

Item No.2&1

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

[Through Physical Hearing (with Hybrid Option)]

**ORIGINAL APPLICATION NO.24 OF 2023 (WZ)**

Ajay Gulab Singh & Ors.

.... Applicants

Versus

The Secretary, Environment Department,  
Govt. of Maharashtra & Ors.

.... Respondents

**WITH**

**ORIGINAL APPLICATION NO.68 OF 2023 (WZ)**

Ajay Singh & Ors.

.... Applicants

Versus

The State of Maharashtra & Ors.

.... Respondents

Date of hearing : 20.09.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicants : Mr. Abhishek Yende, Advocate for the applicants  
in O.A. No.24/2023

Respondents : Mr. Aniruddha Kulkarni, Advocate for R-1 & R-2  
Ms. Manasi Joshi, Advocate for R-3  
Ms. Madhavi Ayyapan, Advocate, representing  
M/s Talekar Associates for R-6  
Mr. Asim Sarode, Advocate for R-8  
Mr. Nishant Chaudhari, Advocate for R-9  
Mr. R.B. Mahabal, Advocate for R-10

**ORDER**

1. Since both these Original Applications have been filed by one and the same person and the prayers made therein are identical, these are being disposed of by this common order.

2. The Original Application No.24 of 2023 is filed with the prayers that the respondents be directed to shift the dumping site from Golibar

maidan to Awalkhed site or some other place; the respondent authorities be directed to maintain the Golibar maidan free from any contamination or pollution and the authorities be directed to restore the land and remove the solid waste from the said Golibar maidan.

3. The facts of this case, in brief, are that the applicants are the residents of Igatpuri town, Taluka Igatpuri, District Nashik, who are living in the vicinity of land Survey Nos.158B, 216 and 142, admeasuring 18 acres where the entire garbage and solid waste from Igatpuri Municipal Council ("IMC", for short) are being dumped at Golibar maidan. The solid waste has piled up 30 to 35 feet above the ground level over an area of one and half acre of land belonging to the Government. The dumping of solid waste i.e. domestic, bio-medical and industrial waste, animal carcasses, toxic liquid and a huge amount of garbage is flown into the stream which flows to nearby river and Vaitarna dam during rainy season. The Municipal Corporation of Greater Mumbai has been issuing notices to IMC – respondent No.6 to stop dumping garbage that flows to the stream which flows to Vaitarna river and dam. It is also pertinent to mention that Vaitarna dam is catering need of water to 17 lakhs homes in Mumbai. The applicants were informed about shifting of the solid waste from Golibar maidan to other place in Awalkhed village from last more than ten years, but no progress has been made in this regard. Unless the dumping ground is shifted to far-off place, that would be continued to be health hazard. The foul smell emanates from the dumping ground. Further it is submitted that M/s Ecofriend Environment Solution Pvt.Ltd. i.e. respondent No.7 is the contractor for the purpose of collecting waste from the territorial limits of IMC, who continued to unauthorisedly dump waste at the site in question. The Divisional Commissioner, Nasik – respondent No.4 was moved a complaint on 14.11.2022 by the applicants whereon cognizance

was taken and the Assistant District Commissioner (Municipal Council Department) was directed to take appropriate action, but nothing happened. The complaints were even made to the MPCB – respondent No.3 on 24.11.2022 by the applicants, pursuant to which site visit was made by their officials and show-cause notice was issued to respondent No.6. It is further alleged that there is a bore-well at 300 mtrs distance from the dumping site and at a distance of 237 mtrs from the dumping site, there is Gramin hospital. Igatpuri Sports Complex is also situated at a distance of 400 mtrs from the dumping site and also residential quarters for housing the medical staff of Gramin hospital are at a distance of 85 mtrs from the dumping site. Respondent No.7 M/s Ecofriend Environment Solution Pvt. Ltd. burns plastic waste at the dumping site, which leads to air pollution apart from causing severe health risks to the residents. Hence, the above prayers have been made.

4. This matter was heard by us on 06.03.2023 first and notices were directed to be issued to the respondents. In response to the same, the stand taken by respondent No.6 – Igatpuri Municipal Council by their affidavit-in-reply dated 17.05.2023 is that the development plan for the answering respondent came to be approved by the State of Maharashtra on Reservation site No.22, Gat No.234 (Part). The Igatpuri land is earmarked for the purpose of dumping waste in the said development site. However, MPCB did not grant permission to the answering respondent to build a solid waste management plant on the earmarked plan as the same is adjacent to the water body which supplies potable water to the various parts of the city. The answering respondent is using the land in question for dumping and processing the solid waste generated within the limits of the IMC, which is situated in heart of the city, because of which it is a thing of concern of the local residents. Apart from that, the land is insufficient for solid waste management plant,

which has now become a breeding ground for various communicable and fatal diseases. It is further mentioned that now left with no course open the answering respondent submitted a proposal to the Government to shift the location of the solid waste management project away from the city pursuant to which the Government has approved the proposal to shift it to a place situated at a distance of 6 to 7 kms. from the town. Since the answering respondent did not have land of its own suitable for the said purpose, it decided to buy 3 to 4 acres of land in a hilly area at Gat No.37 Awarlkhed, selection process of which was started way back in the year 2002. The answering respondent obtained permission from the Ground Water Survey Department on 13.01.2006, from the Pollution Control Board on 16.01.2006, from Town Planning Department on 20.01.2006, from the Forest Department on 14.08.2007 and an NOC from the Gram Panchayat of Awalkhed on 06.01.2006. After finally purchasing the said land in 2008, soon after starting the construction of the compound wall, in the year 2009, one trust namely Aseema Public Trust – respondent No.8, which is running a school at village Awalkhed, started raising objection and filed a complaint before the Divisional Commissioner, Nashik who rejected the same vide order dated 06.05.2010, against which respondent No. 8 – Aseema Public Trust had approached the Hon'ble High Court of Bombay by filing Writ Petition No.4548 of 2010, wherein the Hon'ble High Court directed *status quo* to be maintained vide order dated 21.06.2010. Subsequently, that order was modified by another interim order dated 02.08.2011 whereby it was directed by the Hon'ble High Court that the MPCB shall consider the terms and conditions which ought to be attached with the authorization letter within a period of two months while permitting the respondent No.6 to construct the compound wall or road leading to the site in question. It was by order dated 08.12.2011 that it was also clarified by the Hon'ble

High Court that respondent No.6 shall not in any case use the land for the purposes of dumping without seeking leave of the Hon'ble Court.

5. Another Writ Petition No.9919 of 2012 was filed by one Mr. Kamal Mehta and others before the Hon'ble High Court of Bombay, seeking direction against respondent No.6 to shift the dumping ground from Golibar maidan to some other place contending therein that the present site was a private land where there was hospital behind the same. The Hon'ble High Court directed the Divisional Commissioner to look into the matter and submit a report regarding the availability of the alternate site for dumping the waste vide order dated 05.03.2015. A Committee was also appointed by the Divisional Commissioner to inspect the alternate site for construction of solid waste processing plant by respondent No.6, which inspected six alternate sites. None of them was found suitable and a report was submitted before the Hon'ble High Court on 29.07.2015. The Hon'ble High Court also directed the Principal Secretary to hold a meeting of all the stakeholders including the representative of Awalkhed Gram Panchayat and submit a reasoned report before the Court, by order dated 19.11.2015. The said Committee, headed by the Secretary (UD-2), Urban Development Department, Mantralaya, Mumbai assigned reasons for its decision that the site at Gat No.37, Awalkhed was suitable for the purpose of setting up of solid waste management project and there was no need to change the same. Since thereafter, hearing could not be held before the Hon'ble High Court and in these circumstances, it is submitted that the answering respondent could not construct the solid waste management plant at Gat No.37 of Awalkhed. It is further submitted that during the interregnum, the answering respondent – respondent No. 6 is taking all possible steps to ensure that the waste is collected from the municipal limits of IMC and the same is treated before they are dumped on the existing dumping site. The answering respondent has commenced

bio-sanitization process for treating disposal of the garbage dumped and has also started door-to-door collection of the solid waste in compliance with the statutory provisions. Therefore, it is apprised that the answering respondent is taking every possible step to get the Writ Petition pending before the High Court disposed of, which is likely to be heard on 13.06.2023. The answering respondent is taking all possible steps to shift the dumping site from Golibar maidan, Igatpuri to Gat No.37 of Awalkhed. Further it is mentioned that the Government of Maharashtra has appointed eco-pro services, Indore to prepare a detailed project report for solid waste management of IMC. The project report (upto Chapter-III) has been annexed at Annexure-RJ7) and that the Government has accorded administrative approval to the same on 09.04.2018 (annexed at Annexure-RG8). The total project cost mentioned in that report is Rs.313.31 lakhs.

6. The stand taken by respondent No.3 – MPCB, through their affidavit dated 21.07.2023 is that respondent No. 6 – IMC is unauthorizably dumping entire garbage and solid waste from Igatpuri Municipal area in 10 acres of land of Golibar maidan at Survey No.142. In paragraph 3 of the said affidavit, the observations have been noted, which are reproduced hereunder:

- (1) *During visit, MSW site located at Gat No. 142, Golibar Maidan, Igatpuri is not in operation since last 15 days due to rainy season.*
- (2) *Igatpuri Municipal Council is C – class Local body.*
- (3) *Igatpuri Municipal Council has not obtained Authorization under Solid Waste Management Rules.*
- (4) *Currently MSW is only dumping at Gat No.142, Golibar Maidan, Igatpuri.*
- (5) *Legally approved MSW Site is Gat No.37, A/P Awankhed village, Tal Igatpur, Dist. Naashik (out of local body area) but*

*there is litigation pending before the Hon'ble High Court Mumbai.*

- (6) Daily generation of MSW 7.5 MT/day (dry -3 MT/D & Wet 4.6 MT/day). There are 9 wards in Igatpuri Municipal Council area. Door to door collection in total 9 wards, which is transported through 05 nos. of Auto tipper & 02 Nos. of Tractors.*
- (7) Composting by RCC pit provided at Gat No.142, Golibar Maidan.*
- (8) Dumping of dry waste (Appex 04 MT/day) is done at old site since 2017.*
- (9) One seasonal nalla is passing from the said site & compound wall is not provided currently.*
- (10) Igatpuri Municipal Council has recently provided machineries like shredder, screening with belt conveyer, baling machine since from April-May 2023 & started work of bio mining.*
- (11) Approx 40 MT MSW waste bio mining is completed by the Council since April 2023 to June 2023 (before raining)*
- (12) Huge heaps of waste are still found unprocessed on site located at Golibar maidan.*
- (13) During visit due to raining, the work of MSW processing stopped & no any smell observed.*
- (14) Four nos. of compost pit with capacity approx..02 MT & 100% of wet waste not composted and remaining wet waste dumped at site.*
- (15) Currently unprocessed MSW at Golibar maidan is approx..700 MT to 800 MT.*
- (16) Existing old dump site near same Golibar maidan is clean & remitted and handed over to existing land owner of Dhamangiri.*
- (17) Govt Hospital Colony is 50 mtrs away & Dhamangiri is approx. 200 mtrs away from old MSW site of Golibar maidan.”*

7. Further it is mentioned that on the basis of above non-compliances, prosecution notice was issued on 19.07.2023 to respondent No.6. Further it is mentioned that the MPCB has issued a letter dated 19.07.2023 to respondent No.6, directing it to pay an amount of Rs.40

lakhs towards non-compliance of Solid Waste Management Rules, 2016, which is for the period from 01.04.2020 to 31.07.2023, Rs.36 lakhs for not commencing the work of legacy waste site remediation for the period from 01.04.2020 to March, 2023 and also directed to pay an amount of Rs.one lakh per month for the non-compliance of solid waste management till the compliance and Rs.one lakh per month for non-compliance of legacy waste management till the compliance. Copy of the said letter is annexed at Annexure-III. The learned counsel for the MPCB states that the prosecution is yet to be launched against respondent No.6 and that the amount, which has been directed to be levied, has also not been paid by respondent No.6 till now.

8. From the side of respondent No. 8 – Aseema Charitable Trust, reply-affidavit dated 24.07.2023 has been filed, stating therein that the issue related in this Original Application is concerning Gat No.37 of Awalkhed village, litigation regarding which is already pending before the Hon'ble High Court. The proposed MSW facility to be shifted at Gat No.37 of Awalkhed will result in contamination of entire ground water because of creation of leachate and because of the matter being pending before the Hon'ble High Court, this Original Application deserves to be dismissed.

9. From the side of respondent No.10 – Grampanchayat, Awalkhed, reply-affidavit has been filed on 18.09.2023 and on its behalf, learned counsel Mr. R.B. Mahabal has appeared and submits that initially, respondent No.10 was not a party to the Original Application, but subsequently, it was ordered to be added because there is no specific relief against respondent N.10. He submits that if Survey No.142 Golibar maidan of Igatpuri is not suitable, then Gat No.37 of Awalkhed is more unsuitable because it would be health hardous to local villagers at Awalkhed. There are two water wells near the proposed dumping site



hardly at a distance of 70 mtrs and 110 mtrs away. Besides that, it would contaminate the Zoiti river which is just 10 mtrs away from the proposed site.

10. We have heard the arguments of the learned counsel for the parties and perused the record. We find from the reply-affidavit filed by respondent No.6 that they have already admitted that the present site at Survey No.142 Golibar maidan is located in the heart of city, which is not a suitable place for establishment of Solid Waste Management Plant (SWMP) and because of that reason only, they have made tremendous efforts, which have been mentioned by them in their affidavit, which have already been recorded by us hereinabove and one place i.e. Gat No.37 of Awalkhed has been identified, which was purchased by them for setting up the Plant, but litigation has started which is pending before the Hon'ble High Court at advanced stage. It would not be appropriate to pass any order with respect to the land Gat No.37 of Awalkhed for establishing the SWM Plant as the same is for consideration before the Hon'ble High Court. But at the same time, we have to take cognizance of the fact that the existing site, which is Survey No.142 Golibar maidan, is admittedly not suitable place. Therefore, the only way-out in the present circumstances is either respondent No.6 – IMC should look for some other place other than Gat No.37 of Awalkhed, which is already under consideration before the Hon'ble High Court or if the proceeding can be cleared by the Hon'ble High Court, they can proceed accordingly. But till the alternate site is found out where the SWM Plant can be established, we have to pass an appropriate order to take care of the solid waste which is generated as also legacy waste.

11. We find from the reply of respondent No.3 – MPCB that already a letter has been issued to respondent No.6 IMC directing it to levy the environmental compensation in terms of the order passed by this

Tribunal in Original Application No.606 of 2018 and that they have already taken into consideration the period upto 31.07.2023 with respect to solid waste as well as the legacy waste, but it is a fact that even today, the dumping is continued at the same site. The learned counsel for the applicant also admits that till the alternate place is found, it will be difficult to stop the said dumping, but some measures need to be taken in order to minimize the health hazardous. Therefore, in that regard, we are of the view that these Original Applications need to be disposed of with following directions:

- (i) Respondent No.6 – Igatpuri Municipal Council (IMC) shall pay environmental damage compensation for not setting up the Solid Waste Management Plant and for not commencing the work of bio-mining legacy waste as per the guidelines provided in Original Application No.606 of 2018, which shall be recovered by the MPCB within three months from the date of uploading of this order, after giving an opportunity of hearing to respondent No.6 – IMC.
- (ii) Without waiting for recovery of environmental damage compensation, the MPCB with expert advice of NEERI, Nagpur, shall prepare a short term (three months) and a long term (one year) remediation plan in consultation with Igatpuri Municipal Council within a period of four weeks from the date of uploading of this order and start implementation of the same from out of the environmental damage compensation lying with the MPCB. This expenditure shall be adjusted from the EDC to be recovered from the Igatpuri Municipal Council. Any expenditure beyond EDC amount will be borne by IMC.
- (iii) The compliance report shall be submitted within eight weeks and failure to submit the report will attract penalty from the Member Secretary, MPCB and Chief Officer, Igatpuri Municipal Council.

- (iv) Failure to deposit the amount of environmental damage compensation by Igatpuri Municipal Council within three months as directed above will attract action against the Chief Officer, Igatpuri Municipal Council as per the provisions of the Environment (Protection) Act, 1986 as amended by Jan Vishwas Act, 2023.
- (v) The MPCB shall submit the report to the Registry of this Tribunal after compliance of this order and the same shall be placed before us by the Registry for perusal.
- (vi) It is made clear that since the matter is already being heard by the Hon'ble High Court of Bombay with respect to shifting of dumping site from the existing site to Gat No.37, Awalkhed, we hold that in any case any direction is given by the Hon'ble High Court, which is inconsistent with our order, the order of the Hon'ble High Court will prevail.

12. With the above directions, both these Original Applications are disposed of.

13. In view of disposal of Original Applications, pending Interlocutory Application, if any stands disposed of.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

September 20, 2023  
O.A. No.24-2023 and 68/2023(WZ)  
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