

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

APPLICATION NO. 73/2014

CORAM:

**HON'BLE SHRI JUSTICE V.R. KINGAONKAR
(JUDICIAL MEMBER)**

**HON'BLE DR. AJAYA.DESHPANDE
(EXPERT MEMBER)**

B E T W E E N:

SANGLI ZILLA SUDHAR SAMITI,

Through its member Ravindra Mahadeo Chavan
Residing at 304/24, Shriram, Cajanan Colony,
Old Kupwad Road, Sangli-416416.

....APPLICANT

A N D

1. THE CHIEF SECRETARY,
Public works Department,
The State of Maharashtra,
Mantralaya, MUMBAI-32.

2. THE SUPREME INFRASTRUCTURE INDIA LTD.
Constructoin Company
Supreme House, Plot No.94-C, Pratapgad,
Opposite IIT Main Gate, Powai,
Mumbai-400 076.

3. THE EXECUTIVE ENGINEER,
Public Works Department,
Miraj Divison, Miraj, Dist. Sangli.

4. THE COMMISSIONER,
Sangli, Miraj and Kupwad City
Municipal Corporation,
Sangli.

.....**RESPONDENTS**

Counsel for Applicant

Mr. Asim Sarodea/wPratap Vitankar Adv's for the Applicant.

Counsel for Respondent(s):

**Mr. Ronge D.D. SEE for EE PWD Dvn Miraj,
PW department, for Respondent Nos.1**

Date: August 12th, 2014

ORAL J U D G M E N T

1. By this Application, the Applicant seeks certain directions, which may be stated as under:

A) Directions may be given to the Respondents not to cut down 124 fully grown-up trees by Respondents or through their agents, Servants, contractors or any authorized person on their behalf, without considering the optional plan of road expansion.

B) Directions may be given to the Respondents to revise the proposed plan of 6-lane wide road in between PushprajChowk to VishrambagChowk on Sangli - Miraj Road and prepare new plan taking into consideration minimum fully grown up trees would have to be cut down while broadening the said road.

C) Directions may be given to the Respondents suggestions; objections and opinions of all the public including the Applicants may be invited while making new plan of the road widening in between PushprajChowk to VishrambagChowk on Sangli - MirajRoad and then only final work of widening of the said road would be carried out.

D) Directions may kindly be issued to the Respondents to strictly follow the directions and guidelines issued by the Hon'ble High Court in PIL No. 93/2009.

2. Applicant - **SangliZillaSudharSamiti** is a social group of local residents. The group claims to be of environmentalists and interested in protection of trees. They allege that the Respondents have undertaken work for expansion of a public road between Sangli and Miraj on the stretch of 1.6 km. According to the Applicant, the Respondents are likely to cut a large number of trees, in all 124 in number, notwithstanding the fact that such huge felling of trees is unnecessary for the purpose of widening of that public road. They have come forward

with a motive to save Greenery of the Township and particularly those trees which are not required to be cut for the purpose of widening of the public road. The Applicant alleges that the workers of the contractor have started digging of pits around the trees and, therefore, the roots of trees are being damaged. An attempt is being made to cause felling of trees by causing damage to the roots, in order to show that trees have fallen down naturally and are not axed.

3. The Applicant alleges that though several representations were made to the Authorities concerned, yet no prohibitory action was taken and work was continued illegally. According to the Applicant, work of widening of road between 'PushprajChowk' to 'VishrambaughChowk' in respect of proposed six (6) lane wide road as per the plan, may be executed appropriately by sacrificing minimum and fully grown trees, without cutting unnecessarily a large number of trees.

4. Though the Respondents initially came out with a case that the Application is improper and the averments are incorrect and that felling of trees is required for public purpose, yet on direction of the Tribunal the Respondents agreed to have relook into the matter.

5. Before we proceed further, let it be noted that the Applicant has relied upon provisions under the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975. The main plank of the Applicant is that provisions of the Act, are being violated by the Respondents. In this context, the Deputy Executive Engineer, PWD, Miraj, has brought to our notice communication dated 12.9.2013, which shows that felling of trees as contemplated is about 72-75.

6. Perusal of Section 21(1), the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975, reveals that nothing in the section shall apply to felling of trees on or along the public roads undertaken by the Public Works Department (PWD) of the State or Central Government. In other words, felling of trees for public purpose that would be undertaken by the PWD, is exempted from applicability of provisions of Section 21(1) of the said Act, in view of proviso. The proviso commences with non-obstante Clause and as such, it is difficult to countenance the argument of the Applicant and hence, we are not inclined to consider the Application so as to give prohibitory directions.

7. Still, however, it may be stated that today the Executive Engineer, PWD, Miraj, has come forward with

reasonable proposal that only thirty-seven (37) trees are required to be cut and removed for the purpose of the project in question. Mr. Ronge, Sub-Divisional Engineer of PWD, is present in person. He makes a statement on behalf of concerned Executive Engineer of PWD that there shall be no further felling of trees in execution of the said work. We accept the statement. We are of the opinion that such minimum felling of trees as required for the public works and that too covered by the proviso appended to Section 21 (1) of the aforesaid Act, will have to be permitted.

8. Under the circumstances stated above, the Application is partly allowed in terms of statement of the Executive Engineer, PWD as shown in the reply dated 11.8.2014, namely; only thirty-seven (37) trees be removed and cut down for the purpose of execution of project in question and no further felling of trees will be undertaken. The Sub-Divisional Engineer of PWD, states that already four (4) trees have been felled down before project work has commenced and additional thirty-seven (37) trees are to be removed and identity of those trees will be pointed out before the work will commence.

9. We direct that PWD shall plant five trees in lieu of each tree (5:1), which is fell or cut along side the same

road, if the open space is available, as far as possible, of the same specie and if it is not so possible of other good quality.

The Application is accordingly disposed of. No costs.

(Justice V. R. Kingaonkar)



....., JM

(Dr. Ajay A. Deshpande)

....., EM

Date: August 12th, 2014.



NGT