

ITEM NO.4

Court 4 (Video Conferencing)

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.5036/2019

MUNICIPAL CORPORATION OF GREATER MUMBAI

Appellant(s)

VERSUS

NITIN SHANKAR DESHPANDE & ORS.

Respondent(s)

(With appln.(s) for IA No.118670/2019 - CLARIFICATION/DIRECTION, IA No.118676/2019 - INTERVENTION/IMPLEADMENT, IA No.89489/2019 - MODIFICATION, IA No.89660/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No.79977/2019 - STAY APPLICATION)

WITH Diary No.11356/2020 (XVII)

(With appln.(s) for IA No.92205/2020 - CONDONATION OF DELAY IN FILING APPEAL and IA No.97529/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

C.A. Nos.923-924/2021 (XVII)

(With appln.(s) for IA No.39574/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.83653/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No.93118/2021 - STAY APPLICATION and IA No.39575/2021 - STAY APPLICATION)

C.A. Nos.434-435/2022 (XVII)

(With appln.(s) for IA No.10522/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.10523/2022-STAY APPLICATION)

Date : 01-02-2022 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE VIKRAM NATH

For Appellant(s)	Mr. Dhruv Mehta, Sr. Adv. Mr. Ashish Wad, Adv. Mrs. Tamali Wad, Adv. Mr. Harshad Pimple, Adv. Mr. Sidharth Mahajan, Adv. Ms. Sukriti Jaggi, Adv. Mr. Keith Verghese, Adv. M/s. J S Wad & Co.
D.11356/2020	Mr. Gurmeet Singh Makker, AOR
For Respondent(s) For R-2 in CA 5036/2019	Ms. Aishwarya Bhati, ASG Mr. Gurmeet Singh Makker, AOR Ms. Archana Pathak Dave, Adv. Mr. D.L. Chidananda, Adv. Mr. Sarad Kumar Singhania, Adv. Ms. Suhasini Sen, Adv. Mr. Sharath Narayan Nambiar, Adv. Mr. Divyansh H. Rathi, Adv. Ms. Preeti Rani, Adv. Mr. Shantanu Sharma, Adv. Mr. Amrish Kumar, Adv.
For R-5 in CA 5036/2019	Ms. Aishwarya Bhati, ASG Mr. S.K. Singhania, Adv. Ms. Preeti Rani, Adv. Ms. Suhashini Sen, Adv. Mr. Sharath Nambiar, Adv. Mr. B.K. Satija, Adv. Mr. Arvind Kumar Sharma, AOR
For R-5 CA 923-924/2021	Ms. Aishwarya Bhati, ASG Mr. Jitin Singhal, Adv. Mr. Sharath Narayan Nambiar, Adv. Ms. Suhasini Sen, Adv. Ms. Preeti Rani, Adv. Mr. Sarad Kumar Singhania, Adv. Mr. Raj Bahadur Yadav, AOR

Ms. Ekta Sikri, Adv.
Ms. Ranjeeta Rohatgi, AOR
Mr. Vikalp Mudgal, Adv.

Mr. Vikalp Mudgal, AOR

For R-1 & 2
CA 923-924/2021 &
CA 434-435/2022

Ms. Anitha Shenoy, Sr. Adv.
Mr. Zaman Ali, Adv.
Ms. Srishti Agnihotri, AOR
Ms. Sanjana Grace Thomas, Adv.
Ms. Aarti Krupa Kumar, Adv.

Mr. Rahul Chitnis, Adv.
Mr. Sachin Patil, AOR
Mr. Aaditya A. Pande, Adv.
Mr. Geo Joseph, Adv.
Ms. Shwetal Shepal, Adv.

For MPCB

Mr. Mukesh Kumar, Adv.
Mr. Shashank Singh, AOR

For R-7

Mr. Tahir Ashraf Siddiqui, AOR

**UPON hearing the counsel the Court made the following
O R D E R**

Civil Appeal No 5036 of 2019

1 The proceedings before the National Green Tribunal¹ arose out of a challenge to a Notification dated 13 October 2017, which was issued by the Ministry of Environment, Forest and Climate Change² for providing for standards for effluent discharge. The notification was assailed on the ground that it diluted the standards prescribed by an earlier notification dated 24 November 2015.

2 The NGT constituted an Expert Committee on 21 December 2018 and stayed

¹ "NGT"

² "MoEF & CC"

the Notification dated 13 October 2017 which had diluted the standards for effluent discharge. The Expert Committee submitted its report on 29 March 2019. Among other things the Expert Committee provided a window of seven years for compliance. Following upon the report, the NGT deliberated upon the matter and on 30 April 2019 accepted the report of the Expert Committee with certain modifications. The modifications were that (i) the standards recommended for mega and metropolitan cities would also apply to the rest of the country; and (ii) the standards would apply not only for new Sewage Treatment Plants³, but for STPs which existed or were under construction. The timeline of seven years which was suggested by the Expert Committee was disapproved. The case travelled to this Court against the order of the NGT dated 30 April 2019.

- 3 While issuing notice on 17 May 2019, the Municipal Corporation of Greater Mumbai⁴ was directed to follow the parameters which have been laid down by the Expert Committee in its report, in processing the tender and the directions of the MoEF & CC in this regard. The MCGM has a limited grievance in the appeal, namely, in regard to the disapproval of the seven years' time frame which was fixed by the Expert Committee for implementation of the norms. MCGM has stated that it is carrying out the Mumbai Sewage Disposal Project Stage-II including the upgradation of seven STPs at Worli, Bandra, Dharavi, Versova, Bhandup, Malad and Ghatkopar Waste Water Treatment Facilities.
- 4 At this stage, the issue is whether the interim direction of this Court has been complied with by MCGM.
- 5 Mr Dhruv Mehta, senior counsel has filed a written note of submissions indicating the steps which have been taken by MCGM.

³ "STP"

⁴ "MCGM"

- 6 The written note indicates that after the interim order of this Court dated 17 May 2019, it took almost four months for MCGM to issue tenders on 6 September 2019. The tenders were cancelled in January 2020. Fresh tenders except for Dharavi STP were issued on 30 April 2020. Subsequently, in the first week of August 2020, all the six STP tenders were cancelled. On 31 August 2020, tenders for seven STPs including Dharavi were re-invited. The capacity of the Dharavi STP was increased. The present status of the tenders is stated to be that the bids for the technical and financial packets were opened and are again being scrutinized by a Peer Review Committee. The written note indicates that due to the delay in setting up the STPs, the cost has increased from Rs 10,000 crores to Rs 18,500 crores.
- 7 There seems to be a pattern which emerges from the material which has been placed before this Court of tenders being issued, cancelled and reissued, resulting in an unfortunate delay. This has happened both during the pendency of proceedings before the NGT on several occasions and has happened during the pendency of the appeals before this Court over the last two and a half years. The manner in which the MCGM has proceeded *prima facie*, indicates a disregard of the directions which were issued by this Court on 17 May 2019. The process of issuing, cancelling and reissuing tenders results in an enhancement of the project cost which is evident from what is stated before the Court. Equally, the delay has resulted in a situation where until date, no decision has been taken on the tenders which have been floated and there is absolutely no material before this Court to indicate that the work would be completed with the seriousness which it deserves. Surely, the MCGM cannot leave the well-being and welfare of the residents of the city of Mumbai to the peril of its inaction and lethargy. In the proposed timelines which have been indicated before this Court in the written note, it is anticipated that the work for the completion of the STPs would be completed between 31 March 2025 and 31 May 2027. The timelines which have been indicated takes the completion date well beyond even the seven years which was envisaged in the report of the Expert Committee. MCGM has

shown no commitment towards completing the project at an early date and seems to be oblivious to the hazards posed by untreated or inadequately treated waste. MCGM is entrusted with public revenues and we direct that the situation should be remedied at the earliest.

- 8 Before we pass any further orders, we direct the Municipal Commissioner of the MCGM to convene a meeting immediately of all concerned authorities and to review (i) the status of the tenders; (ii) the steps which are being taken in pursuance of the Peer Review Committee; (iii) assess the timelines for a decision on the tenders and the award of contracts; (iv) specify enforceable time frames for the completion of work; and (v) assign specific responsibilities for the completion of the work. Unless a comprehensive affidavit is filed before this Court along the above lines after taking concrete decisions, the Court would be constrained to take recourse to its coercive processes or leave the MCGM to face the consequences of its inaction before the NGT.
- 9 The affidavit be filed within a period of two weeks from today indicating the decisions which have been taken, the timelines within which the work would be awarded and specifying the time schedule within which the completion shall be achieved.
- 10 List the appeal on 15 February 2022.
- 11 On the next date of listing, we direct the Municipal Commissioner of the MCGM to be present personally before this Court on the video conferencing platform, to answer the queries of the Court and be answerable to the directions that may be issued on that date.

Civil Appeal Nos 923-924/2021, Civil Appeal Nos 434-435/2022 and Civil Appeal Diary No 11356/2020

- 1 List the Civil Appeals on 15 February 2022.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
COURT MASTER