

Item No.4

(Pune Bench)

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.186/2023(WZ)

News Item appearing in Pune Pulse Dated 11.10.2023
titled "Pune Residents Condemn tree felling for
Urban Development Projects"

.....Applicant

Versus

Maharashtra Forest Department & Ors.

....Respondent(s)

Date of hearing: 06.12.2023

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

Applicant : Mr. Rajendra Kumar Kale, Advocate
Respondent(s) : Mr. Rahul Garg, Advocate along-with
Ms. Nisha Chavan, CLO and Ms. Vinaya Borse, ALO,
PMC for R-4/PMC

ORDER

1. In the present Original Application, the learned counsel for applicants has filed an application for temporary injunction to the effect that all trees felling proposals and, in particular, against the operation of all the tree felling notices and tree felling orders passed by the respondent No.4/PMC in respect of felling of trees across the city of Pune be restrained from being felled, pending hearing of this application.

2. From the side of respondent No.4/PMC, reply affidavit has been filed today and a copy of the same is said to have been served upon the learned counsel for applicants.

3. From the side of applicants, a compilation has been filed today, which too is taken on record.

4. The main argument, which has been raised by the learned counsel for applicants, is that the respondent No.4 is not following the procedure, which has been laid for felling of trees and is indulging in felling of trees recklessly. In this regard, when an evidence is required to be shown, the learned counsel for applicants has drawn our attention to page no.934 of the paper book, on the basis of which it is alleged that 27 trees, for which permissions were not granted, have been allowed to be felled and regarding this, a complaint dated 04.12.2023 was made by Mr. Ranjit Gadgil addressed to the Asst. Municipal Commissioner, Tree Officer and Ward Officer, PMC Shivajinagar-Ghole Road Ward Office, Shivajinagar, Pune, annexed at page no.930 of the paper book, who is one of the Petitioners in PIL No.163/2023, which was heard by the Hon'ble High Court of Bombay. The next argument, which has been raised by the learned counsel for applicants, is that the Commissioner, PMC is being only stated to be the Chairman, Local Tree Authority wrongly because as per Section 3 read-with Section 2(g) of Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975, the Special Planning Authority constituted under Section 40 (1)(a) of the Maharashtra Regional and Planning Act, 1966 would be the Urban Local Authority and the Chairman of the Tree Authority would be the Chief Executive Officer of the Special Planning Authority. Therefore in Pune, it is being said by him that the PMRDA would be the Local Tree Authority, which has the power to grant the permission for felling of trees and not the Commissioner, PMC. Therefore, whatever permissions have been granted, they have been wrongly granted. Besides that he has shown number of documents, which we will take care of while passing our order in the matter.

5. From the side of respondent No.4/PMC, the main reliance has been placed on a Judgment passed by the Hon'ble High Court of Bombay in

PIL No.163 of 2023, where-in the issue involved was the procedure adopted by the PMC and its authorities in granting permission to the proposed felling of trees so as to facilitate the road widening of Ganeshkhind Road, Sancheti upto University of Pune. In the above PIL, following directions have been issued by the Hon'ble High Court:-

- (i). In terms of requirement of Section 8 of the Act of 1975, the Tree Officer shall publish a fresh public notice giving a period of at least seven days for furnishing the objections and suggestions, in view of the permissions sought for felling of trees.*
- (ii). The Tree Authority while publishing a public notice in terms of Sub-section (3) of Section 8 of the Act of 1975 shall also personally inspect the trees, hold an inquiry and shall mention in the advertisement, if the trees to be removed are the heritage trees, as also shall determine the age of the trees sought to be removed as per the criteria and method, which may have been notified by the Government.*
- (iii). Once the period of objections and suggestions expires, the Tree Officer shall furnish the entire material along with the report and recommendation, if any, to the Tree Authority, which shall consider the material, that may be made available and take appropriate decision on the prayer for felling of trees.*
- (iv). We specifically direct that till the entire exercise in terms of this order as also keeping in view the provisions contained in Section 8 of the Act of 1975 is undertaken and completed afresh, no further felling of trees shall take place pursuant to the impugned Notification dated 18th September 2023, which shall abide by the fresh decision to be taken under this order.*
- (v). The learned Counsel representing the Pune Municipal Corporation undertakes to communicate the gist of today's order immediately to the Authorities concerned without waiting for its certified copy or the order being uploaded.*
- (vi). We make it clear that the Court has not adjudicated any other issue(s) raised in this Public Interest Litigation except the issue relating to the procedure to be followed for according permission to a prayer for felling of trees."*

6. Based on above, it is argued by the learned counsel for respondent No.4 that the matter has thoroughly been considered by the Hon'ble High Court of Bombay and thereafter only, the above order has been passed, under which now fresh exercise is being done regarding the permission to be granted for felling of trees, pursuant to which fresh notices dated

03.11.2023 have been issued. Further, it is pointed out by him that the jurisdiction of dealing with the matters pertaining to the Tree Act would not fall under this Tribunal and in this regard, several Judgments have been annexed with the reply affidavit of respondent No.4.

7. Arguments concluded. We reserve this matter for Judgment.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

December 06, 2023
Original Application No.186/2023(WZ)
P.Kr