

Item No.2

(Pune Bench)

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Original Application No.185/2023(WZ)
Earlier PIL No.14/2014
(Disposed on 06/09/2023)**

Vanashakti Public Trust & Anr.

.....Applicant(s)

Versus

Union of India & Ors.

....Respondent(s)

Date of hearing: 28.11.2023

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

Applicant : Mr. Yogesh H. Pande, Advocate h/f Mr. Zaman Ali, Advocate
Respondent : Ms. Manasi Joshi, Advocate for R-7/MPCB

ORDER

1. From the side of applicants, learned counsel Mr. Yogesh H. Pande holding brief of learned counsel Mr. Zaman Ali has appeared, who seeks one week's time to file additional affidavit, the said time is allowed.
2. We find that PIL Writ Petition No.14/2014 was filed by the applicants before the Hon'ble High Court of Bombay with the following prayers:-

"A. The Petitioners states that in the facts and circumstances set out hereinabove this Hon'ble Court be pleased to exercise the discretion vested in it under Article 226 of the Constitution of India and be pleased to:

(a) *Issue a writ of mandamus and/or a writ, order or direction in the nature of mandamus:*

- (i). *directing the Respondent State to remove all encroachments or impediments that block access to the Public to the river banks including 100 meters on either side of the River Banks and 50 meters from all tributaries and water courses that contribute to the discharge of water into rivers.*

- (ii). *directing the Respondent State to ban the conversion of agricultural land into developable or constructable areas for a distance of 100m on either side of the River banks and 50 meters from all tributaries and water courses that contribute to the discharge of water into rivers.*
- (iii). *directing the Respondent State to pass guidelines preventing construction of any kind except those required by the government for maintaining the purity of the rivers.*
- (iv). *directing the Urban Development Department/Village Panchayats/MPCB not to clear any proposals in contravention to the prayers mentioned in clause (a) (i) and (ii)*
- (v). *directing the Respondent State Animal Welfare Board to ascertain whether there are sufficient areas in the Rivers which allow animals both wild and domestic to have access to Rivers;*
- (vi). *Directing the Respondent State government to amend the existing river policy to also prevent residential/commercial complexes apart from Industries coming up 100 meters on either side of the river banks and 50 meters from all tributaries and water courses that empty into the rivers.*
- (vii). *directing the Respondent State to take necessary remedial steps for the removal of all encroachments / obstructions that are denying public access to Water bodies such as Rivers, Lakes, Creeks, etc and to restore the water bodies to their natural position.*
- (viii). *Respondent State be directed to set up a River Authority to monitor the protection of rivers and also make it mandatory for approval of the Authority be taken before clearing any proposals for construction of any kind except those needed for government facilities monitoring the river water quality and navigation/Security of rivers;.*
- (ix). *The local police station under whose jurisdiction the portion of river falls must be directed to take suo moto cognizance of the offence, if any, and file a report to the District Collector;*
- (x). *That this Hon'ble Court be pleaded to issue a writ of certiorari and/or a writ order or direction in the nature of certiorari to hold and declare that the GR dated 03.02.2015 and 16.02.2015 at Exhibit H-5 and Exhibit H-6 respectively are illegal and bad in law and the same be quashed and set aside.*

(b) *Pending hearing and final disposal of the Petition, this Hon'ble Court be please to:*

- (i). *direct the Respondent State to remove all encroachments or impediments that block access to the Public to the river banks including 100 m on either side of the River Banks and 50 meters from all tributaries and water courses that contribute to the discharge of water into rivers;*
- (ii). *to direct the Respondent State to ban the conversion of agricultural land into developable or constructable areas for a*

distance of 100m on either side of the River banks and 50 meters from all tributaries and water courses that contribute to the discharge of water into rivers.

- (iii). to direct the Respondent State to pass guidelines preventing construction of any kind except those required by the government for maintaining the purity of the rivers.*
- (iv). to direct the Urban Development department/village panchayats/MPCB not to clear any proposals in contravention to the prayers mentioned in clause (b) and (i) and (ii) above.*
- (v). to direct the State Animal Welfare Board to ascertain whether there are sufficient areas in the Rivers which allow animals both wild and domestic to have access to Rivers;*
- (vi). to direct the Respondent State to amend the existing river policy to also prevent residential/commercial complexes apart from Industries coming up 100 m on either side of the river banks and 50 meters from all tributaries and water course that contribute to the discharge of water into rivers;*
- (vii). to direct the Respondent State to take necessary remedial steps for the removal of all encroachments / all kinds of obstructions that are denying public access to Water bodies such as Rivers, Lakes, Creeks, etc. and to restore the water bodies to their natural position.*
- (viii). Respondent State be directed to set up a River Authority to monitor the protection of rivers and also make it mandatory for approval of the Authority be taken before clearing any proposals for construction of any kind except those needed for government facilities monitoring the river water quality and navigation/ security of rivers.*
- (ix). Respondent State be directed to set up a River Authority to monitor the protection of rivers and also make it mandatory for approval of the Authority be taken before clearing any proposals for construction of any kind except those needed for government facilities monitoring the river water quality and navigation/ security of rivers;*
- (x). The local police station under whose jurisdiction the portion of river falls must be directed to take suo moto cognizance of the offence, if any, and file a report to the District Collector;*
- (xi). Pending hearing and final disposal of this Petition the Hon'ble Court may be pleased to stay the impugned GRs dated 03.02.2015 and 16.02.2015 issued by the respondent No.1.*

(c) *Ad-interim and interim reliefs be granted in terms of prayer clause (b) above'*

(d) *Costs of the Petition be provided for;*

(e) *for such other and further reliefs as this Hon'ble Court may deem fit and proper."*

3. This PIL Writ Petition was considered by the Hon'ble Bombay High Court on various dates and lastly, vide order dated 06.09.2023, it has been transferred to this Tribunal for being decided expeditiously, specifically mentioning that the Tribunal shall not adjudicate prayer (x).

4. We find that on number of occasions, amendments have been allowed by the Hon'ble Bombay High Court, which have been incorporated in the original PIL at different places, therefore, we direct the applicant to file a clearly typed copy of the entire petition within a week.

5. Record reveals that there are in all eight respondents in the said Writ Petition, out of which respondent No.1/MoEF&CC has filed 1st affidavit dated 07.09.2014 and 2nd affidavit dated 10.10.2018; respondent No.2/Environment Department, Government of Maharashtra has filed 1st affidavit dated 19.08.2014 and 2nd affidavit dated 09.07.2018; respondent No.4/Water Resource Department, Government of Maharashtra has filed reply affidavit dated 19.09.2018; and respondent No.7/MPCB has filed reply affidavit dated 11.07.2018.

6. Today, this matter is being heard by us for the first time after having been received by transfer from the Hon'ble High Court of Bombay.

7. From amongst the respondents, only from the side of respondent No.7/MPCB, learned counsel Ms. Manasi Joshi has appeared, who apprised us that she has not been served a copy of the Original Application, therefore, we direct the applicant to serve an amended copy of Original Application upon all the respondents within a week.

8. Since the other respondents, i.e. respondent Nos.1 to 6 & 8 have not appeared today, we direct the Registry to inform about the next date of hearing of this matter to the learned counsel for these respondents and

further, we direct that these parties may file an additional affidavit, if so required, bring on record the current status before the next date.

Put up this matter for further consideration on 08.02.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

November 28, 2023
Original Application No.185/2023(WZ)
Earlier PIL No.14/2014
(Disposed on 06/09/2023)
P.Kr