

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) BENCH, PUNE
APPEAL NO.25 OF 2014(WZ)**

CORAM :

**HON'BLE SHRI JUSTICE V.R. KINGAONKAR
(JUDICIAL MEMBER)**

**HON'BLE DR. AJAY A.DESHPANDE
(EXPERT MEMBER)**

In The Matter of:

1. MR. SARANG YADVADKAR,

Age: 55 Years, Occ: Architect
R/AT: a-9, Pradnyangad Aparments,
S.No.119/3, Behind Navshya Maruti,
Sinhagad Road, Pune-411030.

2. NARENDRA SUNDERLAL CHUGH,

Age: 55 Years, Occ: Business
R/at: 15/3, PWD Quarters,
R/at:15/3, PWD Quarters,
Pimpri Colony, Pune-411017

APPELLANTS

VERSUS

1. THE STATE OF MAHARASHTRA,

Through Water Resources Department,
Government of Maharashtra,
Madame Kama Marg, Hutatma Rajguru Chowk
Mantralaya, Mumbai-400032.

.....**RESPONDENT**

Counsel for Appellant(s):

Mr Asim Sarode a/w Alka Babaladi Pratap Vitankar.

Counsel for Respondent(s):

Mr. D.D.Shinde for Respondent No.1.

Date: March 27th 2015.

P.C.

Heard Learned Counsel for the parties. Learned Counsel for the Respondent No.1, placed on record Govt. Resolution (GR) dated 2nd March, 2015. By the said Resolution, referred to above, the previous Resolution dated 8.8.2014, stands amended and the ambiguity/vagueness regarding certain words, which gave leverage for construction of any building or like activity within area, near embankment of the River and implementation of RRZ policy, could have been done, is

claimed to be removed. The present GR dated 2nd March 2015, shows that 'blue line' has to be drawn by the Irrigation Department after the demand is received from the Collector of any other department in which the city/Taluka/village area, where it is found that there is possibility of danger of flood like situation nearby the river zone.

2. Though, such DPR is required to be prepared by the Chief Engineer of the Irrigation Department and is required to be put in public domain of the Govt. of Maharashtra, as per the said GR, yet, condition that such DPR, shall be prepared when concerned Collector or other department shall demand and thereafter it shall be prepared by the Irrigation department, is improper, having regard to the 'Precautionary Principle' enumerated in Section 20 of the NGT Act, 2010. The reason is not far to seek. The GR itself shows that purport of the Resolution dated 2nd March, 2015, is to ensure that 'blue line' needs to be determined and drawn for the purpose of avoiding possible damage of flood and possibility of illegal construction within No Development Zone (NDZ) area. Thus, it is manifest that GR itself is issued with an intention to avoid any kind of

environmental damage, as a result of flood in the flood prone area. In other words, it is intention of the State Govt. to adopt the 'Precautionary Principle' in this behalf. In our opinion, while issuing GR in question, one of the important intention of the State Govt. is also to avert illegal construction, which subsequently is required to be demolished/dismantled by incurring heavy expenditure, because, which the State Exchequer is loaded with. Apart from this the GR dated 2nd March,2015, may have been issued to avoid extraneous influences, which may put on the officers of the Irrigation Department to overlook illegal constructions irrespective of the same being executed by giving goby to 'blue line', within NDZ area and against the RRZ policy. Having regard to purposive interpretation of GR dated 2nd March, 2015, we are inclined to give following directions:

- a) In all areas where there is reportedly excessive raining and where there is probability of endangering human life or properties, due to floods caused by the rains, hailstorms or, any such reason, which may be noticed by the Collector or, other authorities, they may report same to the

Irrigation Department and irrespective of such reports, whether report is received or not, the Irrigation Department on its own, shall prepare DPR of the cities/villages and other places prone to floods. We have used expression 'other places', which is inclusive because there are certain Talukas and villages in Konkan region, which are flood prone due to excessive raining, during rainy season, which are also required to be identified;

b) The Irrigation Department may call for information by email from all the Collector offices, immediately, which can be collected within two (2) weeks from all the districts, particularly situated on the coastal stretches where rains are likely to occur before early Monsoon, in comparison that of other districts and thereafter from other collectorates;

c) The Irrigation Department, on its own, shall identify flood prone areas, including the cities like Pune, Mumbai, Lonawala, Wai, Sangli, Karhad, Nashik, Nanded etc. whichever are known due to peculiarity of heavy river flows, the stock of water and population, where the bank of river, including old constructions adjoining to river, which were constructed much earlier to the GR;

d) The Geo-mapping of such rivers, which are possibly likely to endanger environment due to probability of causing floods, shall be carried out within reasonable period, through authentic agency, but shall not detain the Irrigation department from completing the work of preparing DPR on priority basis, where the city area, Talukas and the places are already known or commonly identified as notorious for being probable to cause environmental damage due to floods from drawing of further line and preparing DPR in this regard;

e) The Authenticate sketch of such 'blue line' and DPR, shall be submitted to the Divisional Commissioner of each region, wherever the identification is so made on priority basis in sequential order, such as, Pune Region, Nashik Region, Konkan Region, Aurangabad Region, so on and so forth. On basis of such DPR, and further line of each flood prone area/cities, even if, the Irrigation Department has shown tentative 'blue line' as blue line which needs to be finalized, then also no construction shall be permitted/finalized by the authorities which may cause environmental degradation at least within distance of fifty (50) meters from such blue line

within NDZ area by the Municipal Corporations/Councils/Panchayats.

- f) The DPR and 'blue line' shall be prepared within period of twelve (12) weeks' hereafter and be indicated at the website of Govt. Environment Department / Irrigation Department.

With above directions, the Appeal is disposed of.

No costs.

....., JM
(Justice V. R. Kingaonkar)

....., EM
(Dr.Ajay A. Deshpande)

Date: March 27th, 2015.

NGT



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