

Item No. 5

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)**

**Original Application No.17/2023(CZ)
(I.A. No. 140/2023)
(I.A. No. 01/2024)**

Dr. Subhash C Pandey

Applicant(s)

Versus

Bhopal Municipal Corporation & Ors.

Respondent(s)

Date of Hearing: 20.02.2024

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

For Applicant(s):

Mr. Subhash C Pandey
(Applicant in Person)

For Respondent(s):

Ms. Meenakshi Patidar, Adv.
Mr. Anuj Karnatak, Adv.
Mr. Mehul Bhardwaj, Adv.
Mr. Vivek Choudhary, Adv.
Mr. Om Shankar Shrivastava, Adv.
Mr. Dharamvir Sharma, Adv.
Ms. Parul Bhadoria, Adv.
Mr. Gaurav Sisodia, Adv.

ORDER

1. The matter of protection of trees and removal of encroachment was taken up by this Tribunal on a report submitted by DFO of Capital Project Forest (Rajdhani Pariyojna Van Mandal dated 10.12.2021). The respondents were directed to remove the encroachments which is more than 692 in numbers.
2. The Learned Counsel for the respondent No. 1,/BMC has submitted the compliance affidavit with the facts that out of total 692 encroachments, approximately 110 encroachments have been removed and for the rest of the removal of the encroachment the PWD department has been communicated to take necessary action. Repeated orders are being passed

to protect the forest land and forest trees but the responsibility is shifted from one department to another department.

3. Now, it has been submitted that the area in question has been handed over to the PWD department and it is for the PWD department to protect those trees and to protect the area from the encroachments. The department of PWD was issued notice but no reply has been filed till today. Learned Counsel appearing for the PWD department simply sought a short time and submitted that none for the department consulted the Learned Counsel or submitted any material.

4. The matter was taken up by this Tribunal on 03.01.2024 and this Tribunal observed as follows :

1. *“Learned counsel for the State has sought a short time for filing the reply on behalf of PWD. The report/response be filed till next date of listing.*

2. *Learned counsel for the respondent no. 1-BMC by filing an affidavit and compliance report has submitted that approximately 299 encroachments have been removed and a comprehensive list has been attached with the report with the detail of name of the person and nature of the encroachments. He has further submitted that in light of the orders of this Tribunal the Collector, Bhopal has constituted a committee to see the matter and to ensure for removal of encroachments. The member of the committee consists representative of the PWD also.*

3. *In light of the above facts we direct the committee to ensure the removal of encroachments in phased manner and to submit the action taken report within three weeks.”*

5. The protection of the state land is within the domain of the Collector of the District and department is working under the authority of the Collector. In-spite of the order issued to the PWD department none responded for the PWD department before the Tribunal. Being the custodian of the property of the State the PWD department is not authorised to permit any outsider to use the land of the State or to encroach the land. If PWD department failed

to do its duty sincerely, fairly and honestly, it is for the Collector to take necessary disciplinary action against the person/officer responsible for not doing the duties as per law.

6. Accordingly, the District Collector is directed to call the explanation from the PWD Department and the Municipal Corporation as to why the action should not be initiated against them for not complying the order of the Tribunal or not protecting the State land, which is in their custody. Further action taken report by Collector and PWD department be filed within three weeks.

List it on **09th April, 2024.**

Sheo Kumar Singh, JM

Dr. Afroz Ahmad, EM

20th February, 2024
O.A. No. 17/2023 (CZ)
PN