

Item No.2

(Pune Bench)

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

(By Video Conferencing)

EXECUTION APPLICATION NO.13 OF 2022 (WZ)
IN
APPEAL NO.12 OF 2020 (WZ)

Sarang Yadwadkar and Another Applicants

Versus

Pune Municipal Corporation and othersRespondents

Date of hearing: 04.01.2023

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

Applicants : Mr. Ritwick Datta, Advocate with Applicant No.1 in person

Respondents : Mr. Rahul Garg, Advocate for R-1 and R-4
Mr. Aniruddha Kulkarni, Advocate for R-2

ORDER

1. This Execution Application has been filed for direction to be issued to respondent No.1 – Pune Municipal Corporation to immediately stop all construction activities undertaken by them for River Front Development Project of Mula, Mutha and Mula-Mutha rivers; further it is prayed that penalty be imposed on respondent No. 1 for willful violation of the judgment dated 29.11.2022 passed by this Tribunal in Appeal No.12 of 2020. Reliance has been placed on the operative part of the said judgment dated 29.11.2022, which reads as follows:-

“49. Despite lacunae in TOR, MOM and project description in EC letter, we find that overall system has enabled impact identification, assessment, preparation of EMP and recommending appropriate additional measures as EC conditions. EIA is an evolving process. MoEF&CC vide OM dated 11th June 2018 in order to streamline various processes in granting EC has issued Form-4 for seeking Amendment in Environmental Clearance by submitting information on amendment in configuration/Amendments in clearance conditions with reasons for seeking amendment. As this is public interest project, the PP has

carried out all required studies, and SEAC/SEIAA have duly apprised the proposal before recommending/granting EC, we do not find it necessary to set aside the EC, however, we hereby direct the PP to approach SEIAA for amendment of EC both in the terms of project scope and additional EC conditions to be stipulated, if any, before proceeding to start any construction activity. We dispose of Item Nos.1 and 2 accordingly.”

2. It is submitted by the learned counsel for the applicants that in spite of the said order, the construction work is going on in full swing which would lead to degradation of the ecology of the area and the same is being done in violation of the said order.

3. From the side of respondent No. 1 – Pune Municipal Corporation, the reply-affidavit has been filed wherein in paragraph no.8, it has been submitted that prior to passing of the judgment dated 29.11.2022 by this Tribunal, already two Work Orders dated 02.03.2022, reference Outward Nos.3164 and 3167 were issued and the work under the said Work Orders had commenced during the pendency of Appeal No.12 of 2020. The details of the works which were being undertaken have also been given in the said paragraph in clauses (a) to (d).

4. It is further submitted by respondent No.1 that no stay was granted on the commencement of the work during pendency of Appeal No.12 of 2020 despite the fact that I.A. No.105 of 2021 had been moved from the side of the applicants seeking ad-interim stay. Therefore, it is argued by the learned counsel for respondent No.1 that if the work which is going on pursuant to the earlier Work Orders dated 02.03.2022 is directed to be stopped, that would entail financial loss to the answering respondent – Pune Municipal Corporation. Further it is argued that no new Work Order has been placed by respondent No.1 – PMC subsequent to the passing of the judgment dated 29.11.2022 by this Tribunal.

5. Our attention is also brought to the fact that respondent No.1 – PMC, pursuant to the judgment dated 29.11.2022, has moved an

application dated 28.12.2022 before the Member Secretary, SEIAA seeking amendment in Environmental Clearance (EC) granted on 16.11.2019 wherein it has been submitted that respondent No.1 – PMC is not changing the original scope of work. However, as per the direction of the NGT, the format may be provided to them in which details of the project may be submitted for consideration by SEIAA. The learned counsel for respondent No.1 – PMC has, after having drawn our attention to this letter, states that till date, they have not been provided any format in which the amendment in E.C. may be prayed for. As of now, there does not exist any standard format for the same because of which the delay is occurring. They have yet not received reply from SEIAA in response to their letter dated 28.12.2022.

6. From the side of respondent No.2 – SEIAA, learned counsel Mr. Aniruddha Kulkarni is present. He states that this letter of respondent No.1 dated 28.12.2022 would be responded by SEIAA within seven days positively and that at least 8 to 12 weeks would be taken for issuing the amended E.C. by the SEIAA after submission of the application by respondent No.1 – PMC with that prayer, as the entire procedure has to be followed,

7. We are of the opinion that the prayer made by the learned counsel for the applicants that respondent No.1 – PMC should be directed to stop all construction activities would entail financial loss to them which can be avoided, particularly in view of the fact that we have not quashed the E.C. and have permitted respondent No.1 to approach the SEIAA for seeking amended E.C. But that has to be done on priority basis. It is apparent that respondent No.1 – PMC has already approached respondent No. 2 – SEIAA seeking format to be made available on which they have to apply for amended E.C. as no such format exists as of now. We, therefore, direct respondent No.2 – SEIAA to provide the appropriate

format within one week to respondent No.1 – PMC and within two weeks thereafter, the application in such format would be moved by respondent No.1 – PMC before the SEIAA seeking amended E.C. We direct respondent No. 2 – SEIAA to complete within further four weeks the proceedings of issuing the amended E.C. required in the present matter.

8. We hope that the above time-schedule shall be followed by the authorities as directed by us in letter and spirit so that no further delay occurs. We further make it clear that no new Work Order would be issued by respondent No.1 – PMC for raising construction of any kind till the amended E.C. has been obtained by them.

9. With above directions, we dispose of this Execution Application.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

January 04, 2023
E.A. No.13 of 2022 (WZ)
Npj