

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13436 OF 2017**

Panchashil Reality & Developers
Pvt. Ltd.

..

Petitioner

Vs.

Maharashtra Pollution Control Board
& Ors.

..

Respondents

...

Mr. S.S. Patwardhan for the Petitioner.

Ms. Jaya Bagwe for Respondent No.1.

Mr. M. M. Pabale, A.G.P. for the State.

**CORAM: PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.**

DATED : 04th SEPTEMBER, 2019.

P.C:-

1. Heard learned counsel for the parties.
2. It is a case where the desire to improve the environment i.e. to ensure that river Mula Mutha in Pune is made free from the discharge of untreated effluent, the National Green Tribunal exceeded its jurisdiction in O.A. No.55 of 2015.
3. It happened like this.

AJN

4. One Mr. Subhash Ramkrishna Patil invoked the jurisdiction of the National Green Tribunal under Section 14 of the National Green Tribunal Act, 2010 pleading that on account of untreated effluent being discharged in river Mula Mutha, its water had turned so polluted that far from being a river, it became a drain.

5. Issuing notice to the Government of Maharashtra and the Maharashtra Pollution Control Board the latter being obliged to ensure compliance with the Water (Prevention and Control of Pollution) Act, 1974, the National Green Tribunal got the response that of the 189 project proponents in Pune, 30 were non-complaint and against whom the Pollution Control Board had already issued a notice on 10th March, 2017 proposing the action referred to in the notice.

6. The National Green Tribunal noted the reply as also the action proposed by the Maharashtra Pollution Control Board and thereafter issued notice to the said 30 project proponents and while issuing the show cause notice informed the project proponents to show cause why they should not be saddled with environmental compensation for not discharging their obligations under the Environment (Protection) Act, 1986.

7. Now, the show cause notice issued by the Maharashtra Pollution Control Board itself informs the project proponents that action proposed against them was firstly to disconnect the water

and electricity supply to the project and secondly to initiate action under the Environmental Acts and Rules.

8. Thus, the National Green Tribunal could have at best directed Maharashtra Pollution Control Board to pass necessary orders pursuant to the notice dated 10th March, 2017 issued by the Maharashtra Pollution Control Board and not to take over the task of passing final order pursuant to the notice in question. The reason is obvious. The statutory right of appeal available to the Petitioner was being taken away by the National Green Tribunal.

9. Under the circumstances, we dispose of the Writ Petition quashing the notice issued by the National Green Tribunal to the Petitioner but simultaneously direct the Maharashtra Pollution Control Board to pass a final order pursuant to the show cause notice which was issued to the Petitioner by the Board on 10th March, 2017.

10. Needless to state that the procedures of the law contemplated post notice issued till final order passed shall be followed. If the order is against the Petitioner, the Petitioner shall be entitled to remedy as per law.

11. No costs.

(SMT. BHARATI DANGRE, J.)

(CHIEF JUSTICE)