

Item No. 04

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 165/2020  
(Earlier O. A. No. 122/2015 (WZ)  
(M.A. No. 211/2015) & M.A. No.220/2015)

(With report dated 07.08.2020)

Samita Rajendra Patil

Applicant

Versus

Jindal Steel Works Ltd. & Ors.

Respondent(s)

Date of hearing: 27.05.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Shriram S. Kulkarni and Mr. Aniruddha Kulkarni, Advocates

Respondent: Mr. T.N. Subramanian, Senior Advocate with Mr. Saket Mone,  
Advocate for R-1 and 2  
Mr. Mukesh Verma, Advocate for MPCB and MCZMA

**ORDER**

1. Grievance in this application is against violation of environmental norms in running the industrial operations by respondents 1 and 2 - Jindal Steel Works Limited at Village Dolvi, Karawi, Gadab, KharKaravi, Kharmachela and Jui Bapuji and other surrounding areas, District Raigarh, near Mumbai.

2. The case set out in the application is that the location of the plant in question adjoins the creek up to village Dolvi. Kharmachela and other villages are covered by Mangroves which protect the environment in the area. Similarly, the Dharamtar creek has covered complete one side of

the plant. Even the large area of their plant was covered by the then existing mangroves. The respondent Company has also constructed the coke oven plant by destroying mangroves and construction of coke oven plant is in process. The Respondent is also causing expansion of the jetty. The respondents are using one conveyer belt. The company has not only destructed mangroves on a large scale within their company premises but also destroyed the natural water/creak water/ water channels in their activity. On 6<sup>th</sup> October, 2005 in a group of Petitions bearing W.P. No. 3246 of 2004, the Hon'ble Bombay High Court has issued various, directions including to the present Respondent authorities, for protection and reservation of the fast depleting mangrove forest. Mangrove area were directed to be identified including from privately owned land and declared/notified as forest. Similarly, no mapping of mangroves is done till date, within the knowledge of the applicants. On the contrary, the applicants are informed that respondents are not aware as to whether the conveyor belt is being constructed on the mangrove's area. Now the Respondent Company has encroached the natural creak channels, mangroves and destroyed the same and expanded their plant. The Respondent Company is having coke oven plant in the manufacturing of the Steel manufacturing plant. There is potential of adverse effect of coke plant on human health on account of noxious gases. Impact is also on the organism and/or via the food chain. Injurious heavy metals viz. lead, mercury, cadmium can enter the food chain. The plant is working and gases/smoke are generated on huge level which demonstrates that the Respondent Company has no concern with the environmental damage and human lives in the locality. The air pollution caused by the Respondent No. 1 Company has also destroyed the agricultural land, because the dust

carries the waste material of the company which gets settled on the agricultural field. The Respondent Nos. 1 and 2 have dumped the by-product/waste product in the surrounding area which has caused the air pollution, water pollution and soil pollution. Large area of village Kharmachi, Kharkaravi, Juibapuji, Dolwi, Kharchirbi, Wadkhal, Vave, Kolve etc. villages situated within Taluka Pen is covered by mangroves/kandalvan. It is useful for reproduction of the fishing activities and it maintains the natural balance of environment. It also controls the soil pollution. It also controls the creek water entering in the agricultural area. It is also useful for soil conservation. The huge waste material/by-product is generated in the manufacturing process of the respondent no. 1 and 2 activities which is illegally and dumped upon the mangroves spread over the large area of the villages referred hereinabove. Similarly, the said waste material is also dumped upon the Agricultural lands situated in the above said villages. The said by-product/hazardous material is dumped even in agricultural lands and it has also destroyed the fertility not only of those lands but also of the adjoining one. This by-product/waste product has choked the natural drains/nalas and the rain water gets accumulated and either enters the agricultural fields with the said material or in the residential houses. Similarly, it destroys the aquatic flora and fauna and also affects their productivity. The salt level in the land has increased and it is dangerous to all types of crops. The Agricultural fields around salty water bodies are completely protected by a bandh which is popularly known as "Kharbandisti". Kharbandisti protects the agricultural fields from sea water entering in them. This Kharbandisti is in existence since time immemorial. The respondent no. 1 and 2 have damaged the said Kharbandisti which has rendered the agricultural field as unfertile. The factory premises as well as their village

and agricultural field are situated near creek which is popularly known as Dharmtar Creek. The natural canal of the creek water is passing East-West and situated on southern side of company premises. On the northern side of the field there is Kharbandisti. The Government has created a separate Khar Land Department which has to take the precaution to protect the agricultural land from the creek water and it is their duty to maintain the Kharbandisti. On 03.01.2015, the Tahasildar, Pen has informed the respondent no. 1 that the company has destroyed the Kharbandisti and the entire construction of the Bandh is incomplete between *Ughadi* No. 1 to *Ranchhoddas Ughadi* No. 4 and he called upon the report of the company about the action taken by them. The respondent Company has dumped the waste products in the mangrove areas, destroyed the mangroves of the large area and destroyed the aquatic life, in expansion of the Jetty. Fishing business has completely stopped and all the families of various villages referred hereinabove have lost their source of livelihood and the loss is enormous and beyond repairs, because once the sea water enters the agricultural field or if the soil is damaged by the bye products of the Respondent Company, it becomes infertile and then the villagers have no other option than to purchase the fertile land elsewhere and/or to shift from the said area forever in search of the livelihood.

3. The application was originally filed on 26.09.2015 before the Pune Bench and notice was issued on 01.10.2015 to the respondents which includes the Project Proponent, the Maharashtra State PCB, the Ministry of Environment, Forest and Climate Change (MoEF&CC) and the concerned authorities of the State of Maharashtra. Apart from the National Coastal Zone Management, the contesting respondents have filed their replies.

4. The State PCB in its reply filed on 22.12.2015 has stated that Environment Clearance has been granted for Jetty on 04.01.1995. The State PCB granted consent to operate and consent to establish to the predecessor of the respondent. On receiving a complaint about destruction of mangroves, the matter was referred to the District Collector, Raigad with regard to the EC conditions in constructing Jetty. It was found that additional length has been constructed without requisite EC. Further, air pollution control systems were inadequate for which show cause Notice was issued on 02.11.2015. A report was also sought about CRZ violations and adverse impact on health of villagers and the agricultural land. With regard to fish mortality, compensation was found to have been paid. The PCB has also directed taking of precautionary measures.

5. In the affidavit filed by the Project Proponent, apart from raising plea of limitation, it is stated that the Project Proponent is using latest technology of steel making and compact strip production (CSP) for producing hot rolled coils. The plant is also vital as it provides raw materials to feed the other JSW Steel cold rolling and downstream facilities at Vasind, Tarapur and Kalmeshwar. The plant also supplies steel to industries of national importance including the air and gas automotive and machinery industries, infrastructure and construction sectors, cold rollers industry, factories and consumers durables and steel production. In the year 1984 Nippon Denro Ispat Limited was established by its founding Chairman, Mr. M.L. Mittal with interests in Iron, Steel, mining, energy and manufacturing sectors and had set up various plants including the Dolvi Plant. This land has been declared as Industrial Zone by Government of Maharashtra as Nagothane Growth Centre as per

notification of Urban Development Department; Government of Maharashtra dated 04.07.1992. The plant of the respondent no. 1 was set up in the industrial zone duly notified by the Government of Maharashtra under a notification which is valid, legal and subsisting. On the issue of destruction of mangroves, it is stated that there is no destruction of mangroves by any of the activities carried out by the respondent no. 1 in the plant. Damage to the Khar Bandisti has also been denied. It is stated that respondent no. 1 has spent more than 2 crores for the repair and maintenance of the Khar Bandisti as a part of its Corporate Social Responsibility (CSR) activities and states that the Dharamtar creek is having around 25 kilometers of khar bandisti which is to be maintained by khar land Department of Government of Maharashtra. Respondent No. 1 has erected conveyor belt along sides the old conveyor belt. I further state that the land being used by the Respondent No. 1 is owned by the Maharashtra Maritime Board is enclosed by boundary wall. Hence, question of destruction of mangroves does not arise. On 05.05.2015, the Maharashtra Pollution Control Board has also issued consent to operate in favour of Amba River Coke Limited for running the Coke Oven Plant at Dolvi.

6. It is not necessary to refer to the pleadings filed by the other respondents.

7. Vide order dated 07.11.2017, in continuation of earlier directions, the Tribunal directed as follows:-

*“Learned Counsel appearing on behalf of MPCB undertakes to produce copy of the investigative, scientific and laboratory analysis Reports in respect of various locations visited in connection with the said joint visit before us and give its suggestions in terms of prayer Clause 'b' of the Application in respect of pollution detected by them on 7.8.2016.”*

8. On 30.01.2018, following further order was passed:-

*“The Applicant’s counsel could submit that MPCB as well as MCZMA have not complied with the direction of this Tribunal but submit a report making recommendations and suggestions which is factually incorrect. Mrs. Supriya Dangare, learned counsel for MPCB submits that based on the inspection appropriate recommendations and suggestions will be worked out and submit to the Tribunal. In the circumstances, we direct MPCB to prepare the report giving recommendations and suggestions and serve copy to the respondent industry for his response.”*

9. On 28.07.2020, the matter was transferred to the Principal Bench.

We have heard Learned Counsel for the applicant, the Project Proponent and the State PCB.

10. We have accordingly heard learned Counsel for the Applicant, the project proponent and for the MPCB. After referring to the averments in the application, learned counsel for the Applicant has drawn our attention to the report filed by the State PCB on 07.08.2020 in compliance of order dated 30.01.2018, as follows:-

*“In compliance of the said Hon'ble NGT Order dated 30.01.2018, the Maharashtra Pollution Control Board is filing its report as under:-*

1. *The Respondent Board has granted Consent to Operate to M/s. JSW Steel Ltd (Formerly known as M/s. Jindal Steel Works Ltd.) an Integrated Steel Plant, located at Dolvi Raigad, Tal: Pen, Dist: Raigad for HSM and BFP Plants vide consents dated 07.04.2018 and 02.11.2018 respectively. As per the consent conditions, the slag's generated from hot strip mill and blast furnace plant are under the Non-Hazardous Waste category.*
2. *The Respondent Board issued a letter dtd. 05.08.2020 incorporating the following suggestions & recommendations to the Respondent industry.*
  - i. *The industry shall comply with all conditions prescribed in the consent issued by the Board and dispose off existing as well as proposed generated slags as per consent conditions at designated places in scientific manner.*
  - ii. *The industry shall also explore the possibilities of utilization of slag in cement manufacturing, used as aggregates in civil & road construction and brick manufacturing activity including land reclamation and in marine applications as per CPCB guideline without violating of consent conditions.*

- iii. The industry shall strictly follow the guideline on handling and management of High Volume Low Effect Waste Slag from pyrometallurgical operations of Iron & Steel and Ferrous Alloy units prepared by CPCB.
- iv. The industry shall take all precautionary measures to avoid any soil contamination, groundwater and surface water pollution also any adverse effect on environment and nearby villagers.
- v. The industry shall strictly comply with all consent condition, CPCB guidelines and orders issued by Hon'ble NGT.”

11. It was submitted that though the report shows that there are non-compliances, the true status of compliance has not been set out with reference to the allegations in the application.

12. Learned Counsel for the project proponent - respondent nos. 1 and 2, has drawn our attention to the compilation of documents filed, list of which is as follows:-

<b>Sr. No.</b>	<b>Date</b>	<b>Particulars</b>	<b>Page No.</b>
<b>Judgments/Orders</b>			
1.	17.09.2018	Judgment and Order of Hon'ble Bombay High Court in PIL No. 87 of 2006	<b>1-83</b>
2.	13.11.2017	Order of Hon'ble Bombay High Court in PIL No. 102 of 2014	<b>84-91</b>
3.	15.10.2019	Order of Hon'ble Bombay High Court in WP No. 1643 of 2019	<b>92-94</b>
4.	09.07.2020	Order of Hon'ble Bombay High Court in WP (st.) No. 4894 of 2020	<b>95-102</b>
5.	23.05.2017	Order of this Hon'ble Tribunal in Appeal No. 30 of 2016	<b>103-124</b>
<b>Clearances/Permissions</b>			
6.	24.02.2015	CRZ Recommendation issued by Maharashtra Coastal Zone Management Authority (Respondent No. 2) (" <b>MCZMA</b> ") for expansion of the existing jetty facility.	<b>125-128</b>
7.	25.08.2015	Environment clearance for further expansion of integrated steel plant from 5 MTPA to 10 MTPA and power plant from 300 MW to 600 MW	<b>129-137</b>
8.	26.11.2015	Environment and CRZ Clearance issued by the Ministry of Environment, Forest and climate Change dated 26.11.2015 for Expansion of the Dharamtar Jetty facility.	<b>138-144</b>



9.	26.03.2016	Amended Environment and CRZ Clearance issued by the Ministry of Environment, Forest and Climate Change amending the Environment and CRZ Clearance dated 26.11.2015, for expansion of the Dharamtar Jetty facility.	<b>145-146</b>
10.	16.02.2019	CRZ Recommendation by MCZMA for construction of additional conveyor belts/ streams in respect of expansion of the Dharamtar Jetty facility.	<b>147-148</b>
11	10.01.2020	Amended Environment and CRZ Clearance issued by MoEFCC for construction of additional conveyor belts/streams in respect of expansion of the Dharamtar Jetty facility.	<b>149-151</b>
<b>Compliance of Order dated 30.01.2018 passed by this Hon'ble Tribunal</b>			
12	06.08.2020	Letter issued by Respondent No. 1 to MPCB in response to MPCB's letter dated 05.08.2020	<b>152-154</b>
13	07.08.2020	Compliance Report of MPCB	<b>155-157</b>
<b>Miscellaneous Document(s)</b>			
	Jan-March 2018	Report on Mangrove Restoration prepared by Nature Environment & Wildlife Society	<b>158-183</b>

13. Having regard to the nature of the violations alleged in the application, which have been denied by the Project Proponent, we are of the view that an updated status report is required by an independent and credible Committee to determine whether any further remedial action is necessary. Learned Counsel for the PP submitted that acquittal orders may be looked into but the same are not relevant. Standard of proof in a criminal trial is different from civil case. We have not expressed any opinion on merits of the violation as we leave the question to be gone into later. It is however made clear that acquittal in criminal cases is not final for the civil liability in environmental law.

14. Accordingly, we constitute a five Members Joint Committee, to be headed by an officer of the rank of Joint Secretary, MoEF&CC, nominated by the Secretary MoEF&CC and comprising the CPCB, the IIT Mumbai, the District Magistrate, Raigad, the State PCB as Members. The Committee may look into the issues raised by the Applicant summed up

above including compliance of the Water and Air Acts and HoWM Rules, destruction of Mangroves and damage to Agriculture, if any, status of scientific disposal of solid waste. It may also estimate the extent of environmental damage and the amount of Compensation required and restitution plan (in case of non-compliance). The Committee will be at liberty to take assistance from any other Expert Institution or individual and conduct proceedings online, except for site visit, if necessary. The CPCB and the State PCB will facilitate the functioning of the Committee and act as nodal agency for coordination and compliance. The applicant as well as the project Proponent will be at liberty to represent their respective versions to the Committee through the State PCB. If the violations are found, the Committee may also suggest the amount of compensation to be recovered apart from other restoration measures. The Committee may give its report to the Tribunal as far as possible within four months by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. The first meeting of the Committee may be held preferably within one month to take stock of situation and plan further course of action. While giving a report to this Tribunal, its copies be given to the applicant as well as the Project Proponent for their response, if any, before the next date.

In view of above order, all pending M.A.s stand disposed of.

A copy of this order be forwarded to Secretary MoEF&CC, CPCB, State PCB, District Magistrate, Raigad and IIT Mumbai by email for compliance.

List for further consideration on 06.12.2021.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

May 27, 2021  
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