

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2094 OF 2020

Parmanand Jaywant Koli & Ors. ... **Petitioners**
Versus
Jawaharlal Nehru Port Trust ... **Respondents**

.....

Ms.Meenaz Kakalia, Advocate for the Petitioners.

Mr.Mayur Khandeparkar a/w. Ms.Purvi Joshi i/b. DSK Legal,
Advocate for the Intervenor (BMCT Pvt. Ltd.)

Mr.Saket Mone a/w. Mr.Subit Chakrabarti i/b. Vidhi Partners,
Advocate for the Respondent No.1.

Mr.Parag A. Vyas, Advocate for the Respondent No.2/UOI.

Mr.Jitendra Jagtap, Advocate for the Respondent No.9/MPCB.

Smt.R.A.Salunkhe, AGP for the Respondents/State.

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**CORAM :- DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE :- FEBRUARY 16, 2021

PC :

1 This writ petition dated 3rd February 2020, presented on 4th February 2020, registers a challenge to an Environment Clearance dated 9th October 2019 granted by the respondent No.2. The impugned Environment Clearance is at page 108 of the writ petition, marked Exhibit 'L'. Clause 16 of paragraph XI titled as 'Miscellaneous' appearing therein reads as follows :

“**xvi.** Any appeal against this EC shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.”

2 Referring to the aforesaid clause, Mr.Mone, learned Advocate appearing for the respondent No.1 objects to the entertainability of this writ petition. According to him, the issue raised in this writ petition ought not to be examined by this Bench having regard to its previous judgment and order of January 12, 2021 in Writ Petition No.188 of 2020 (***Maria Thelma Suresh Poojary & Ors. Versus State of Maharashtra & Ors.***), whereby a similar challenge to an Environment Clearance was spurned on the ground of availability of a remedy before the National Green Tribunal. The issue being covered, Mr.Mone seeks dismissal of the writ petition.

3 Copy of the judgment and order dated January 12, 2021 has been made over to Ms.Kakalia, learned Advocate for the petitioner. She has asserted that the National Green Tribunal, Western Region, Pune is not functional at present and, therefore, this Court may entertain and try the present writ petition.

4 We have perused the statements made in the writ petition. We have also considered the decision in ***Maria Thelma Suresh Poojary*** (*supra*). It appears to us that the

present case is squarely covered by such decision and, thus, we decline interference.

5 The writ petition stands dismissed without any order for costs.

6 This order shall not preclude the petitioner to approach the appropriate forum in accordance with law. We make it clear that dismissal of this writ petition shall not be construed as expression of our opinion on the merits of the petitioner's case.

7 Reply affidavit filed by Mr.Mone is taken on record.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)

Raju D.
Gaikwad

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signed by Raju
D. Gaikwad
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