

**BEFORE THE NATIONAL GREEN TRIBUNAL**

**PRINCIPAL BENCH, NEW DELHI**

Review Application No. 49/2019  
In  
Execution Application No.54/2018  
In  
O.A. No. 110/2018  
(Earlier O.A. No. 45/2016(WZ))

Bombay Environment Action Group Applicant(s)

Versus

Union of India & Ors. Respondent(s)

Date of hearing: 18.12.2019

**CORAM:**

**HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER**  
**HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s): Mr. Sanjay Upadhyay and Ms. Eisha Krishn, Advocates

For Respondent(s): Mr. Thakur Sumit, Advocate

**ORDER**

This review application has been filed on behalf of respondent no. 1-MoEF. It has been prayed that order dated 23.08.2019 passed in the execution application no. 54/2019 in original application no. 110/2018, may be reviewed.

For the purpose of considering of the review application, it is essential to go into the background of the case. The issue involved in this case was with regard to finalization and issuance of Zonal Master Plan for Eco-Sensitive Zone of Matheran Hill Station, in State of Maharashtra. The notification for ESZ in this regard was issued by MoEF, as back as, 0402.2003. Thereafter, the

draft notification for ZMP was sent to the Ministry in the month of June, 2018. It is to be noted that it is a requirement of law that final Zonal Master Plan is to be finalized within two years of the issuance of a notification of Eco-Sensitive Zone. In this case it ought to have been issued by 2005 as ESZ notification came in 2003 and it was mandatory for the Ministry to have issued final Zonal Master Plan within two years.

Despite of the aforesaid legal requirement of issuance of final Zonal Master Plan within a prescribed time, the final notification, in this case, was issued on 23.07.2019. The delay has been of more than 13 years which had been utilized by the private party for exploiting the area by raising construction and using it for their vested interest.

The original application was decided on 23.08.2018. We had directed the MoEF to finalize ZMP within a period of two months. It was also made very clear that it shall be responsibility of the Ministry to call for information, if required, from State of Maharashtra. Looking in the inordinate delay which has been caused by the respondent-Ministry in respect of a matter relating Eco-Sensitive Zone which ought to have been taken up with utmost priority, the Tribunal had imposed cost of Rs. 1 lakh which was to be deposited with CPCB within two months, from the date of our order dated 23.08.2019. It was further ordered that in case the Ministry fails to finalize within a period of two

months i.e. by 23.10.2019, a cost of Rs. 10,000/- per day, till the finalization of the ZMP notification, was to be paid by the Officers concerned of MoEF or the State government whosoever were found responsible for further delay. While passing the order of 23.08.2019, we had thoroughly taken into consideration other facts as well as documents which were placed before us by the Ministry.

We were informed that cost of Rs. 1 lakh had been deposited. However, by taking 23.07.2019 as the date of finalization of Zonal Master Plan by the Ministry, we had held that it was beyond a period of nine months from the time granted to the Ministry for doing the needful. Therefore, we held that that Ministry is liable to pay recurring cost of Rs. 10,000/- per day, from 23.10.2018 to 23.07.2019. Accordingly, a total sum of Rs. 27 Lakhs as cost was to be deposited by the Ministry with the Central Pollution Control Board within a period of two weeks from our order dated 23.08.2019.

The Ministry have not deposited the cost levied on them, vide our order dated 23.08.2019, which in fact was in furtherance of our earlier order dated 23.08.2018. It is relevant to mention here that when final notification was issued on 23.07.2019, it was incumbent on the part of the Ministry to have immediately deposit the recurring cost or should have taken immediate steps seeking time with regard to payment of cost of Rs. 27 Lakhs.

It may also be mentioned here that the Ministry has, by way of this review application, taken the stand that the delay in this case is on account of the State Government. It may be mentioned that it was the duty of MoEF to comply with the order of 23.08.2019, within a period of two week and they were fully aware that in case of default they would be liable for further recurring cost of Rs. 10,000/- per day. Further, in case the State Government had not submitted the requisite information, as stated by the Counsel for the Ministry, they should have taken appropriate steps for procuring the information or take steps with regard to recover the recurring cost from the concerning officer either of the Ministry or the State.

Above all, we are of the considered opinion that in the facts and circumstances of the present case, the order of 23.08.2019 cannot be said to be a one which suffers from error apparent on the face of record. The question raised and submissions made in the present review application does not fall within the purview and scope of review, as given under NGT (Practice and Procedure) Rules, 2011.

Consequently, review application no. 49/2019 is dismissed, with no order as to cost.

Raghuvendra S. Rathore, JM

Dr. Satyawan Singh Garbyal, EM

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