

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

APPLICATION NO.26/2014 (WZ)

Smt. Alka Sonwane Vs Mun. Commission & Ors.

**CORAM: HON'BLE MR JUSTICE V.R. KINGAONKAR, JUDICIAL MEMBER
HON'BLE DR. AJAY A. DESHPANDE, EXPERT MEMBER**

**Present: Applicant No.2 : R.M.Mahabal
Respondent Nos.1,2 : Sudhir S. Kotwal Adv
Respondent No.3 : P.P.Bhomre ACF**

Date and Remarks	Orders of the Tribunal
Item No.7 March 24, 2014 Order No.3	<p>We have heard learned Advocate for the Applicant Ms Rukmini Khairnar, and Advocate for the Respondent Nos.1 and 2.</p> <p>By filing this Application, the Applicant seeks following reliefs:</p> <p>(1) Be pleased to call for the entire records in respect of the Gangapur Road widening from Jehan circle to Gangapur Goan, Nasik, from all the respondents stated above.</p> <p>(2) Be pleased to direct the Respondents No.1 & 2, and other respondents, not to cut down these lovely trees under the garb of road-widening, and respondent No.3, with regards to traffic-safety.</p> <p>(3) Be pleased to fix the responsibility on Respondents Nos.1 & 2, for saving the trees on the said road.</p> <p>Filing of the reply affidavit filed by the Respondent Nos. 1 and 2, goes to show that not a single tree has been yet cut down. The reply affidavit shows that there is proposal for road widening, which will require cutting of approximately 769 trees, causing impediment in the proposal of road widening. The Respondent Nos.1 and 2 submit that they have admitted to save 386 trees, which come within area of footpath and divider. They further state that 46 trees are useful for replantation and 337 trees are proposed to be cut down for which they do not found any option. It is also stated that in lieu of those 337 trees, which are required to be cut down, new plantation at the edge of road boundaries will be undertaken.</p> <p>Learned Advocate for the Respondent Nos.1 and 2 has submitted that 337 trees are only marked and no action has been taken for cutting them down, because publication is yet to be made and decision is yet to be taken by the Tree Authority, as per the relevant procedure and the Law. The Tree Committee, has yet to decide the issue. Learned Advocate for the Respondent Nos.1 and 2, therefore, submits that the Application is pre-mature.</p>

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One of the member of Tree Committee by name Sandeep Subhash Bavar, is present in person and has filed affidavit to the effect that though he is member of the Tree Committee, yet he has not been called for participation in the process. We do not have any authentic record to know whether he is member of the Tree Committee or not. The Respondent Nos.1 and 2 may verify the relevant record and if he is member of the Tree Committee, then care should be taken to allow his participation in the decision making.

The Respondent Nos.1 and 2 shall undertake appropriate procedure before taking any decision to cut down the trees for the purpose of road widening, issue Notification as required under the Law and call for objections of the relevant public members. Tree Committee, shall thereafter take appropriate decision. The plantation of new trees along side of the road, flanking either side of the road, as well as at the other place available within the area of Municipal Corporation, shall be planned, suitable to plant trees, in the minimum proportion of 1:3, to the number of trees, which are being cut down and appropriate budgetary provision, shall be made in this behalf.

The Applicants are at liberty to file their objections/representations before the Tree Committee/Tree Officer, as and when the publication of Notice is made. It is made clear that even though decision to cut down the trees is taken yet for the purpose of one (1) week, it shall not be executed by the Respondent Nos.1 and 2, after such decision is taken, giving such period to the Applicants to take further steps to challenge the order, if so desired. We are aware that ordinarily such kind of pre-anticipated of stay order cannot be granted, having regard to exigency, which is likely to occur, we deem it proper to exercise inherent powers under Section 151 as well as under Section 94(e) of the Code of Civil Procedure, to meet ends of justice. The Application, is accordingly disposed of. No costs.

....., **JM**
(Justice V. R. Kingaonkar)

....., **EM**
(Dr.Ajay A. Deshpande)