

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4805 OF 2016***

Grampanchayat Kumbhavalan

Petitioner

Versus

State of Maharashtra & Ors.

Respondents

Mr.S.R.Ganbavale, for the Petitioner.

Mrs.M.P.Thakur, AGP, for the State.

Mr. R.M.Jadhav for respondent No.4.

CORAM : RANJIT MORE &

SMT. SADHANA S.JADHAV,JJ.

DATE :17th April, 2018.

P.C. :

By this petition, the petitioner is challenging the communication dated 19.9.2011 to the Sarpanch of Grampanchayat by the Collector, Pune. By the said communication, the Sarpanch was informed that from Gat No.195, out of total land admeasuring 7 Hectares 37 R., 5 hectares of land was allotted for Municipal Solid Wastes (MSW) of Saswad Municipal Council. Though the communication is made in the year 2011, the petition is filed only on 16.4.2016.

2. The explanation for the delay is given in para 17 of the petition which reads as follows :-

"17. The Petitioner submits that, there is delay on its part to approach the Hon'ble Court. The reason for the delay being that, the impugned order was never placed for the consideration of the Grampanchayat, by the Gramsevak, serving at that point of time. The Petitioner craves leave to refer to and rely upon the copies of the minutes of meetings, of the Petitioner, to substantiate that, the impugned order dated 19/09/2011, passed by Respondent No.2, was never placed for consideration and deliberation before the Petitioner, so as to enable it to take further legal recourse in the matter. The Petitioner states and submits that, after intervening before the Hon'ble National Green Tribunal, Bench at Pune, in Appli. No.46 of 2013, they, became aware of the said order dated 19/09/2011, passed by Respondent No.2, and, hence, have filed the instant petition, without any further delay."

3. In our considered view, the explanation given in para 17 of the affidavit for condoning the delay of inordinate delay of six years is not sufficient, especially when there is material on record to show that the petitioner was aware about the said communication earlier in the year 2014 itself.

4. Be that as it may, Dr. Udaykumar Vasantrao Jagtap challenged Municipal Solid Wastes – Saswad by filing Application No.46 of 2013 before the National Green Tribunal

(Western Zone) Bench, Pune. In this proceeding, the petitioner intervened. After hearing all concerned, by a judgment dated 4.9.2014, the National Green Tribunal passed the following order :-

"14. We are, therefore, inclined to partly allow the Application with the certain directions. The Application is thus allowed as follows :

I) The Municipal Council shall fully commission their MSW plant of Kumbharvalan, in Survey No.88, on or before 31st March, 2015.

II) The Municipal Council shall start phase-wise shifting of the MSW generated on daily basis to the MSW facility, after rainy season and commence composting activity simultaneously

III) The Council shall ensure that while transporting of such solid waste, no nuisance shall be caused to the people in the vicinity and sufficient care in the form of covering of trucks and also, spreading of suitable chemicals etc. shall be practiced for odour operation control and also, effective composting is ensured.

(IV) The Council and the Maharashtra Jeevan Pradhikaran, are directed to ensure that oxidation ditch is made operational to achieve the discharge norms of the MPCB within next six (6) month and latest before 31st May, 2015, under any circumstances, without failure.

(V) The MPCB shall monitor the compliance of above directions on quarterly basis and may obtain CPM chart

from the Municipal Council for completion of these work to monitor the same quarterly basis of which a report be submitted to this Tribunal at end of each quarter henceforth.

(VI) The Collector, Pune, is directed to ensure the compliance of above directions. He shall review the progress of both the activities on monthly basis till May 2015 and ensure that no administrative hurdles or glitches obstruct for timely completion of the project.

VII) In the event of failure of Municipal Council and Maharashtra Jeevan Pradhikaran (MJP) to adhere to above time limits. MPCB may execute the balance work, under the provisions of Section 30 of Water (Prevention and Control of Pollution) Act 1974, besides taking suitable legal action.

VIII) The Respondent No.1 shall pay cost of Rs.10,000/- to the Applicant."

5. The said order of the National Green Tribunal is not the subject-matter of the present petition. In the light of above, we dismiss the Writ Petition.

[SMT. SADHANA S.JADHAV, J.]

[RANJIT MORE, J.]