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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 677 OF 2024

Akhil Maharashtra Macchimar Kruti Samiti & Ors. .. Petitioners

Vs.

Maharashtra Pollution Control Board
Deputy Regional Office & Ors. .. Respondents

...

Mr. Sanjay Singhvi, Senior Advocate i/by Mr. Ghanashyam Thombare for petitioners.

Mr. Saket Mone a/w Mr. Devansh Shah i/by Vidhi Partners for Respondent No.2-(JNPA).

Mr. N. C. Walimbe, Addl. GP a/w Mr. R. P. Kadam, AGP for Respondent-State.

Mr. S. B. Shetye for Respondent No.1-MPCB.

...

**CORAM : A.S. CHANDURKAR &
JITENDRA JAIN, JJ**

DATE : 18th JANUARY, 2024.

PC. :

1. By this writ petition, the petitioners who claim to be the representatives of residents likely to be affected by the development of Greenfield Port at Vadhavan seek to have a change of the venue of the public hearing to be conducted by Respondent No.1-the Maharashtra Pollution Control Board-MPCB. As per the public notice dated 17/12/2023 published by the Maharashtra Pollution Control Board, the environmental public hearing is scheduled on 19/01/2024 at 11 am at the District Sports Complex Ground near Sonopant Dandekar College, Tembhode Tal. & Dist. Palghar. The petitioners claim that since they are

located approximately at a distance of about 30 kilometers from the venue of the public hearing, it would not be convenient for them. Hence the venue of the public hearing be changed. The petitioners claim to be located at various villages in Dahanu Tahsil while the public hearing is scheduled at Tahsil and District Palghar. It would therefore not be feasible for them to attend the said hearing. In that regard, the petitioners seek to rely upon the Procedure of Conduct of Public Hearing in terms of the Notification dated 14/09/2006 that has been issued by the Ministry of Environment and Forest. It has been stated that to facilitate public participation, the venue of the meeting should be in close proximity of the project site. It is pointed out that in the meeting held on 08/01/2024 a discussion in that regard had taken place and it was urged that since the venue of the public hearing was at a distance of 20 kilometers, the same was not feasible. The minutes of the meeting recorded that necessary arrangements if required would be made by the Respondent No.2- Jawaharlal Nehru Port Authority-JNPA. In this regard, the learned Senior Advocate for the petitioners by relying upon the decision of the Madras High Court in Writ Petition 1213 of 2021 (*P. Ethiraj Vs. Tamil Nadu Pollution Control Board & Ors.*) decided on 13/08/2021 submits that if transport arrangements are made by JNPA, the same would not ensure transparency in the matter and it would appear as an inducement by JNPA. It is therefore prayed that either the venue of the public hearing be

changed or the public hearing itself be deferred.

2. On behalf of the MPCB, reference is made to the Circular dated 10/04/1997 in which it has been stated that the entire expenditure of conducting the public hearing would be required to be borne by JNPA. In the meeting held on 08/01/2024 this aspect was considered and at the behest of JNPA it was agreed that it would bear all expenditure for providing necessary facilities.

3. On behalf of JNPA, an affidavit-in-reply has been filed, stating therein that a public notice was issued on 16/12/2023 in Lokmat, a vernacular newspaper and in Free Press Journal an English newspaper on 17/12/2023. Notice of 32 days was accordingly given for the meeting scheduled on 19/01/2024. Further, it has been stated that JNPA is willing to provide adequate transportation facilities for persons desirous of attending the said public hearing. On instructions, it is submitted by the learned counsel for JNPA that it is willing to arrange for such transport facility for enabling the petitioners and its members to attend the public hearing on 19/01/2024.

4. On hearing the learned counsel for the parties we find that though the public notice was issued on 16/12/2023 and 17/12/2023, the representation in that regard was made on behalf of the petitioners on 05/01/2024. The matter was considered in the joint meeting that was held on 08/01/2024 in the presence of all stakeholders, including the

Collector. The issue of postponing the public hearing was considered as well as the request for change in the venue was also gone into. It was recorded that JNPA would bear the necessary expenses and would also ensure that due publicity would be given to residents in the affected area. The present writ petition was filed on 09/01/2024 and was circulated only today. Since we find that the public hearing is scheduled tomorrow and all necessary arrangements have already been made to conduct the same, we are not inclined to consider the prayer made on behalf of the petitioners to change the venue of the public hearing or to postpone the same as the petitioners have not pursued the matter diligently.

5. On the contrary, we find that JNPA is ready to provide for all transport facilities to persons desirous of attending the public hearing in case they are unable to make their own arrangements. According to the petitioners, the venue is approximately at the distance of 30 kilometers while according to the JNPA it is at a distance of 20 kilometers. Be that as it may, in the facts of the present case, since the public hearing is scheduled tomorrow, we are inclined to accept the statement made out on behalf of JNPA that it would provide for all transport facilities to persons interested in attending the public hearing. Though the learned Senior Advocate for the petitioners sought to urge that such arrangements at the behest of JNPA would impinge upon the transparency of the proceedings as observed in *P. Ethiraj (supra)*, we do not find in the facts of the present

case that there is any factual basis for such apprehension. The petitioners who avail the benefit of the facility of transport are not precluded from expressing their views in the matter, be it in favour or against the project. We may note that even otherwise the Project Proponent is required to bear all expenses of conducting the public hearing and provision of facility of transport by itself cannot be seen as a mode of inducement to the petitioners.

6. Accordingly, JNPA along with MPCB shall arrange to provide requisite transportation facilities to members of the petitioners' associations. The representatives of the petitioners shall indicate the number of persons interested in participating in the public hearing on 19/01/2024 to the representatives of MPCB and JNPA. The MPCB and JNPA shall accordingly make requisite arrangements of transportation to enable the interested parties to attend the scheduled hearing. JNPA shall nominate its representative in that regard who shall co-ordinate with MPCB and the representatives of the petitioners to enable them to attend the hearing. The learned counsel for JNPA submits that necessary details in that regard would be provided to the learned counsel for the petitioners immediately. The objection raised on behalf of the petitioners to the translation of the Environment Impact Assessment report as supplied is kept open for being taken in appropriate proceedings. Depending upon the public hearing to be held tomorrow, it would also be open for MPCB to

consider any request for holding further public hearing if the occasions arises.

7. The writ petition is disposed of with aforesaid directions.

[JITENDRA JAIN, J]

[A.S. CHANDURKAR, J.]