

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****PUBLIC INTEREST LITIGATION (L) NO. 86 OF 2016**

Masood Ansari .. Petitioner
versus
State of Maharashtra & Anr. .. Respondents

Ms Anjali Awasthi for Petitioner.

Mr. S. S. Pakale with Ms Trupti Puranik for Corporation.

Mr. M. A. Sayyed – AGP for Respondents – State.

**CORAM: DR. MANJULA CHELLUR, C. J. AND
M. S. SONAK, J.**

DATE : 30 SEPTEMBER 2016

P.C.:

1] The petitioner has approached this court seeking the following reliefs as claimed in the writ petition:

“(a) This Hon'ble Court to be pleased to issue writ of certiorari or any other appropriate writ, order and be please to quash and set aside Approval Letter dated 20.06.2013 issued by Additional Principal Chief Conservator of Forest (Central) and Order dated 02.05.2014 passed by Chief Conservator of Forest, Mantralaya, Mumbai.

(b) This Hon'ble Court be pleased to issue writ of mandamus or any other appropriate writ, order or direction, thereby directing the Respondent Government to investigate the illegality committed by Respondent No.1 while submitting the proposal and also the illegality committed in the forest land of Government.

(c) Pending the hearing and final disposal of this Petition, this Hon'ble Court be please to direct the Respondent No.1 not to erect and operate the wind mills in the forest area and also not to operate wind mills erected near the forest land on the basis of Approval Letter dated 20.06.2013 issued by Additional Principal Chief Conservator

of Forest (Central) and Order dated 02.05.2014 passed by Chief Conservator of Forest, Mantralaya Mumbai.

(d) Ad-interim relief in terms of prayer clause (c) above to be granted in favour of the petitioner.

(e) Any other and further relief which this Hon'ble Court may deem fit and proper be passed."

2] The alleged exercise of power by the respondent authorities seems to be under Section 53 of the Mumbai Municipal Corporation Act having regard to power of the State Government to suspend or rescind any resolution or order of the corporation or any other authority under this Act envisaged under Section 520B, we are of the opinion that before we exercise judicial review in a public interest litigation, the party must exhaust the remedial provisions under the Act as indicated under Section 520B.

3] Once representation is made having regard to the nature of *lis* raised in the writ petition, we direct the respondents – State Government to dispose of the matter within two months from the date of receipt of representation along with the copy of this order.

4] Petition is disposed of accordingly.

CHIEF JUSTICE

(M. S. SONAK, J.)