

Item No.5

(Pune Bench)

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Original Application No.02/2023(WZ)
I.A. No.12/2023(WZ), I.A. No.130/2023(WZ)
& I.A. No.188/2023(WZ)**

Sunil S. Mulye & Anr.

.....Applicant(s)

Versus

Union of India through MoEF & Ors.

....Respondent(s)

Date of hearing: 25.08.2023

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

Applicant(s) : Mr. Bipin Joshi, Advocate for Petitioner No.1
Mr. Madhur Rai, Advocate for Petitioner No.2

Respondent(s) : Mr. Raghvendra Kulkarni, Advocate h/f Mr. Rahul Garg,
Advocate for R-1/MoEF&CC
Mr. Aniruddha Kulkarni, Advocate for R-2/State Env't. Dept.
Ms. Manasi Joshi, Advocate for R-3/MCZMA & R-4/MPCB
Mr. Shivshankar Swaminathan, Advocate for R-6/VVMC
Mr. Mukesh Verma, Advocate for R-8/SWA
Mr. Sanjiv Punalekar, Advocate for Intervener

ORDER

I.A. No.130/2023(WZ)

1. This application has been filed by one Mr. Yogesh Deshpande seeking to be impleaded as one of the respondents, which is being represented by learned Counsel Mr. Sanjiv Punalekar. When we enquired from the learned Counsel as to whether any relief has been sought against him in the present Original Application, he gave answer in the negative. At this, we enquired from the learned Counsel as to how he can press this application for impleadment when no order is going to be passed against him. In this regard, he says that he simply wants to enlighten the Court being an environmentalist.

2. We are of the opinion that since no relief is sought against the Intervenor, therefore, it would not be appropriate to implead him as one of the respondents in the present matter, although he has liberty to move any application on its own seeking any relief whatever he wants. But the learned Counsel prays that he may be allowed one more opportunity to satisfy this Tribunal regarding his impleadment. Therefore, we are of the view that we will pass final order on this application on the next date of hearing. Against this application, no objection has been filed from the side of learned Counsel for other parties.

I.A. No.188/2023(WZ)

3. This application has been filed by the Applicant No.2/Suncity Public Welfare Association through Vice-Chairman seeking transposition of applicant No.2 as one of the respondents in the present matter to assist this Tribunal because if the same is not allowed, the applicant would be deprived of an opportunity to put forth certain material and relevant information, that would be useful in adjudicating the issue involved in the present Original Application.

4. It is further mentioned in this application that the applicant has a *locus standi* to the issue involved herein since the members of the applicant-Association are victims of the consequences arising out of the breach of environmental laws and regulations that are subject matter of the present Original Application.

5. We have noticed that a copy of this I.A. has not been served upon all other parties and the reason behind it given by the learned Counsel for applicant No.2 is that this is a matter between the Court and the applicant No.2. When we enquired from the learned Counsel for Applicant

No.2 as to why initially both applicant No.1 and applicant No.2 have filed this application jointly and now why the applicant No.2 wants to be transposed as one of the respondents in the present matter, he says that applicant No.2 wants to engage another Counsel and not the earlier Counsel, who was representing both the parties i.e. applicant Nos.1 & 2, therefore, it would be appropriate to transpose the applicant No.2 as one of the respondents.

6. From the side of Applicant No.1, learned Counsel Mr. Bipin Joshi has appeared before us, who submits that he has no objection to the learned Counsel Mr. Madhur Rai representing Applicant No.2.

7. Therefore, we are of the view that it would not be serve any purpose to transpose applicant No.2 as one of the respondents in the present matter. However, we permit learned Counsel Mr. Madhur Rai to argue before us in this case on behalf of Applicant No.2 only, while the applicant No.1 will be continued to be represented by learned Counsel Mr. Bipin Joshi.

I.A. No.188/2023(WZ) stands disposed of accordingly.

Original Application No.02/2023(WZ)

8. From the side of respondent No.1/MoEF&CC, learned Counsel Mr. Raghvendra Kulkarni holding brief of learned Counsel Mr. Rahul Garg has appeared, who apprised us that he would be filing reply affidavit after receipt of the Joint Committee Report, we allow the same.

9. From the side of respondent No. 2/Environment Department, State of Maharashtra, learned Counsel Mr. Aniruddha Kulkarni has appeared, who prays that two weeks' time may be allowed to file the reply-affidavit, the same is allowed.

10. From the side of respondent No.3/MCZMA and for respondent No. 4/MPCB, learned Counsel Ms. Manasi Joshi has appeared, who apprised us that inspection has been made by the Joint Committee on 19.06.2023 and a week's time is required to file the final report of the Joint Committee. We allow the same with the direction that a copy of the same shall be served upon all other parties and on receipt of the same, within a week thereafter, objections, if any, against the same may be filed by the learned Counsel for other parties. The learned Counsel for respondent Nos.3 & 4 apprised us that reply affidavit has already been filed on their behalf.

11. From the side of respondent No.6/Vasai Virar City Municipal Corporation, learned Counsel Mr. Shivshankar Swaminathan has appeared, who apprised us that reply affidavit has already been filed.

12. From the side of respondent No.8/State Wetlands Authority, learned Counsel Mr. Mukesh Verma has appeared, who apprised us that he would be filing reply affidavit after receipt of the Joint Committee Report, we allow the same.

13. Since almost all the respondents have submitted that they would be filing reply affidavit only after receiving the copy of inspection report, we direct that along-with the filing of objection against the said report, if so required, they shall also file their reply affidavit within a week of receipt of the said report.

14. From the side of applicant No.1, rejoinder affidavit has been filed against the reply affidavits of respondent Nos.3 & 4, which is taken on record. We direct the learned Counsel for applicant No.1 to serve a copy

of the same upon the learned Counsel for other parties today itself through e-mail.

Put up this matter for further consideration on 05.12.2023

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

August 25, 2023
Original Application No.02/2023(WZ)
I.A. No.12/2023(WZ), I.A. No.130/2023(WZ)
& I.A. No.188/2023(WZ)
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