

Item No. 23

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

Original Application No. 108/2018 (WZ)
(M.A. No. 253/2017, M.A. No. 352/2018, M.A. No. 1682/2018,
M.A. No. 1683/2018, I.A. No. 244/2019, I.A. No. 386/2019)
(Earlier O.A. No. 66/2016) (WZ)

Bombay Environment Action Group

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 03.12.2019

**CORAM: HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. Sanjay Upadhayay and Ms. Saumya Chaudhari, Advocates.

For Respondent (s): Mr. Rahul Garg, Advocate for Respondent No. 1.
Ms. Madhavi Rahirkar i/b Mr. Nitin Deshpande, Advocate for Respondent Nos. 2 & 5.
Mr. K.D. Kelkar, Advocate for Respondent Nos. 6 & 7.
Mr. Rishiraj Walvekar, Advocate for Respondent No. 8.

ORDER

1. The primary question raised in the present application is the non-compliance of the orders of the Hon'ble Supreme Court in *T.N. Godavarman v. Union of India & Ors.*¹ and other cognate orders

¹CWP No. 202/1995

issued by the High Court of Bombay. The case pertains to the destruction of 'Forest Alike' areas in the Satara District, particularly, and statutorily notified Eco-Sensitive Zone (ESZ) of Mahabaleshwar and Panchgani in violation of the Forest (Conservation) Act, 1980. It is contended that following the order dated 12.12.1996 of the Hon'ble Supreme Court in *T.N. Godavarman* (supra), the Respondent No. 2 had taken steps to identify areas falling within the meaning of forest and forest called 'Vansadrushya' or 'Forest Alike' for the purpose of the Forest (Conservation) Act, 1980. It is the case of the Applicant that the directions of the Hon'ble Supreme Court had not been followed even as on the date when the case was filed. For the moment, it would be sufficient to record this much as being sufficient for issuing further directions. It would appear from order dated 08.09.2016 that interim orders were issued which reads as follows:

Order

1. ***We restrain all non-forest activity in the "Forest Alike" areas or 'Vansadrushya' in Mahabaleshwar-Panchgani Ecosensitive zone areas, carried out in violation of Forest (Conservation) Act, 1980.***
2. ***We further direct that there shall be no tree felling in violation of the ESZ Notification dated 17th January 2001.***
3. ***We restrain new development/construction activity in the 'Forest Alike' areas or 'Vansadrushya'.***
4. ***This order is subject to further order depending upon the stand taken that Respondents would take.***
5. ***This order shall enforced by Respondent Nos.3 to 7.***

We permit, Respondents to file their counters and statements. We also direct Respondent No.6 and 7 to furnish details of permissions

for construction activities given by them on Forest Alike or Vanasdrushya area which comes under their jurisdiction to this Tribunal before next date.

We further direct the Secretary of Urban Development Department to give details of Survey Numbers and map identified as "Forest Alike areas" as per the letter of Town Planning authorities submitted by Applicant at page 63 of the Application"

2. The fact that the Respondent State and the other authorities had not taken any step to get the order vacated, modified or set aside would indicate that they have acquiesced to the order and accepted the position thereby giving finality to the order.
3. Order dated 22.03.2017 reveals that map showing ESZ in the entire Panchgani and Mahabaleshwar identifying the forest, forest alike/Vanasadrushya areas were available. It had been recorded clearly that the only action that was required to be taken thereafter was to identify the structures or encroachments for the purpose of the Forest (Conservation) Act, 1980 with reference to the maps of the areas which were admittedly available. Direction was thus issued upon the Regional Officer of the MoEF &CC to hold a meeting on 6th & 7th April, 2017 with the District Collector, Satara, the Mahabaleshwar Hill-station Municipal Council, the Panchgani Hill-station Municipal Council, the District Forest Officer, Town Planning Department, and the DSLR Satara, to identify the area/s where violations of the Forest (Conservation) Act, 1980 have taken place with reference to the maps of ESZ and chalk out an action

plan for enforcing provisions of the Forest (Conservation) Act, 1980 and place the plan before us.

4. The records reveal that the above order has still not been complied with although the case had been taken up on several dates stretching to more than 2½ years from 22.03.2017. It would be apparent from the facts and circumstances appearing in the case that primarily two questions arise for consideration, namely, (1) Whether there has been any violation of the provisions of Forest (Conservation) Act, 1980; (2) Whether such forest which falls within the ESZ after it was declared brings within its ambit structures which are in existence and, (3) Whether new construction have come up in violation of both the regulations. Considering the lapse of time, these informations ought to have been furnished by now. There appears to be relentless effort on the part of the authorities to delay the process giving fillip and encouragement to violators despite the order of prohibition dated 08.09.2016.

5. We, therefore, direct the Mahabaleshwar Hill Station Municipal Council, the Panchgani Hill Station Municipal Council, the District Collector, Satara and the Chief Conservator of Forest (CCF), Kohlapur, to file a report on the following:

1. Number of cases filed under Section 2 of the Forest (Conservation) Act, 1980 against those in violation of the said law.

2. Number of structures that existed in the declared ESZ prior to its Notification.
3. Action taken against such structures which have come up in violation of the Forest (Conservation) Act, 1980 and ESZ Notification.
6. Let the report be filed before the next date making it clear that laxity on the part of the authorities shall be viewed seriously.
7. List on 30.01.2020.

S.P Wangdi, JM

Dr. Nagin Nanda, EM

3rd December, 2019

O.A. No. 108/2018

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