

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) BENCH, PUNE
REVIEW APPLICATION NO. 5 OF 2015
In O.A. No.19 of 2013**

CORAM :

**HON'BLE SHRI JUSTICE V.R. KINGAONKAR
(JUDICIAL MEMBER)
HON'BLE DR. AJAY A.DESHPANDE
(EXPERT MEMBER)**

In the matter of:

OIL & NATURAL GAS CORPORATION LTD
Uran Plant, Uran Raigad,
Raigad-400707.

**APPLICANT
(Org.R-9)**

Verus

1. RAMDAS JANARDAN KOLI,
& others, Paramparik Macchimar Bachao
Kruti Samiti, Office: At Hanuman Koliwada,
Post N.S. Karanja
Tal. Uran
District Raigad-400704.

....APPELLANTS

A N D

2. SECRETARY, MINISTRY OF ENVIRONMENT AND FORESTS

Paryavaran Bhavan,
CGO Complex, Lodhi Road,
New Delhi 110 003.

3. THE SECRETARY, MINISTRY OF SHIPPING,

Ministry of Shipping,
Parivahan Bhavan, 1, Sansad Marg,
New Delhi-110001.

4. THE PRINCIPAL SECRETARY RELIEF & REHABILITATION,

Relief & Rehabilitation,
Revenue Department,
Mantralaya, Mumbai-400 032.

5. The Secretary (A.D.F.)

Agricultural & A.D.F. Department
Mantralaya, Mumbai-400 032.

6. THE SECRETARY ENVIRONMENT DEPARTMENT

Mantralaya, Mumbai-400 032.

7. THE COLLECTOR OF RAIGAD,

Alibag, Raigad-402201.

8. The Managing Director CIDCO,

CIDCO Bhavan, CBD Belapur,
Navi Mumbai-400614.

9. THE CHAIRMAN JNPT,

Administration Bldg. Sheva,
Tal Uran, Navi Mumbai-400707.

10. THE GENERAL MANAGER, ONGC

Uran Plant, Uran,
Raigad-400702.

11. THE CEO NMSEZ PVT LTD.,

Jay Tower, 6th Floor, Sec.15,
CBD Belapur,

Navi Mumbai-400614.

.....**RESPONDENTS**
No.1-Orig. Applicant
& Nos 2 to10-
Org. R-1 to 8,10

Counsel for Applicant(s):
Mr. A.M. Bhalerao.

Counsel for Respondent(s):
Absent – Nemo

Date : April 21st, 2015

JUDGMENT

1. This Review Application was considered in the Chamber. So also, learned Advocate Mr. Bhalerao for the Applicant brought to our notice Interim Order passed by the Hon'ble High Court of Bombay in Writ Petition No.977 of 2014, dated 2nd February, 2015, which reads”

“3. It is claimed that the demand is raised on the basis of the report of the Committee constituted vide Government Resolution dated 17th March, 2010. The said Committee was constituted to study the losses and the extent of the adverse effect on the fishing. The affidavit does not record that any specific power has been exercised by the State Government. The learned AGP appearing for the first respondent relied upon the minutes of the meeting. He submitted that there is a power vested in the State to award compensation. The said power is under section 3 of the Mahul Creek (Extinguishment of Rights) Act, 1922 (for short 'the said Act'). We have perused section 3 of the said Act. Section 3 and in particular sub-section (2) thereof requires the Collector to determine the compensation in accordance

with the provisions of the Land Acquisition Act, 1894. Admittedly, in the present case, the Collector has not made any award in exercise of powers under sub-section (2) of section 3 of the said Act. Another issue is of the applicability of the said Act.

4. By way of interim relief, we direct that no coercive action shall be taken against the petitioners on the basis of the impugned demands. We make it clear that this order will not prevent the State Government from initiating appropriate proceedings against the petitioners in accordance with law”.

2. By the said order the Hon’ble High Court directed that the order passed by the Commissioner of Fisheries, by way of interim measure, be not executed coercively. The said order does not, however, have any bearing on merits of the findings recorded in the Original Application No.19 of 2013 (**Ramdas Koli Vs State of Maharashtra**). The proceedings before the Commissioner of Fishers, are altogether of different nature, whereas the Application before the National Green Tribunal (WZ), is in the nature of judicial proceedings, in which findings are recorded on basis of material available on record. Apart from that, it may be noted that in Misc. Application No.19 of 2014, this Tribunal passed order on 27th May, 2014, under Section 19 of the NGT Act, 2010, as follows:

31. In our opinion, there is potent threat of environmental damages caused due to expansion of the Port activities of

JNPT and development activities of CIDCO. The spillage of oil by faulty maintenance of the pipeline also has contributed to loss of environment and ecology. This matter, therefore, requires grant of interim relief. However, contribution of ONGC, is not much as compared that of JNPT. We are of the view that by way of interim-measure JNPT shall deposit an amount of Rs.20 Crores and ONGC shall deposit amount of Rs.10 Crores with the Collector, Raigad, within period of four (4) weeks hereafter. The amount shall be placed by the Collector, Raigad in Escrow Account for disbursement to the families of fishermen, in terms of final order, which may be passed in this Application, or any order that may be passed by the Hon'ble High Court. This order itself is subject to any order, which may be passed by the Hon'ble High Court in the Writ Petition filed by JNPT.”

3. The above order of this Tribunal was challenged by the Applicant by filing Civil Appeal No.5842 of 2014, before the Hon'ble Supreme Court. The Hon'ble Supreme Court vide order dated July 14th, 2014, disposed of Civil Appeals. The text of the order is as follows:

“Heard learned counsel for the rival parties. In Civil Appeal Nos. 5925 Of 2014 and Civil Appeal No.5842 of 2014 (filed by Jawaharlal Nehru Port Trust and Oil and Natural Gas Corporation Limited respectively), the primary grievance raised, is in respect of the direction recorded in paragraph 31 of the impugned interim order dated 27.5.2014, requiring the Jawahrlal Nehru Port Trust to deposit an amount of Rs.20 crores, and the Oil and Natural Gas Corporation Limited, a further amount of Rs.10 crores. The submission of the learned counsel for the appellants before us is, that the impugned order itself expressly mandates that the

amount deposited by the appellants would be disbursed in terms of the final order that would be passed by the National Green Tribunal, Pune. It is, therefore, the contention of the learned counsel for the appellants that no fruitful purpose will be served, in retaining the amount required to be deposited by the appellants. In fact, learned counsel for both the appellants have undertaken, to make deposit in terms of the final order, subject to any challenge that may be raised thereto.

Recording the above submission of the learned counsel for the appellants, we consider it just and appropriate to set aside the direction contained in the impugned order dated 27.5.2014, which requires the Jawarhalal Nehru Port Trust to deposit an amount of Rs.20 crores, and oil and Natural Gas Corporation Limited to deposit a further amount of Rs.10 crores. Ordered accordingly.

Needless to mention that the undertaking given to this Court, by the learned counsel representing the two appellants, shall be binding on the appellants.

Since the main issue is of an urgent nature, we would request the National Green Tribunal (Western Zone) Bench, Pune, to dispose of the main matter, as expeditiously as possible.

The appeals are disposed of in the above terms”.

4. It need not be reiterated that the Applicant made a submission before the Hon’ble Supreme Court that the amount will be deposited in NGT (WZ) Bench, if so directed and, there was no need to call upon to furnish an interim payment, or to give Bank Guarantee. By accepting such statement the aforesaid order was passed by the Hon’ble Supreme Court, and, as such, now the Applicant cannot shy away from the liability by

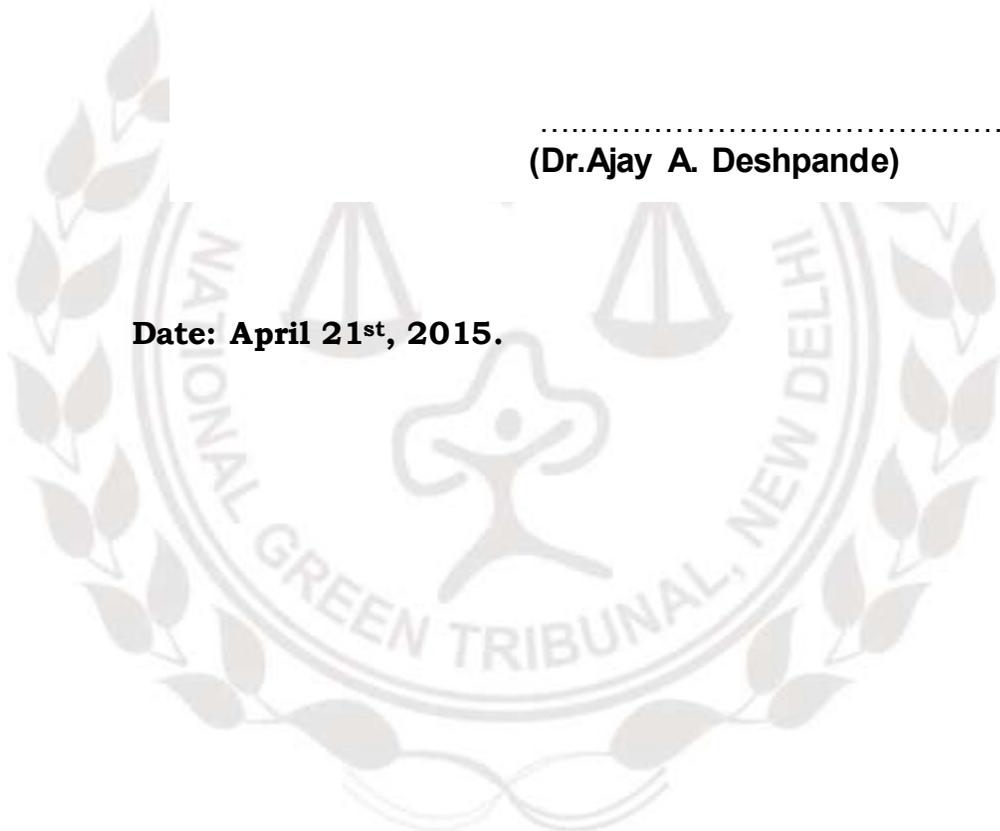
taking recourse to the aforesaid order passed in some other administrative proceedings, referred to above. There is no patent error on the face of record. The Review Application is, therefore, dismissed. No costs.



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

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

Date: April 21st, 2015.



NGT