst the parties prior to the next date of hearing so that no adjournment would be required to be granted.

11. Put up this matter for next consideration on 12.01.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

October 09, 2023
O.A. No.84/2022(WZ)
npj