

CORRECTED ON 04.04.2019

Item No. 08

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 108/2018
(M.A. No. 253/2017,
M.A. No. 352/2018,
M.A. No. 1682/2018 &
M.A. No. 1683/2018)
(Earlier O.A. No. 66/2016(WZ))

Bombay Environment Action Group

Applicant(s)

Versus

Union of India&Ors.

Respondent(s)

Date of hearing: 13.03.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s):

Mr. Sanjay Upadhyay, Ms. Saumya Chaudhari,
Advocates

For Respondent (s):

Mr. Dhruv Pal, Mr. Himanshu Pal, Advocates for
R-1, MOEF
Ms. Prachi Sawant H/F Mr. Rahul Garg,
Advocate for R-1
Mr. Shrinivas Yashveer Kulkarni, Advocate
Mr. K.D. Kelkar, Advocate for R-6 & 7
Mr. Madhavi Rahirk, Advocate for R-5

ORDER

1. The issue for consideration is development activities in the forest like areas known as 'Vansadrushya' in Mahabaleshwar Panchgani Region in Maharashtra. The applicant seeks demolition of structures illegally constructed in the above areas without

following the procedure prescribed under the provisions of Forest (Conservation) Act, 1980. According to the applicant, the Zonal Master Plan/Regional Plan prepared for Municipal Council areas of Mahabaleshwar and Panchgani under section 15(1) of the Maharashtra Regional Town Planning Act, 1966 MRTP Acts specifies the 'Forest Alike' areas. The area was declared Eco-Sensitive Zone as per notification dated 17.01.2001. However, the 'High Level Monitoring Committee' in its meeting held on 29.02.2016 held that the area may not be treated as 'Forest Area' till completion of process for identification. This decision is in conflict with the judgment of the Hon'ble Supreme Court *T.N. Godavarman Thirumalpad Vs. Union of India & Ors, (1997) 2 SCC 267.*

2. By way of illustration, the applicant has filed particulars of some of the forest like areas where non-forest activity has been allowed as follows: -

Sr. No.	Plot No.	Area	Ownership	Information regarding permissions	Granted For
1.	CTS No. 210/B/1,	Mahabaleshwar Municipal Council	Free Hold	Dated 2 nd July 2008 Deemed Permissions u/s 45 of the MRTP Act	Tourist Facility
2.	CTS No. 210/B/2 & 3	Mahabaleshwar Municipal Council	Free Hold	Dated 2 nd July 2008 Deemed Permissions u/s 45 of the MRTP Act	Tourist Facility

3.	Survey No. 24/1/B	Village Haroshi, Mahabaleshwar Taluka	Free Hold	Application Dated 15 th May 2009.	Holiday Resort
4.	S.No. 197-	Mahabaleshwar Municipal Council	Lease Hold	Dated 2 nd July 2008 Deemed Permissions u/s 45 of the MRTPA Act	Tourist Facility
5.	CTS 211 and 212- Florence Hall,	Mahabaleshwar Municipal Council	Free Hold	Dated 18 th October 2006- Deemed Permissions u/s 45 of the MRTPA Act	Tourist Facility
6.	CTS-63/C	Mahabaleshwar Municipal Council	Free Hold	30 th March 2007 Deemed Permissions u/s 45 of the MRTPA Act	Rambha Hotels
7.	CTS-134	Mahabaleshwar Municipal Council	Lease Hold	Report of the Municipal Council detailing permission given in 2012	IITM

3. Vide interim order dated 08.09.2016, this Tribunal prohibited non-forest activity in the 'Forest Alike' areas of 'Vansadrushya' in Mahabaleshwar-Panchgani Eco-sensitive zone areas in violation of Forest (Conservation) Act, 1980. This order has been in operation for the last more than two years.

4. Replies have been filed by different official respondents. In the affidavit filed on behalf of the Panchgani Hill Station, Municipal Council and the Naib Tahsildar, Taluka Mahabaleshwar, District Satara, it is stated that the 'High Level Monitoring Committee' has to finalise the issue of "Forest Alike" areas. The Principal Chief Conservator of Forest has also stated that the Sub-Committee constituted by the State Government in its minutes order dated 29.02.2016 has not finalised the matter. The Mahabaleshwar Hill State Council States that the notification dated 17.01.2001, declaring Mahabaleshwar Panchgani area to be ESZ, does not ban tourism or residential development. No Tourism Master Plan has been prepared. The Sub-Committee of High Level Monitoring Committee has still not finalised the status of the 'Forest Alike' areas.

5. The Panchgani Hill Station Municipal Council has given details of building permissions from 2001 to 2016 are as follows:-

	Year	Survey No./Final Plot No.	Town Planning Scheme No.	Building Permission Owner	Purpose of Construction	Forest Alike Area map taken or not Yes/No	Recommendation from Taluka Inspector of Land Records Dept Taken or not Yes/No.	Date of Building Permission
1	2	3	4	5	6	7	8	9
1.	2001-02	526A16	3	Ms. Chairman, Jai Bhavani Housing Society	Residential Building	No	Yes	03.05.2001

				for Shri Sursh Baburao Desai				
2.	200 1-02	523	3	Smt. Ginibai B. Devra & Others for Shri Mukesh Kailash Devra	Group Housing Scheme	No	Yes	21.05.2001
3.	200 1-02	531	3	The National Spiritual Assembly of Bahais India for Headmaster, New Era High School	Revised Educational Building	No	Yes	02.06.2001
4.	200 3-04	557	3	Shri Balasahab Narayan Parthe & others	Residential/School Building	No	Yes	24.02.2004
5.	200 6-07	527 B	3	Shri Sharukh F Kalkattawala	Residential Building	No	Yes	25.06.2006
6.	200 7-08	376ss /390	3	Shri Dhirajlal C Parekh & others for Kamlesh B Shaha	Regular Residential Building	No	Yes	25.06.2007
7.	200 7-08	524/4	3	Smt. Pushpa Lakshmidas Tejani	Residential Building	No	Yes	17.08.2007
8.	200 7-08	527 B	3	Shri Sharukh F Kalkattawala	Revised Residential Building	No	Yes	19.03.2008

9.	2009-10	523	3	Shri Kailash B Devra & others	Community Hall/Club House	No	Yes	21.11.2009
10.	2015-16	497/4	3	Trusty Mohamadh Esmail Khoja Sanatorium	Educational Building	No	Yes	21.01.2016

7. The Mahabaleshwar Hill Station Municipal Council has also given details of permissions as follows:-

SR. No.	Year	Survey No./Final plot No.	Building Permission Owner	Purpose of Construction	Forest Alike area map taken or not Yes/No	Recommendation from Taluka Inspector of Land Records Dept taken or not Yes/No	Date of Building Permission
1	2	3	4	5	6	7	8
1.	2001-02	184/A	PARUN VIKAY CHOKSHI	RIPEAR	No	No	02.02.2001
2.	2001-02	198	SUNIL VINUBHAI PATEL	SWIMMING POOL	No	No	23.05.2001
3.	2001-02	198	SUNIL	HOLIDAY HOME	No	No	23.05.2011
4.	2001-02	202B/4	A.R. Aaga	Extra	No	No	25.04.2001
5.	2001-02	195	Avinash N Bhosale	New	No	No	26.04.2001

6.	2001-02	70/7	Rahat Rashid Beg	Amusement Park	No	No	06.08.2001
7.	2001-02		Said Eqbal	Swimming Pool	No	No	25.07.2001
8.	2001-02	233	Rita Dharamsi Chandan	New	No	No	28.11.2001
9.	2001-02	70,71,7/1	P.K. Taware	New	No	No	02.08.2001
10.	2001-02	236	Aashish Ashok Agarwal	Basement Revise	No	No	12.07.2001
11.	2001-02	193/194	N.R. Desai	New	No	No	01.11.2001
12.	2001-02	15/316	Suren dr R. Sanas	New	No	No	19.09.2001
13.	2001-02	81	Amita Rajni Shaha	New	No	No	02.08.2001
14.	2001-02	208/209	Aminato Engineering Pv.L	New	No	No	23.05.2001
15.	2001-02	61,62	Director Khadi Gramodyog	New	No	No	23.11.2001
16.	2001-02	210/5B	Kisaan Prabhudas Bane	New	No	No	09.01.2001
17.	2001-02	152	Abbas Y. Jasdanwala	New	No	No	28.11.2001
18.	2001-02	70/1	Yuvraj Khemraj Sanap	New	No	No	21.12.2001

19.	2001-02	104	Sectar y The Club	Compo und Wall	No	No	26.03.2002
20.	2001-02	15/18	Captio n M.K. Banaji	New	No	No	30.03.2002
21.	2002-03	217,218	Pradip Ramanlal Zaveri	New	No	No	10.12.2002
22.	2002-03	202B/17	Krush naku mar Daiya	New	No	No	05.09.2002
23.	2002-03	53/17, 61/52	J.D. and Comp any	New	No	No	11.09.2002
24.	2003-04	202B17	Krush naku mar Daiya	Reside ntial	No	No	03.04.2004
25.	2003-04	193,194	N.R. Desai	Compo und Wall	No	No	11.12.2003
26.	2003-04	202B22	Yusuf Lakda wala	Reside ntial	No	No	27.06.2003
27.	2003-04	174,175	Sudha kar D Sahtra buddh e	Basem ent	No	No	23.12.2003
28.	2003-04	18	Anita Rajend ra Kumar	Comm ercial	No	No	19.11.2003
29.	2003-04	16	B.R. Lalji	Reside ntial	No	No	14.11.2003
30.	2003-04	222	Pragat i Constr uction	Reside ntial	No	No	11.12.2003
31.	2003-04	15/385	Anita Rajend raKum ar	Swim ming Pool	No	No	19.11.2003
32.	2004-	8	Manu al	Reside	No	No	24.06.2

	05		Josef Dias	Residential			004
33.	2004-05	58	Jayant c Owasal	Residential	No	No	24.05.2004
34.	2004-05	54	Shrimati Ziniya Loyar	Residential	No	No	06.04.2004
35.	2004-05	136	Dilip R Zavire	Basement	No	No	25.08.2004
36.	2004-05	122	K.P. Mistri	Farmhouse	No	No	02.12.2004
37.	2005-06	233	Lalit Doshi And Trustees	Residential	No	No	16.03.2006
38.	2005-06	202	Amit Arun Malvade	Residential & Commercial	No	No	15.04.2005
39.	2005-06	87/A	Mariam P Mode	Modi High School	No	No	29.01.2005
40.	2005-06	70/3A /1	Yuvraj Khemraj sanap	Commercial	No	No	15.10.2005
41.	2005-06	234	Rita K Chandan	Commercial	No	No	24.02.2006
42.	2006-07	182	C.A. Patel	Commercial	No	No	21.04.2006
43.	2006-07	48	AnilKumar Govndji	Residential	No	No	16.06.2006
44.	2006-07	211,212	Director Lokhandwala company	Residential	No	No	18.10.2006
45.	2006-07	202 B	Safari Properties	Residential	No	No	12.05.2006

			PVT				
46.	2006-07	186	Godavari Shugar Mill	Residential	No	No	14.12.2006
47.	2006-07	Lingh mala	Hukumchand Chordia & Others	Farmhouse	No	No	29.12.2006
48.	2006-07	204	Ashok Raghunath Save	Residential	No	No	01.12.2007
49.	2006-07	204/05	Alpex International Company	Residential	No	No	03.07.2007
50.	2007-08	106	The Club Mahabaleswar	Residential	No	No	30.05.2007
51.	2007-08	204/1	Meher K Palia	Internal Changes	No	No	08.10.2007
52.	2007-08	236	Aashish Ashok Agarwal	Internal Pool	No	No	31.08.2008
53.	2007-08	47	Hotel Saket Plaza PVT	Swimming Pool	No	No	03.03.2008
54.	2008-09	21	Ramchandra B. Hirve	New	No	No	23.12.2008
55.	2008-09	233	Lalit Doshi & Trustees	New	No	No	06.06.2008
56.	2008-09	193,194	A.V. Sutarwala	New	No	No	07.06.2008
57.	2008-09	88	Manu al Josef dies	Swimming Pool	No	No	01.07.2008
58.	2009-10	158	Sanjay C Kirloskar	Residential	Yes	No	27.01.2009
59.	2009-	232	Mogra	Reside	Yes	No	29.10.2

	10		Investment PVT	ntial			009
60.	2009-10	62	Maharashtra State Khadi Gramodyog	Residential	Yes	No	09.12.2009
61.	2009-10	186	The Manager Godavari Shugar Mill	Residential	Yes	No	03.12.2009
62.	2009-10	131 A	Ziya A Maskati	Residential	Yes	No	02.11.2010
63.	2009-10	249,250,251	Nargis F Mazada	Redevelopment	Yes	No	18.09.2010
64.	2010-11	203	Shrimant Gayatri Pantpratinidhi	New	Yes	No	25.04.2011
65.	2010-11	131	Kirtida Unwala	Repairing	No	No	02.11.2010
66.	2010-11		Sarlaben Parekh	Repairing	No	No	19.10.2010
67.	2010-11		Goutam N Thakkar	Repairing	No	No	10.01.2011
68.	2011-12	107	Utkarsh D Munot	Repairing & New	No	No	01.10.2011
69.	2011-12	58	Parag M Munot	Repairing	No	No	07.11.2011
70.	2011-12	52,53	Consurt PVT	Repairing	No	No	10.01.2012
71.	2012-13	134	Scientist Bharatiya Ushndeshiya Mousm Vidyan Sanstha	New	Yes	No	20.12.2012

72.	2012-13	195-196	Avinash N Bhosale	Lift	No	No	13.02.2013
73.	2012-13	202/B	Shobha Ramkumar	New	Yes	No	27.11.2012
74.	2014-15	61,62	Director Khadi Gramodyog Mandal	New	Yes	No	25.05.2014
75.	2014-15	211,212	Ramkumar Agarwal Bramha Carp	Revise	Yes	No	25.05.2014

8. In view of law laid down by the Hon'ble Supreme Court in *T.N. Godavarman Thirumalpad Vs. Union of India & Ors. (supra)*, once the area is 'deemed forest' as per the ordinary dictionary meaning, irrespective of whether it is so recorded as such or not, Forest (Conservation) Act, 1980 is attracted. No non-forest activity in such area can be permitted in violation of law. All the permissions granted may have accordingly to be reviewed in the light of the judgment of the Hon'ble Supreme Court *T.N. Godavarman Thirumalpad Vs. Union of India & Ors. (supra)* and the notification of the MoEF & CC dated 17.01.2001, declaring the area to be Eco-sensitive zone.

9. For this purpose, we direct constitution of a Joint Committee comprising of representatives of Chief Conservator of Forest, Kolhapur and Divisional Commissioner, Pune. The Committee may

look into this aspect and compile information about the extent of area which is covered by the expression 'forest' in the light of the judgment of Hon'ble Supreme Court, in the area in question. The Chief Conservator of Forest, Kolhapur will be the nodal agency for coordination and compliance. It is open to the parties to present their respective versions within two weeks before the Committee from today. The Committee may give its report within three months.

List for consideration of the report on 07.08.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

March 13, 2019
O.A. No. 108/2018
PA

