

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****ORDINARY ORIGINAL CIVIL JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 17 OF 2006

...  
 Bombay Environmental Action Group & Anr. ...Petitioners  
 Versus  
 The State of Maharashtra & Ors. ...Respondents

...  
 Mr.Navroz Seervai, Sr.Advocate with Ms.Shreya Parikh i/b M/s. M.Y. Jayakar & Co. for the Petitioners.  
 Mr.Rohit Deo, Acting Advocate General with Mr. J.S. Saluja, AGP for the Respondent No. 1-State.  
 Ms.Trupti Purohit for the Respondent No.2-BMC.  
 Mr.G.Hariharan i/b Mr.Pankaj Kapoor for the Respondents Nos.5 & 6-UoI.  
 Mr.Chetan Kapadia a/w Mr.Abhishek Bhadang for the Respondent No.8.  
 Mr.M.G.Gawade for the Respondent No.10.  
 Ms.Sharmila Deshmukh for the Respondent No.7.  
 ...

**CORAM : A.S.OKA &  
 A.A. SAYED, JJ.**

**DATED : 10 AUGUST 2016**

**P.C.:**

Heard the learned senior Counsel for the Petitioners. We have heard the learned Acting Advocate General for the first, fourth and sixth Respondents. We have heard the learned Counsel appearing for the seventh Respondent. We have heard the learned Counsel representing eighth Respondent as well as tenth Respondent.

2. Rule has been already issued in this PIL, which raises important issues including the issue regarding the activity of quarrying and destruction of natural hills in the Mumbai suburban District and Thane District. There are various reliefs claimed as regards prevention of quarrying activities and preventing demolition and destruction of the natural hills. We have perused the earlier orders passed by this Court from time to time. There are affidavits and documents placed on record by the Petitioners inviting attention of the Court to the fact that the illegal quarrying work is still in progress at several places in these two Districts. It is pointed out that natural hills have been destroyed and thereafter the lands have been levelled. There are certain inspection reports placed on record submitted by the officers of the State Government and the Maharashtra Pollution Control Board in terms of the directions of the Court. Learned Senior Counsel for the petitioner has much to say about the contents of the said reports and the correctness thereof.

3. Considering the importance of the issues, to avoid any further controversy, we suggested that a Committee of experts should be appointed, which can visit the disputed sites and after examination of records, submit a detailed report to this Court. Accordingly, the learned senior Counsel appearing for the Petitioners on the last date has submitted

his suggestions. He suggested that Prof.Hrishikesh Samant, Geology Department, St.Xavier's College, Prof.T.N.Singh, Earth Science Department, IIT Mumbai and Dr.M.A.Chakrabarti, Professor, VJTI may be made a part of the Committee of the experts. He stated that the Petitioners obtained their consent. Their CV are placed on record by the learned Senior Counsel appearing for the Petitioners. We have perused the same. We are of the view that considering their expertise and experience in the field, they deserve to be a part of the Committee as suggested by the Petitioners.

4. We have heard the learned Acting Advocate General on this issue. He submitted that the State is not taking this litigation as an adversarial litigation. He stated that Shri Kumar Khaire, Additional Collector of Mumbai Suburban District and Shri Pravin Shinde, Additional Collector of Thane District can function as Member Secretaries of the Committee for the respective Districts. He suggested that the Chief Engineer, Development Plan of the Mumbai Municipal Corporation, Shri Patil, a Scientist working in the Environment Department of the State Government and a representative of the Maharashtra Pollution Control Board be also appointed as members of the Committee. As far as the terms of reference are concerned, the learned Acting Advocate General has submitted to the orders of the Court.

5. Learned senior Counsel appearing for the Petitioners stated that within a period of one week from today, the Petitioners will supply lists containing the description of the disputed sites with all its particulars to the respective Additional Collectors and copies of the lists shall be placed on record.

6. We are of the view that it will be appropriate if such a Committee is constituted for assisting the Court. The Report of the Committee will facilitate the proper disposal of the Petition in accordance with law. Accordingly, we pass the following interim directions:

(i) We direct the State Government to pass a formal order and to constitute a Committee consisting of following Members:

- (1) Prof.Hrishikesh Samant, Geology Department, St.Xavier's College;
- (2) Prof.T.N.Singh, Earth Science Department, IIT Bombay;
- (3) Dr.M.A.Chakrabarti, Professor, VJTI;
- (4) A representative of the first Petitioner (Bombay Environment Action Group), as may be nominated by the said Petitioner;

- (5) Shri Kumar Khaire, Additional Collector, Mumbai Suburban District, who shall be a Member Secretary of the Committee for the purposes of sites in the Mumbai Suburban District;
- (6) Shri Pravin Shinde, Additional Collector, District Thane, who shall be a Member Secretary of the Committee for the purposes of sites in Thane District.;

(ii) The Committee shall examine the following aspects in relation to the sites included in the lists supplied by the Petitioner and submit a Report to this Court:

- (a) Whether all requisite permissions have been obtained before the commencement of activities including environmental Clearances, NBWL permissions, etc.;
- (b) Whether the work and activities carried out are in conformity with the permissions issued by the statutory authorities;
- (c) Whether there are adequate measures in place to ensure that the Rules and conditions prescribed in the permissions are implemented;
- (d) Whether trees have been planted and the flora protected as stipulated;
- (e) Whether mining plans were prepared and approved;

- (iii) The Committee shall make recommendations for the remediation and restoration of the sites where activities of quarrying and/or excavation have been carried out in violation of the permissions, Rules and Regulations;
- (iv) It will be open for the Committee to invite the Chief Engineer, Development Plan or any other officers of the Mumbai Municipal Corporation, Shri Patil, a Scientist working in the Department of Environment of the State Government and the officers of the Maharashtra Pollution Control Board to attend the meeting;
- (v) In case the Committee requires information from any Department of the State Government, the Mumbai Municipal Corporation, any Planning Authority and the Maharashtra Pollution Control Board, on a written requisition being made by the Member Secretaries of the Committee, necessary information/documents shall be immediately furnished to the Committee;
- (vi) The Member Secretaries shall convene regular meetings of the Committee after consulting with three expert Members of

the Committee. The necessary arrangements shall be made by the Member Secretaries for arranging site visits of the three experts to various sites;

(vii) For the time being, we direct the State Government to pay honorarium of Rs.2,500/- for every day of site visits as well as for attending the meetings convened by the Member Secretaries. The remuneration will be payable only to the three technical Members of the Committee. As stated earlier, for the time being, the honorarium shall be paid by the State Government. After considering the Report, which may be submitted by the Committee, appropriate orders on this aspect shall be passed by this Court;

(viii) If any Department or any Public Authority does not co-operate with the Committee, we permit the Committee to submit a Report through its Member Secretary to this Court for seeking necessary directions from this Court;

(ix) The Petitioners shall produce an authenticated copy of this order in the office of the Principal Secretary of the Revenue Department of the State Government. The State Government

shall pass a formal order constituting a Committee in terms of this order within a period of three weeks from the date on which an authenticated copy of this order is produced by the Petitioners in the office of the Principal Secretary of the Revenue Department. The Petitioners shall communicate this order to the three experts, who are appointed as technical Members of the Committee. A copy of the formal order/Government Resolution issued by the State Government shall also be provided by the Petitioners to the said three technical Members.

(x) The Committee shall submit its first Report to this Court on or before 21 October 2016;

(xi) The list of the sites with all the particulars shall be also supplied by the Petitioners to the Principal Secretary of the Revenue Department of the State Government. If necessary, while constituting the Committee, the description of the sites shall be incorporated in the order/Government Resolution to be issued by the State Government;

(xii) The copies of the lists shall also be tendered on record by the  
Petitioners;

7. Learned senior Counsel appearing for the Petitioners stated that the Maharashtra Pollution Control Board has already started process of giving the inspection of the relevant documents to the Petitioners and the Petitioners are in the process of taking inspection. He has placed on record the letter dated 3 August 2016 addressed by the first Petitioner to the Legal Department of the Mumbai Municipal Corporation. A copy of the said letter is taken on record and marked "B-2" for identification.

8. Learned Counsel representing the Mumbai Municipal Corporation states that the information sought by the Petitioners will be available with the Executive Engineer (Building Proposal) of Eastern and Western Suburbs and the Executive Engineer, Development Plan and the Chief Engineer( Solid Waste Department) of the Mumbai Municipal Corporation.

9. The Petitioners are free to approach the said officers by making necessary applications. On such applications being made by the Petitioners, the inspection of the relevant documents shall be provided to the Petitioners.

10. For considering the compliance and considering the first Report of the Committee, the PIL shall be listed on 25 October 2016 in the category of "Fresh Admission".

. All concerned to act on an authenticate copy of this order duly authenticate by the Registry.

**(A.A. SAYED, J.)**

**(A.S.OKA, J.)**