

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.6368/2022

Sachin Dharamdas Khobragade .vs. The State of Maharashtra through its Secretary of
Environment and Climate Change Department, Mantralaya, Mumbai and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. A. Pannase, Advocate for petitioner.
Mr. K. L. Dharmadhikari, A.G.P for respondent no.1-State.

CORAM : SUNIL B. SHUKRE & ANIL L. PANSARE, JJ.
DATE : 13.10.2022

Heard learned counsel for the petitioner
and learned A.G.P for respondent no.1, who appears
by waiving notice.

2. The petitioner is aggrieved by the
dissolution of the Tree Authority, of which he was a
member. Basically, the petitioner is aggrieved by the
fact of the dismissal of the Tree Authority constituted
as per Section 3 of the *Maharashtra (Urban Areas)*
Protection and Preservation of Trees Act, 1975, (for
short, 'the Tees Act,1975'), leading to his removal from
the duly constituted Tree Authority.

3. The impugned order dated 14.06.2022
states that the term of the Environmental Experts who[

were the members of the Tree Authority has come to an end on account of happening of the contingency of the appointment of Administrator over the affairs of the Nagpur Municipal Corporation, Nagpur.

3. Learned counsel for the petitioner submits that this is against the spirit of Section 3 of the Trees Act, 1975.

4. Learned A.G.P for respondent no.1-State submits that action of the NMC, Nagpur as can be seen from the impugned communication dated 14.06.2022, cannot be said to be contrary to the provisions made in Section 3 (1) of the Trees Act, 1975. In order to evaluate the rival submissions, it is necessary to understand the provisions made in Section 3 (1) of the Trees Act, 1975, which reads as follows:

“3.(a-1) As soon as may be, after the commencement of the Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act, 2021, the State Government shall constitute the Maharashtra State Tree Authority, by notification in the Official Gazette, consisting of officials not below the rank of Secretary to Government.

(1) As soon as may be after this Act is brought into force in any urban area the urban local

authority concerned shall constitute a Tree Authority, consisting of the Chairman and other not less than five and not more than fifteen persons from amongst its members, appointed in such manner and for such period as that authority may determine:

Provided that, where an administrator by whatever name called is appointed for any municipal corporation or municipal council, he shall during the period of his appointment, act as the Tree Authority and exercise all the powers and perform all the duties of the Tree Authority.”

5. A bare perusal of the above referred law is sufficient for us to conclude that immediately upon appointment of an Administrator for any municipal corporation or municipal council, the Tree Authority constituted under Section 3 (1) of the Trees Act, 1975, gets dissolved and it is substituted by the Administrator alone. This is clear from the proviso made to Sub Section (1) of Section 3 of the Trees Act, 1975, which lays down that where an Administrator, by whatsoever name he is called, is appointed for any municipal corporation or municipal council, he shall, during the period of his appointment as an Administrator, act as Tree Authority. The proviso

further prescribes that the Administrator shall exercise all the powers and perform all the duties of the Tree Authority.

6. In view of above, we find no merit in the petition. The petition stands dismissed summarily. No order as to costs.

(Anil L. Pansare, J.)

(Sunil B. Shukre, J.)

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