

Item No. 02

(Pune Bench)

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

(By Video Conferencing)

Original Application No. 21/2021 (WZ)

Nirmala Baburao Surapaneni & Anr.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 11.06.2021

**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(s): Mr. Aman Vijay Dutta, Advocate

ORDER

1. Grievance in this application is against damage to a rain water drain and a well, in the course of construction of a housing project by M/s. Raviraj Creative Associates (the project proponent) at Pune. According to the applicants, the project in question has been set up by the project proponent with the approval of the Slum Rehabilitation Authority (SRA). The above two natural water bodies are part of the project. Rain Storm Water Drain/Nallah bearing no. LN-3-Node No. L37/4/1 passes through the project. The well is situated on the land bearing Survey No. 203/2-A at Viman Nagar, Lohagaon, Pune, Maharashtra. The project proponent was granted Environmental Clearance (EC) but existence of these water bodies was neither

disclosed nor factored in. It was only after the overflow of the water into the house of the applicants on 14.10.2020 that these facts have come to light. The EC does not permit damage to the natural water bodies which ought to be restored by a direction under section 15 of the NGT Act. The applicants have filed photographs and documents relating to earlier EC and other clearances. It is further mentioned that the Tribunal considered grievance against the project at the instance of another party - *Jyeshtha Nagrik Sangh* vide order dated 30.07.2020 in OA No. 153/2020 and held that no interference was called for with the EC. Consent to Establish, Commencement Certificate and No Objection Certificate (NOC) by the Ministry of Defense had been granted. NOC by the Ministry of Defense was upheld by the Bombay High Court and the Hon'ble Supreme Court.

2. Learned Counsel of the applicants submits that the present application is confined to the developments which have come to light after the earlier order of this Tribunal on account of incident of flooding from the water bodies. This shows that the water bodies were not disclosed at the time of taking the EC. In any case, the water bodies need to be duly maintained to prevent any damage to the environment. Learned Counsel has also referred to letter dated 05.11.2020 addressed to the Pune Municipal Corporation (PMC) informing that the drain in question was part of the Development Plan of the PMC and the same could not be covered by the project.

3. In view of above, *prima-facie* the water bodies in question need to be duly maintained and restored by the project proponent - M/s. Raviraj Creative Associates, Pune to be overseen by the District Magistrate, Pune, Department of Drainage, Government of Maharashtra, SEIAA,

Maharashtra and the PMC. A joint Committee of District Magistrate, Pune, Department of Drainage, Government of Maharashtra, SEIAA, Maharashtra and PMC may verify the factual position and furnish a report to this Tribunal within two months before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. The joint Committee may also interact with the project proponent and other stakeholders. District Magistrate, Pune will be the nodal agency for coordination and compliance. If the report makes observations against the project proponent calling for directions of this Tribunal, a copy of the report may also be given to the project proponent, who will be free to file objections to the report, if so advised, before the next date.

List for further consideration on 24.09.2021.

The applicant may furnish a set of papers to the District Magistrate, Pune, Department of Drainage, Government of Maharashtra, SEIAA, Maharashtra and PMC to facilitate compliance of the above order.

A copy of this order be forwarded to the District Magistrate, Pune, Department of Drainage, Government of Maharashtra, SEIAA, Maharashtra and PMC by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

June 11, 2021
Original Application No. 21/2021(WZ)
AVT