BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN ZONE BENCH, PUNE

Execution Application No. 15/2016 In Application No. 37/2013 [Disposed 2.7.2015] Central Pollution Control Board In Vanashakti Public Trust & Anr Vs. Maharashtra Pollution Control Board & Ors

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CORAM: HON'BLE MR JUSTICE U.D.SALVI, JUDICIAL MEMBER HON'BLE DR. AJAY A. DESHPANDE, EXPERT MEMBER

Present:

Applicant/Appellant Respondent No.1 Respondent CPCB Mr. Zaman Ali Adv Swapnajit Sanyan Adv Mr. Anand Kulkarni holding for Manda Gaikwad Adv Mr. Milind Mahajan Adv

Respondent-MoEF

Date and Remarks Item No. 1 September 14, 2016 Order No.03 implementation.

Execution of the directions/orders passed following the Judgment in Application No.37/2013, on 2.7.2015, is under consideration.

Orders of the Tribunal

The directions/orders were passed in order to curb the menace of environmental pollution caused in the riverine system of Ulhas River in Mumbai Metropolitan Region. The sources of environmental pollution were identified as untreated sewage and industrial effluents passing in riverine system of Ulhas River. We had, therefore, directed enforcement of all the directions issued by Central Pollution Control Board (CPCB) vide letter dated 2.9.2008 to Maharashtra Pollution Control Board (MPCB) as regards Central Effluent Treatment Plants (CETPs) at Dombivli and Ambernath. CPCB was directed to ensure the implementation of its directions and for that purpose to ensure that action plan submitted by MPCB is enforced in six (6) months without fail. A year has since then passed and only action plan prepared by MPCB is laying in the hands of CPCB without its effective implementation.

Learned Counsel appearing on behalf of Applicant submits that industrial units discharging effluents exceeding the prescribed limits have been duly identified "as per the Summary of Industry visit" annexed to the affidavit of CPCB dated 16th August, 2016 and CPCB is expected to take action under Section 5 of the Environment (Protection) Act, 1986 for closure of these units. Learned Counsel appearing on behalf of CPCB is unable to make any statement as to the action plan by CPCB in that regard. However, he makes a statement that action as expected of the CPCB shall be taken in accordance with law against the said industrial units within a

Item No. 1 Week. September 14, 2016

Order No.03

Learned Counsel appearing on behalf of the Applicant makes a grievance about water tankers ferrying extra water to the industrial units situated in Dombivali phase-I, MIDC estate. He submits with reference to para-25 of the Judgment dated 2.7.2015, that the MIDC has categorically made an averment vide affidavit dated 19.2.2015 that MIDC will be ensuring non use of Bore-well/Water Tankers in order to ensure that industrial units do not consume water more than quantity specified by MPCB concerned and hydraulic load of CETP is maintained. He submits that time and again the Applicant had made complaints to the Police as well as to MIDC about water tankers moving to and fro to the said industrial estate and no action appears to have been taken by MIDC. We had directed CPCB to ensure enforcement of action plan submitted by MPCB. The parties to apprise the Tribunal about regulation of this aspect of faithful running of industrial units, in accordance with consents granted to them and how it is dealt with. However, before us we do not find any representation from MIDC, who has vital role to play in the execution of directions/orders passed by this Tribunal.

The direction No.5 in the Judgment dated 2.7.2015 required MDC to commission Effluent Disposal Systems in twenty four (24) months and to submit Bank Guarantee of Rs.50Crores to MPCB to ensure compliance. We have before us the affidavit dated 7th September, 2016, of Respondent No.1-MPCB but sadly. MIDC has not filed any affidavit regarding compliance of directions, which they were obliged to comply with. We get to know about their compliance status from the affidavit dated 7th September, 2016 of Respondent No.1-MPCB. What we find therefrom is that MIDC pursued the issue of commissioning Effluent Disposal Systems with National Institute of Oceanography (NIO) for finalising disposal point of CETPs in Kalyan region and NIO had made some recommendations, but MIDC expressed its inability to provide disposal line necessary for commissioning of Effluent Disposal Systems due to economic non-viability and technical constrains. These issues of economic non-viability and technical constrains were not raised before us in the course of hearing of Original Application No.37/2013. Now, it is not open for MIDC to go behind the orders passed and raise such issues in execution proceeding. MIDC is expected to comply with directions unless the same are set aside by the Appellate Forum.

Perusal of record does not reveal that Notice of this Execution Proceeding has been served on MIDC. Hence, issue Notice to MIDC- Item No. 1
September 14,
2016Respondent No.7 by Registered Post A.D and 'Dasti' as well. MIDC shall
show-cause as to why coercive measures as contemplated under Order-
XXI Rule 32 of the Civil Procedure Code, 1908, be not initiated for non-
compliance of the directions passed by this Tribunal.

The affidavit dated 7th September, 2016, also speaks about compliance-status of other limb of material directions passed in respect of commissioning of STPs by Kalyan Dombivali Municipal Corporation, Ulhas-Nagar Municipal Corporation, Kolgaon-Badlapur Municipal Council and Ambernath Municipal Council. These local bodies are expected to provide required STPs capacity in phase-wise manner within twenty four (24) months of passing of the said directions and for that purpose to submit a comprehensive action plan along with provisions of funds necessary therefor. It appears nothing has significantly moved in achieving compliance of the said directions. The Chief Secretary, Govt. of Maharashtra is expected to ensure compliance of these directions passed in relation to commissioning of STPs of the said bodies. We, therefore, issue Notice to the Chief Secretary, Govt. of Maharashtra by registered post A.D. and 'Dasti' as well. We direct the Chief Secretary, Govt. of Maharashtra to place before us compliance status by next date.

Li<mark>st thi</mark>s ca</mark>se on 1st Octo<mark>ber, 2016.</mark>

(MR JUSTICE U.D. Salvi)

(Dr. Ajay A. Deshpande)

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