

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Execution Application No.18/2023(WZ)
In
Appeal No.32/2020(WZ)**

Tanaji B. Gambhire

.....Applicant

Versus

Chief Secretary, Government of Maharashtra & Ors.

....Respondents

Date of hearing: 03.10.2024

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

Applicant	:	Applicant-in-person along-with Mr. Vijay Mhaske, Advocate
Respondents	:	Mr. Aniruddha Kulkarni, Advocate for R-2/Env't. Deptt., R-3/SEIAA, R-4/SEAC & R-11/CPCB Ms. Manasi Joshi, Advocate for R-6/MPCB Mr. Rahul Garg, Advocate for R-7 & 8/PMC Mr. Saket Mone, Advocate along-with Mr. Abhishek Salian, Advocate for R-10-M/s. Goel Ganga

ORDER

1. At the very outset, the learned counsel Mr. Saket Mone representing respondent No.10- M/s. Goel Ganga India Pvt. Ltd. through its Director submits that reply affidavit dated 10.05.2024 has been filed from its side in this matter, wherein mainly, it is submitted that on 22.09.2023, the Hon'ble Supreme Court has issued notice in Civil Appeal Diary No(s).35397/2023, which is arising out of the Judgment/Order of this Tribunal dated 04.05.2022. On 22.09.2023, the Hon'ble Supreme Court has passed following order:-

“Issue notice on the application for condonation of delay as well as on the Civil Appeal, returnable after eight weeks.

Annexure A-21 shows that a sum of Rs.10,00,00,000/- (Rupees Ten Crores) has been already paid by the appellant without prejudice to its rights and contentions.”

2. In view of above, the learned counsel for respondent No.10 submits that this Tribunal should not proceed with the hearing in the present matter. He has also placed reliance on the Judgment dated 07.02.2007 of the Hon’ble Bombay High Court passed in Writ Petition No.7502 of 2006, wherein reliance is placed in para no.8 to the following effect:-

“8. Normally, when this Court is seized of the matter, it is expected of the subordinate courts to stay their hands away. It is difficult to understand as to what was an alarming urgency to proceed further and dismiss the petition when the learned Judge of the Family Court was very well aware that the order dated 15th September, 2006 was challenged before this Court by the present petitioner. No doubt, that the learned Family Court is right in observing that there was no stay by this Court. But as a matter of propriety and when the learned Judge was very much aware about pendency of the petition before this Court, the learned Judge ought to have stayed his hands away and waited till further orders to be passed by this Court. In that view of the matter, I am inclined to allow the petition.”

3. The learned counsel for respondent No.10 has also placed reliance on the Judgment of Hon'ble Supreme Court in the matter of *D.K. Trivedi & Sons & Ors. vs. State of Gujarat & Ors.* [(1986) (Supp) SCC 20] and other connected appeals, in which para no.83 has been relied upon, to the following effect:-

“83. Civil Appeal Nos. 1525 and 1526 of 1982 are directed against the order of the Gujarat High Court dismissing the writ petitions filed by the Appellants challenging the constitutionality of [section 15](#) of the Mines and Minerals (Regulation and Development) Act, 1957, and the validity of Notification No.GU-81/75/MCR2181/(168)-4536-CHH dated June 18, 1981, and directing the Appellants to approach the Supreme court as similar matters were pending there. In our opinion, the course adopted by the High Court was not correct. If the High Court thought that the point raised by the Appellants was the same as was pending in this Court, it ought to have stayed the hearing of the writ petitions until this Court disposed of the other matters. As we have, however, held [section 15](#) and the amendments made by the said Notification dated June 18, 1981, to be valid and constitutional, both these appeals are, therefore, dismissed.”

4. In the light of above position of law, it is submitted by the learned counsel for respondent No.10 that in the present case, appeal is pending against the order, execution of which is being sought in the present matter before this Tribunal. Therefore, this being the authority of the Hon'ble Supreme Court as well as the Hon'ble High Court, which should be followed as per the laws laid down in the cases cited above.

5. Thereafter, the execution applicant submits that he has received a copy of the affidavit filed by the respondent No.10 today morning. Therefore, he may be allowed four weeks' time to file rejoinder affidavit against the same. We allow the said time.

6. From the side of respondent No.6 – MPCB, reply affidavit dated has been filed, wherein it has been made clear that they have engaged Visvesvaraya National Institute of Technology (VNIT) to carry out the assessment of environment damage and preparation of the restoration plan, for which work order has already been issued.

7. The learned counsel for respondent No.10 submits that the assessment of the EDC and realization of the same should not be proceeded with till the Judgment is passed by the Hon'ble Supreme Court in the matter pending before it.

8. Since the amount of fees is quite high i.e. Rs.14,16,000/-, which will have to be borne by the respondent No.10, in case the report is filed, we are of the view that we should pass an order in this regard as to whether to proceed in this case in the light of the matter having been entertained before the Hon'ble Supreme Court. Therefore, we direct the respondent No.6 – MPCB to keep the proceeding hold in this regard till the next date of order.

9. From the side of respondent No.2 – Environment Department, respondent No. 3 – SEIAA, respondent No. 4 – SEAC-III and respondent No. 11 – CPCB, learned counsel Mr. Aniruddha Kulkarni has appeared.

10. From the side of respondent No.7 – Pune Municipal Corporation and for respondent No.8 – Prashant Waghmare, City Engineer, PMC, learned counsel Mr. Rahul Garg has appeared.

Put up this matter for further consideration on 28.01.2025

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

October 03, 2024
Execution Application No.18/2023(WZ) In
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P.Kr