

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
PUBLIC INTEREST LITIGATION NO.176 OF 2012

Mr. Rajesh madhukar Pandit.

Vs

The Nashik Municipal Corporation and Others.

—

Shri Pravartak S. Pathak for the Petitioners.

Shri M.L. Patil for the Respondent Nos.1 and 2.

Shri R.D. Raghuwanshi for Respondent No.3.

Shri Kevic Setalvad, Additional Solicitor General along with Shri D.A. Nalawade, Shri Som Sinha and Shri Ravindra A. Lokhande for Respondent No.4.

Shri D.J. Khambatta, Advocate General along with Shri A.B. Vagyani, AGP for Respondent No.5.

—

CORAM : A.S. OKA & G.S.PATEL, JJ

DATE : 25TH JULY 2013

PC.

1. Affidavit of Shri Shivkumar Ramchandra Vanjari, Executive Engineer (Environment) of Nashik Municipal Corporation, Nashik, is taken on record. The learned Advocate General seeks three weeks' time to take instructions on various aspects set out in the affidavit. He states that he will look into the present status of the acquisition proposals in relation to both the sites which are to be acquired for setting up STPs.

2. The learned counsel appearing for the Municipal Corporation invited our attention to the correspondence between the Maharashtra Pollution Control Board and the Municipal Corporation. He submitted that the Pollution Control Board has already prepared an Action Plan for cleaning the Godavari River. Hence, services of NEERI will not be necessary. We do not agree with the submissions. The Pollution Control Board deals with the prevention of pollution. There are environmental issues involved which can be looked into by an expert agency like NEERI. It is obvious that the NEERI will take into consideration the said action plan prepared by the Pollution Control Board.

3. The Municipal Corporation has paid a sum of Rs.15 lacs to NEERI as per the affidavit tendered today. We expected that the Municipal Corporation will incorporate the details about its financial condition. But that has not been done.

4. We direct the Municipal Corporation to file an additional affidavit setting out its financial condition. The obligations of the Municipal Corporation have been incorporated under the Maharashtra Municipal Corporations Act, 1949. Prima facie, we are of the view that it will be the obligation of the Municipal Corporation to pay the requisite charges payable to NEERI. As per the preliminary report

submitted by the NEERI, 60% of the total cost of Rs.80 lacs plus service tax will have to be paid along with the work order out of which a sum of Rs.15 lacs has been already paid. We direct the Nashik Municipal Corporation to pay the balance amount forming part of 60% of the first installment payable to the NEERI within a period of three weeks from today.

5. It is necessary for the Commissioner of Police at Nashik to ascertain whether the police force deployed for the protection of the river is adequate. If necessary, he shall make additional hands available to the existing police force.

6. Place the Petition at 3.00 pm on 16th August 2013.

7. We direct the Petitioners to implead the Maharashtra Industrial Development Corporation as a party Respondent by carrying out amendment. Issue notice to the added Respondent. The Advocate for the Petitioners will service private notice to the added Respondent.

(G.S.PATEL, J)

(A.S. OKA, J)