

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

[Through Physical Hearing (with Hybrid Option)]

ORIGINAL APPLICATION NO. 162 OF 2023 (WZ)

Gopal Rangnath Kachave ... **Applicant**

Versus

District Magistrate, Pune & Ors. ... **Respondents**

Date of Hearing : 29.11.2024

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

Applicant : None

Respondents : Mr. Shivshankar Swaminathan, Advocate for R-2/PCMC
Ms. Rui F Danawala, Advocate for R-3, R-4, R-6, R-7, R-9,
Mr-10, R-11 and R-14 to R-22

ORDER

1. From the side of respondent No.2 - PCMC, affidavit-in-reply dated 25.01.2024 has already been filed, wherein it is made clear that the constructions in question partly lie into the blue line and partly lie in the area between red and blue line of Indrayani river. At present there are 20 structures, but for none of them, any permission has been obtained from the answering respondent. Hence, all these structures are illegal and list of the names and addresses of the occupants of the said constructions is annexed as Annexure-R1. All these occupants have been impleaded in this application as respondent Nos.3 to 22. It is further stated in this reply-affidavit that these structures are made on Gat Nos.7, 8, 9 and 10 of village Chikhali, Moi Phata, located in blue and red lines of river Indrayani, regarding which the answering respondent had already issued notices to the concerned respondents under Section 478 read with Section 53 of the Maharashtra Regional & Town Planning Act, 1966. Copy of the D.P. plan

depicting the red and blue lines of Indrayani river at Chikhali village is annexed with the reply as Annexure-R-3. It is stated that on 20.10.2023, the answering respondent along with the demolition squad undertook demolition of four illegal structures admeasuring 441 sq.mtrs. (approx..) belonging to Mr. Arun Sane (not a party to this O.A.), Mr. Aftab Ansari (respondent No.12), Mr. Naved Ahmed (not a party to this O.A.) and Mrs. Ayesha Khan (not a party to this O.A.). It is further mentioned that despite the said demolition, illegal occupants have again re-constructed the said premises without any permission. Learned counsel for respondent No.2 submits that the Development Plan, annexed as Annexure-R3 (page 41 of the paper-book), clearly shows that the above mentioned survey numbers fall partly in blue line and partly in the area between blue and red lines of Indrayani river.

2. At this stage, we may quote here the relevant provision of the Unified Development Control and Promotion Regulations for Maharashtra State, 2024, which at point 3.1.3 provides as under:

3.1.3 Construction within Blue and Red Flood Line

i) Where Blue and Red flood line are marked on the Development plan/Regional Plan or received from the Irrigation Department,

a) The Red Flood Line and Blue Flood Line shall be considered as per the plan prepared by the Irrigation Department. The area between the river bank and blue flood line (Flood line near the river bank) shall be prohibited zone for any construction except parking, open vegetable market, garden, lawns, open space, cremation and burial ground, sewage treatment plant, water/gas/drainage pipe lines, public toilet or like uses, provided the land is feasible for such utilization.

Provided that, redevelopment of the existing authorized properties, within river bank and blue flood line, may be permitted at a plinth height of 0.45 m. above red flood line level.

b) Area between blue flood line and red flood line shall be restrictive zone for the purposes of construction. The

construction within this area may be permitted at a height of 0.45 m. above the red flood line level.

- c) If the area between the river bank and blue flood line forms part of the entire plot in Development Zone, then, FSI of such part of land may be allowed to be utilized on the remaining land.*
- d) The red and blue flood line, if shown on the Development/Regional Plan/Planning Proposal shall stand modified as and when it is modified by the Irrigation Department.”*

3. The above provision clearly lays down that no construction can be permitted within the blue line and red line of the riverbed.

4. From the side of respondent Nos.3 to 22, learned counsel Ms. Rui F Danawala has appeared through VC and submits that she has prepared the affidavit-reply and copy of the same has been e-mailed to this Tribunal as the same could not be e-filed due to some technical issue being there. Thereafter, we asked her to provide hard copy of the reply-affidavit. She states that she is unable to submit the same today. Further, today also, no documentary evidence has been submitted to show that the constructions in question do not fall in blue and red lines of river Indrayani. Learned counsel prays for grant of time to e-file the reply-affidavit and documentary evidence, if any. We grant 15 days' time from the date of uploading of this order for the said purpose with a direction that a copy of the reply-affidavit shall be served upon learned counsel for respondent No.2, who may file reply/rejoinder thereto within a week thereafter.

5. Put up this matter for final hearing on 15.01.2025.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

November 29, 2024
ORIGINAL APPLICATION NO.162/2023
npj