

**BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN ZONE
BENCH, PUNE**

Application No. 49/2016 (WZ)

Rohit Prajapati & Anr Vs Secretary, MOEFCC & Ors.

**CORAM: HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE DR. AJAY A. DESHPANDE, EXPERT MEMBER**

Present: Applicant/Appellant : Lara Jesnani Adv i/b Mr Asim Sarode Adv
Respondent Nos. 2,3,4 : Mr. Parth H. Bhatt Adv
Respondent No.6 : Supriya Dangare Adv

Date and Remarks	Orders of the Tribunal
<p>Item No. 4 May 25, 2016 Order No.2</p>	<p>The Applicants claim to be pro-bon environmentalists and claim they are social workers. Through this Application they have questioned illegal activity of the Government instrumentality i.e. Vadodara Municipal Corporation (VMC) which is said to be proceeding with a project damaging river and its tributaries.</p> <p>First Respondent- Ministry of Environment and Forest (MoEF), 2nd Respondent- Chief Secretary, State of Gujarat, 3rd Respondent- the Principal Secretary, Urban Development and Urban Housing Department, 4th Respondent-the Member Secretary, State Level Environment Impact Assessment Authority(SEIAA), 5th Respondent- the Collector, Vadodara, 6th Respondent- the Municipal Commissioner, Vadodara Municipal Corporation and 7th Respondent- Vadodara Urban Development Authority, are duly served.</p> <p>Learned Counsel Mr. Parth Bhatt represent the Respondent No.2- Chief Secretary, State of Gujarat, 3rd Respondent- the Principal Secretary, Urban Development and Urban Housing Department and the Collector as well. Supriya Dangare learned Counsel represents Respondent No.6- Project Proponent (PP).</p> <p>Applicant's Counsel seeks interim order to restrain VMC from proceeding with the project on assertion that it has not obtained Environmental Clearance (EC) and there is no consent under law. She relied on several documents, including photographs depicting situation as it is at the time of filing of this Application. It is seen from photographs and other material that construction activity is in the area of Vishwamitri River. The said project being implemented is Vishwamitri Riverfront Development Project (VRDP) and in the process the VMC is alleged to be demolishing</p>

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the river and its tributaries. It is carrying on work of demolition, dredging, digging, filling, levelling of the land.

The Applicant submits on verification they find the PP has no consent, no EC to proceed with the construction.

Learned Counsel representing Respondent No.6 now disputes that VMC-PP has not obtained the EC. Her contention is it has applied for grant of EC which is in process of consideration by the Expert Appraisal Committee (EAC). She refers to communication dated 16.2.2016 and 17.11.2015 (Annexure-2) which shows the SEAC is examining the project and is likely to issue EC. Learned Counsel for PP therefore, opposes grant of any interim order.

On perusal of allegations in the Application and submission of PP-Respondent No.6, that they do not have EC *prima facie* establishes that any construction activity especially in an area which is River and Riverbed and also its tributaries is wholly impermissible. We have satisfied there is *prima facie* case made out by the Applicant to restrain any construction activity affecting Vishwamitri River and its tributaries.

On behalf of State of Gujarat, it is urged that the project of VRDP has two and three parts. Second part is not covered under the provisions of Environmental Laws requiring EC. The PP is proceeding with that part of the project and therefore, it may not be rightly stating that construction activity will not cause damage. Though such submission is made on behalf of Respondent Nos. 1 and 4, on verification we find that the State has appointed SEAC, who is examining the proposal for grant of EC, but no final decision has yet been taken. It is not impugned on record to show that the present construction activity does not require any EC or ECs or consent.

At this stage, Supriya Dangare representing the PP submits the Tribunal may give her sufficient time to oppose interim relief by written counter. This request is unreasonable for the reason we had already made it clear on the last hearing that we are not granting interim relief till Respondents file their response. Despite that the PP has not filed counter/reply.

On perusal of records, it is seen the photographs show that the Respondent No.6 is proceeding with construction activity in blatant violation of the Environment (Protection) Act, 1986 and the Notifications issued thereunder particularly Notification in 1994/2006, it has commenced construction activity more than a year ago without obtaining prior EC and

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he has continued such illegal activities. It is also admitted that they have applied for EC only after starting construction, which show their conduct of defiance to mandatory law requiring EC. In the circumstances, even if the PP gets ex post fact EC, we got to examine whether grant of EC was justified especially in view clear photographs which show that its construction activity is virtually destroying River Vishwamitri and its tributaries. Hence, interim order.

ORDER

1. The Respondent No.6 is hereby restrained from proceeding further with any construction or development activity within the area of Vishwamitri Riverfront Development Project (VRDP).
2. Liberty to Respondents to seek modification of this order is reserved.
3. The Respondents shall file their counter/reply and complete their pleadings within next four (4) weeks.

List it on 1st July, 2016.

....., JM
(Dr. Justice Jawad Rahim)

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