

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) BENCH, PUNE
APPLICATION No.50/2014**

CORAM:

**Hon'bleShri Justice V.R. Kingaonkar
(Judicial Member)**

**Hon'bleDr. AjayA.Deshpande
(Expert Member)**

B E T W E E N:

1. Hritikesh Arun Nazre

Age:- 40 years, Occupation:
Self employedShrushti, Plot
No.64/65, Shankar Nagar,
Anandvalli Nashik-422 013.
PAN No.ABTPN5045Q.
Email: -n_hrishikesh@yahoo.com

2. Sau.AlkaSonwane,

Age:-45 years, Occupation:- Service
Sonwane Mala, SinnarPhata,
Nashik-road, Nashik-422 101.

.....Applicants

A N D

1. Municipal Commissoiner,

Nashik Municipal Corporation,
Rajiv Gandhi Bhawan, Sharanpur Road
Nashik.

2. The Mayor- Mr. YatinRghunathWagh

Ramayan Bungalow, Sharanpur Road
Tilakwadi, Nashik.

3. Executive Officer,

Town Planning Department,
Nashik Municipal Corporation
Rajiv Gandhi Bhawan, Sharanpur Road
Nashik.

4. Municipal Commissoiner.

5. Mr.ShewaleArvind.

6. Mr.ShakharGaikwad.

7. Mr.NanduVarade.

8. Mr.SandeepBhawar.

9. Mr.ManojGhoadake.

10. Mr.ShyamKankaria.

11. Mr. ShivajiPalkar.

12. Mr. Sanjay Sabale.

13. Mr. Rajesh MadhukarPandit.

14. Mr. AkashChajed.

15. Mr. MaksoodNazeer Shaikh.

16. Mr. KunalWagh.

17. Mrs.SujataKarajgikar.

18. Mr. Sanjay Chavan..

No.4 to18, Allmemers of
Tree Committee
Having office at-Tree Committee,
Nashik Municipal Corporation,
Rajiv Gandhi Bhawan,
Sharanpur Road, Nashik.

.....**Respondents**

Counsel for Applicant

Mr. NileshKute

Counsel for Respondent(s):

Mr. SudhirKotwalfor Respondent Nos. 1 to 5.

Respondent Nos.6,7,8,9,13,15 : In person

Date:May 28th2014

J U D G M E N T

1. This is an Application filed by two Applicants, seeking certain reliefs stated as below:

- a) “ That the Hon’ble Tribunal be pleased to call the paper in procedure relating to constitution, formulation and particulars about the tree committee and its decision and after perusing the same be pleased to declare that the tree committee itself is illegal and its decision of cutting approx. 3500 trees in the city of Nashik is itself ultra-virus and void ab-initio.
- b) The mandatory direction to form the proper and legal tree authority,
- c) The Respondent No.1 and 2 be restrained from implementing the alleged illegal decision of the tree committee for cutting approx. 3500 trees within Nashik.
- d) That mandatory direction to perform immediate tree-census and audit before cutting any tree be given.”

2. The Respondent Nos. 1 to 4 are the Authorities of Nashik Municipal Corporation. The reply affidavit has been filed on their behalf. According to them the stand taken by Respondent Nos. 1 to 4, is the issues raised in the Application, which were already ventilated before the Hon'ble High Court in PIL No.93 of 2009, as well as PIL No.41 of 2006. It is stated that PIL No.41 of 2006, was filed by NashikNagariKrutiSamiti, of which both the Applicants were members and since the said order passed on 2nd May, 2014 in the said PIL, the present Application is untenable. The Counsel for the Applicants would submit that the Applicant No.2, was not party in the PIL No.41 of 2006.

3. Perusal of the Application shows that the Applicants have not referred to the PIL No.93 of 2009 or PIL No.41 of 2006, in their Application. It is difficult to believe that they were not at all aware of pending of these PILs. The Applicant No.1, at least, could be attributed with knowledge of PIL No.41 of 2006, being the member of NashikNagariKrutiSamiti. It is imperative therefore, that such act ought to have been stated in the Application, in order to come out to this Tribunal with 'clear hands'. Needless to say that the Application is filed with ill-motive to seek remedies, though the same

kind of prayers were made before the Hon'ble High Court about which nothing was stated in the present Application. This kind of attempt to take chances, without mentioning such facts in the Application, must be deprecated. As a matter of fact, we would have imposed heavy costs on the Applicants for such 'suppression of facts', but for, the reason that they attempted to espouse the public cause.

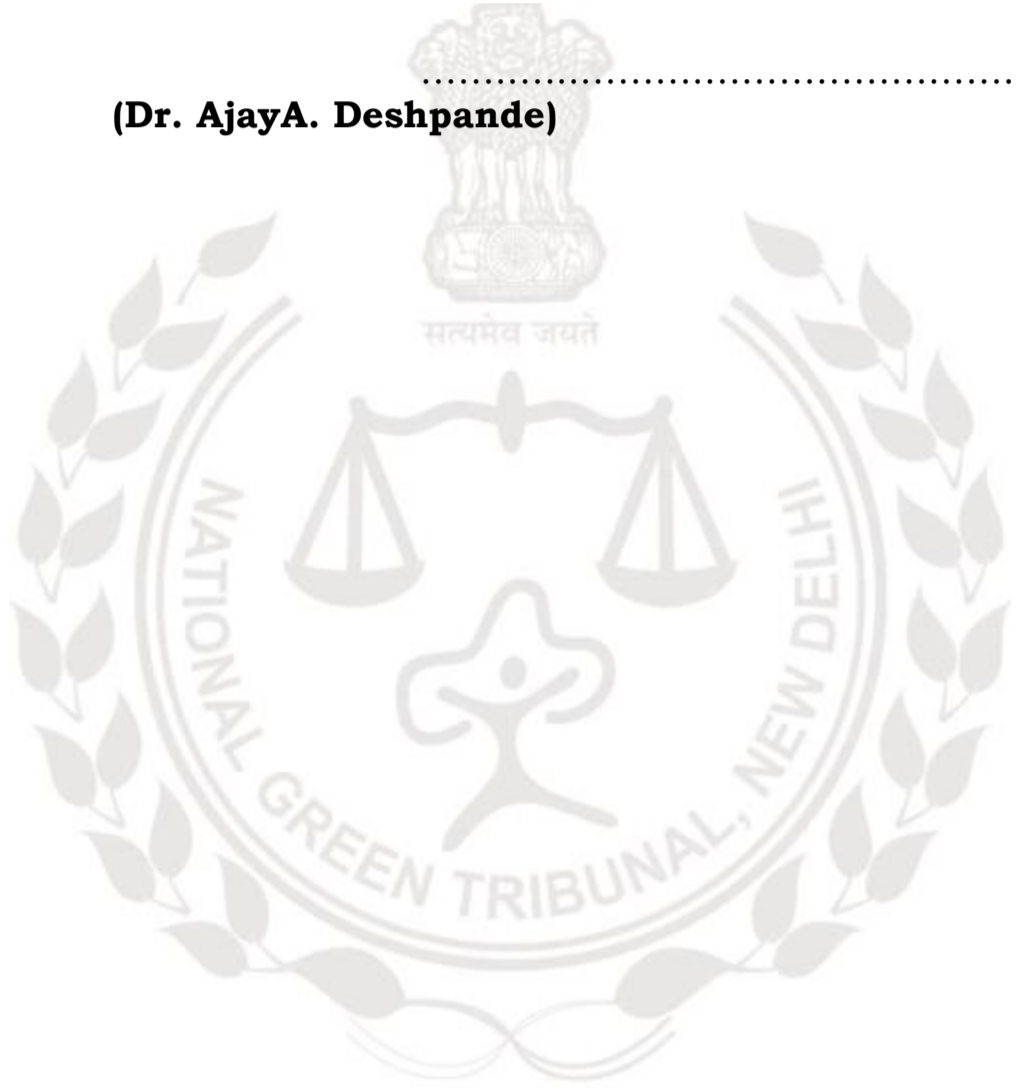
4. The Counsel for the Applicants would submit that the Application will not be pressed into service, except for the prayer regarding legality of constitution of the Tree Committee. We do not approve the request for withdrawal, particularly, when identical matter is pending before the Hon'ble High Court. For, the learned Counsel for the parties makes a statement that PIL No.41/2006 is still pending before the Hon'ble High Court. The Applicants are at liberty therefore, to ventilate the issue pertaining to legality about constitution of the Tree Authority before the Hon'ble High Court, if so deemed proper.

5. In view of foregoing discussion, we do not find any substance in the Application. Since the issues are addressed by the Hon'ble High Court, therefore, the Application does not survive any more. Consequently,

the Application is dismissed, keeping option regarding prayer 'A' open. No costs.

....., EM
(Justice V.R.Kingaonkar)

....., EM
(Dr. AjayA. Deshpande)



NGT