

Ashir Jaihind vs State Of Maharashtra on 31 October, 2022

Item No.06

(Court No. 2)

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPALBENCH

(By Video Conferencing)

M.A No. 78/2022
in
Original Application No.148/2022

Ashir Jaihind

...Applicant

Versus

State of Maharashtra

...Respondent

Date of hearing: 31.10.2022

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

Applicant: None.

Application is registered based on a complaint received by Email.

ORDER

1. The prayer in the present miscellaneous application is for marking presence of Mr. Aniruddha S Kulkarni, Advocate for Aurangabad Municipal Corporation in order dated 22.09.2022 passed by this Tribunal in O.A No. 148/2022 titled as Ashir Jaihind Vs. State of Maharashtra.

2. Mr. Ashir Jaihind sent letter petition complaining about encroachment on historic Kamal Lake, Aurangabad, Maharashtra. Vide order dated 28.02.2022, this tribunal constituted a Joint Committee and directed the same to submit factual and action taken report within three months. The report of the Joint Committee was filed vide email dated 21.09.2022 and in view of the action taken report this Tribunal disposed of the original application vide order dated 22.09.2022.

3. We have gone through the Miscellaneous Application and the relevant record.

M. A. No. 78/2022 Ashir Jaihind Vs. State of Maharashtra

4. In view of the nature of correction involved, issuance of notice of the Miscellaneous Application to other parties is considered to be not necessary and is dispensed with.

5. During hearing of the matter, Mr. Aniruddha S Kulkarni, Advocate had appeared on behalf of Aurangabad Municipal Corporation but due to inadvertent typographical omission his presence was not marked in order dated 22.09.2022. In view of the attendant facts and circumstances, the application is allowed and order dated 22.09.2022 is ordered to be corrected for marking presence of Mr. Aniruddha S Kulkarni, Advocate for Aurangabad Municipal Corporation in the same.

6. Order dated 22.09.2022 be corrected accordingly and correction be also made in the copy of the order uploaded on the website of this Tribunal.

Arun Kumar Tyagi, JM Dr.Afroz Ahmad, EM October, 31.10.2022 AG Correction on 31.10.2022 Item No.03 (Court No. 2) BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH (By Video Conferencing) Original Application No.148/2022 Ashir Jaihind ...Applicant Versus State of Maharashtra ...Respondent Date of hearing: 22.09.2022 CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER Applicant: None.

Respondents: Ms. Manasi Joshi for State PCB.

Mr. Aniruddha S Kulkarni, Advocate for Aurangabad Municipal Corporation.

Application is registered based on a complaint received by Email.

ORDER

1. Mr. Ashir Jaihind resident of Plot no. 13, Uhud Plaza, Anand Nagar, Town Hall, Aurangabad, Maharashtra has sent the present letter petition, which is treated and registered as original application. The grievance in the application by applicant-Ashir Jaihind is regarding encroachment on historic Kamal Lake, Aurangabad, Maharashtra. The applicant has also enclosed photographs in support of his grievance.

2. This Tribunal is empowered to suo moto take cognizance of the cases involving questions relating to environment arising out of the implementation of enactments specified in Schedule I of the National Green Tribunal Act, 2010 as held by Hon'ble Supreme Court in Municipal Corporation of Greater Mumbai V/s. Ankita Sinha and others 2021 SSC Online SC 897. This Tribunal can also take cognizance of such cases on the basis of letter petitions in accordance with settled principles of law governing Public Interest Litigation.

O. A. No. 148/2022 Ashir Jaihind Vs. State of Maharashtra

3. Vide order dated 28.02.2022, this Tribunal took cognizance and constituted a Joint Committee comprising of State PCB, Commissioner Municipal Corporation & District Magistrate, Aurangabad

(Maharashtra) and directed the same to submit Factual and Action Taken Report within three months. The relevant part of the order reads as under:-

"Having regard to the allegations of the applicant, it appears necessary to ascertain the factual position in the matter through a Joint Committee of the State PCB, Commissioner Municipal Corporation & District Magistrate, Aurangabad (Maharashtra). The State PCB will be the Nodal agency for coordination and compliance. The Joint Committee may meet within four weeks and undertake site visit and look into the grievance of the applicant. Factual and action taken report may be furnished within three months 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."

4. In compliance with the above said order, the Mr. S. S Rathod, Sub- Regional Officer, Maharashtra State PCB has filed Action Taken Report vide email dated 21.09.2022. The relevant part of the report is reproduced below:-

"Action Taken Report Hon'ble NGT in its order dtd. 28.02.2022 had constituted a Joint Committee comprising of District Magistrate (Aurangabad), Municipal Commissioner (Aurangabad Municipal Corporation) and Regional Officer (MPCB, Aurangabad). The joint Committee visit was carried out to Kamal Talav on 30.05.2022 at 11:00 a.m. (Minutes of the Joint Committee visit is attached as Annexure A).

During the Joint visit sewage flowing through illegally encroached dwellers observed, but no any other untreated sewage outlet/nalla observed meeting Kamal Talav.

District Collector directed to constitute a Sub-Committee headed by Deputy Collector to tackle the encroachment issue. The committee is tasked to clear the illegal encroachment by carrying out stepwise activities such as preparing detailed map of Kamal Talav, marking the area of Talav, preparing list of illegal houses, list of illegal sewage disposal nallas meeting Kamal Talav etc. The Sub-Committee held its meeting on 04.07.2022 and it was decided to carry out measurement of Kamal Talav and preparation of maps/markings of encroachment and nallas if any meeting the Talav. (Minutes of meeting attached as Annexure B).

Accordingly, letter was issued by Aurangabad Municipal Corporation to City Survey Officer dtd. 08.07.2022 to carry out the measurements of Kamal Talav. (Letter from AMC attached as Annexure C). The City Survey Officer issued an order dtd. 25.07.2022 to appoint a team for the same. (City Survey Order attached as Annexure D). O. A. No. 148/2022 Ashir Jaihind Vs. State of Maharashtra The City Survey Officer Aurangabad submitted the report to the Collector on 10.08.2022. (The CTSO letter is attached as Annexure E). Accordingly, District Magistrate, Aurangabad issued an order dtd. 08.09.2022 and appointed a team for removal of encroachment

(The order is attached as Annexure F).

Letter was issued by Deputy Collector to all the team members on 12.09.2022 to conduct meeting to decide further course of action. (Meeting letter attached as Annexure G).

Thereafter meeting was convened on 19.09.2022 at 03.00 p.m. under the Chairmanship of Deputy Collector, Jayakwadi Project, Aurangabad. It was brought to the notice that as per the Maharashtra Government G.R. issued by Urban Development Department dtd. 29.06.2021, it is not allowed to remove encroachment during rainy season i.e. 01st June to 30th Sept. (G.R. attached as Annexure H). Hence, it was decided that encroachment will be removed after 01.10.2022. (Minutes of meeting attached as Annexure I). Rejuvenation of Kamal Talav - Aurangabad Municipal Corporation has prepared DPR for rejuvenation of Kamal Talav. The cost of DPR is 1.97 Cr. The DPR is submitted to Urban Development Department 2, Maharashtra Government under AMRUT 2.0 Mission under the head Water Body Rejuvenation. The DPR is pending for approval from State Government.

(Details of DPR attached as Annexure J)."

5. Since requisite action has been initiated by the concerned Authorities as mentioned in the report of the Joint Committee, we are of considered view that no intervention by this Tribunal is required at this stage and the application is disposed of accordingly.

6. However, in case the applicant has any further grievance at any subsequent stage he shall be at liberty to move this Tribunal again for further directions in the matter.

Arun Kumar Tyagi, JM Dr.Afroz Ahmad, EM September 22, 2022 AG