



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3752 OF 2021
WITH
CONTEMPT PETITION NO. 178 OF 2021

Abhijeet Mohan Anturkar .. Petitioner

Versus

Tree Authority Department
Pune Municipal Corporation & Ors. .. Respondents

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Mr. Abhay Anturkar a/w Mr. Harshvardhan Suryavanshi i/b
Mr. Ajinkya Udane, for the Petitioner.

Mr. Vishwanath Patil, for Respondent Nos. 1 to 4- PMC.

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**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 02nd FEBRUARY, 2026**

Oral Judgment : [Per Bharati Dangre, J.]:-

1. “Trees are a poem which the earth writes upon the sky”.

Undisputedly, saplings planted taking shape of trees give solace to the souls of the human beings who dwell on this earth and with this clear intent in mind, the Petitioner has approached this Court raising a challenge to the permission granted by the Respondent No. 2- Tree Officer of the Tree Authority Department of the Pune Municipal Corporation (“PMC”) allowing felling of four coconut trees.

The Petition alleges that the permission granted is clearly in breach of Section 8 of the Maharashtra (Urban

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Areas) Protection and Preservation of Tress Act, 1975, and we are confronted with a situation that the tress are already felled, pursuant to the order being passed, a prayer is made that an appropriate action as contemplated under Section 21, which extend to initiation of criminal proceedings on felling of a tree in contravention of the provisions of the Act, and the act amount to an offence.

2. Heard learned counsel for the Petitioner and the learned counsel representing Respondent Nos. 1 to 4.

The permission being granted in favour of Respondent No. 5 though being served, has failed to mark appearance.

On hearing the respective counsel, we deem it appropriate to issue Rule, which is made returnable forthwith.

3. The sequence of events before us reveal that the Respondent No. 5 preferred an application to the Tree Officer for cutting of five coconut trees standing in her premises in Survey No. 59/27, Plot No.73/3/3, Bhakti Marg, Law College Road, Erandwane, Pune.

Between the time when the application was made and the final permission was granted for cutting of four trees out of the five, the procedure contemplated under the Act and in specific Section 8 has been followed.

The sequence of events would reveal that upon this application being made, the notice inviting objections was published on 02.07.2020 and on 21.07.2020, the notice was pasted on subject trees, which were to be felled and copies of the said notices are placed before us along with the affidavit filed by the Respondent.

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On 06.08.2020 the resolution was passed allowing felling of the trees, but since it was COVID period, some of the members of the Committee put their signatures on 18.08.2020, and on 21.08.2020, the permission to cut the trees was finally communicated to the Respondent No. 5 by the Assistant Commissioner of Municipal Corporation cum Tree Officer, Regional Office, Pune Municipal Corporation.

The Petitioner, who is a resident residing in the neighbourhood of Respondent No. 5, has raised a serious objection about the manner in which the permission is granted, and it is the specific case of the Petitioner that the procedure that is required to be adhered to was not strictly followed, but the Respondents adopted a perfunctory approach, with pre-set mind of granting the permission, and that is how, upon the permission being granted, four coconut trees have been felled.

4. We have given our anxious consideration to the pleadings in the Petition and we have also taken note of the decision of the Division Bench, in case of ***Rohit Manohar Joshi Vs. Tree Authority, Thane & Ors.***¹, when the bench considered the object underlying the Tree Act, 1975 and expressed a word of caution about the consequences to follow if the provisions provided in the statute are not strictly adhered to. The said decision, highlighting the aim and object of the Trees Act being preservation of Trees in urban areas in the State, noted that the enactment regulate felling of trees and provide for planting of adequate number of trees in those areas, with an intention to prevent the disturbance of ecological balance due to

¹ 2019(1) Mh.L.J. (135)

indiscriminate felling of trees in the urban areas of the State.

Highlighting the object of the statute being to protect the existing trees and to encourage planting of more and more trees in urban areas, it is held that it is necessary to restrict the number of felling of trees, unless and until it is absolutely necessary and warranted.

5. Dealing with the procedure that has been contemplated and the Authorities of the Municipal Corporation in whom the power is vested, the Court highlighted the importance of the “Tree Authority”, with specific reference to Section 4, which warranted that the Tree Authority was to meet at least once every month to discharge its functions as contemplated under Section 8, which impose an embargo on any person to fell any tree or cause any tree to be felled in any land, whether of his ownership or on the ground situated within such urban area, except with the previous permission of the Tree Officer. The judgment has noted that the procedure preceding this permission contemplated an adequate public notice to be given by Tree Officer by advertising in local newspaper as well as by affixing a notice on the conspicuous part of the tree that is required to be felled.

6. It is these guidelines, which are alleged to be flouted as it is pointed out to us that the notice which was published in the newspaper, in fact, lacks any particulars to have the objections being raised, and Mr. Anturkar, the learned counsel for the Petitioner would invite our attention to the notice published in daily newspaper ‘Lokmat’ dated 02.07.2020, which is annexed at Exhibit-B of the affidavit-in-reply.

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The objection raised is that the notice do not offer any details of the proposed tree cutting and the details of the trees, with its particulars are not set out in the notice at all.

We have perused the said notice to find that, with reference to various zones, when specifically mentioned, there is a reference of the permission granted by the Assistant Commissioner-cum-Tree Officer, Pune, and it indicated that the details of these trees and the permissions could be obtained from the official website of the Pune Municipal Corporation www.punecorporation.org, with the subject matter of “PMC Departments Tree Authority Tree Cutting Replantation Docket - July 2020”.

We find substance in the submission of Mr. Anturkar, as we find that no details are offered therein, and as the statute contemplate objections to be raised, the person who want to raise an objection necessarily must be aware of the location of the trees, the reason why the trees are sought to be felled and at whose instance. We do not expect every person to visit the website of the Pune Municipal Corporation to find out, as there may be number of trees which may be involved, but an objection may be concerned with only one or few of them, may be in the area of his residence, or may be because of he feel that these trees shall not be allowed to be cut.

7. We find that paragraph 64 of the decision in ***Rohit Manohar Joshi*** (*supra*) has categorically stipulated that when the decision taken by the Municipal Commissioner shall be published on the website of the Municipal Corporation, the entire text of the order will have to be published. It is also directed that a public notice of the said decision giving

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description of the property shall be published in local newspaper having a wide circulation within the limits of Municipal Corporation, and the considering that the cities of Mumbai and Thane are metropolitan cities, the notice shall be published in Marathi, Hindi and English newspapers having wide circulation in the particular Municipal Corporation limits, and the notice published must mention that the copies of the decision have been uploaded on a particular website.

8. In light of the aforesaid observation, we find that the notice issued by the Municipal Corporation in the present case, is a perfunctory exercise, as if the object was to invite objection from the persons in the locality or those who are concerned with environment, who are likely to object to the permission, which is likely to be granted, an adequate notice is given, as regards the particulars of the trees, so that a pinpointed objection could be raised.

We note that the notice which was pasted on the trees on 29.07.2020, however, gave the details of the trees and also contain a reference to the application along with the location of the trees to be cut.

We see no difficulty in such details being included in the newspaper, when a notice is published, so that adequate opportunity can be availed by those who are interested in raising objection, out of environmental concern or for any other reason which a person deems appropriate, as in any case, the objection raised are going to be deliberated before the Tree Authority before grant of permission to fell the trees.

We therefore find substance in the submission advanced

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that the procedure that was followed, was not an appropriate procedure, apart from the fact that it was in violation of the object with which the notice is directed to be published by the statute, and it also violates the direction in case of ***Rohit Manohar Joshi*** (*supra*), a binding decision of this Court.

9. The learned counsel for the Petitioner do not press the other point that the trees were felled before the timeline prescribed and, therefore, we do not touch the said issue.

As on today, we have noted that the permission being granted on 21.08.2020 for four trees, they are already felled and, therefore, practically, no relief can be granted in favour of the Petitioner.

However, we must note that Section 21 of the Act is a provision in form of offence and penalty and it contemplate that whoever fell any tree or causes any tree to be felled in contravention of the provisions of the Act or without reasonable excuse fails to comply with any order issued or condition imposed by the Tree Officer or the Tree Authority or voluntarily obstructs any member of the Tree Authority, in discharge of the function, such act on conviction shall be punished with fine of an amount of valuation of the tree, and also with imprisonment for a term of not less than one week, which may be extended upto one year.

10. Keeping in mind the object underlying the statute, the powers have been conferred on the Tree Authority to give necessary directions from time to time, and the officers and servants subordinate shall act in compliance with such directions, and in exercise of the duty by the Tree Officer, the

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police department is also expected to extend all the co-operation.

The purpose of the Act is to prohibit felling of trees and to save the environment, or even if the trees are felled, it should be compensated by substituting new trees, and hence the contravention of the provisions of the Act must be looked into with all seriousness, and upon a complaint being made in that regard, the offence is liable to be registered even against an officer who has failed to follow the procedure.

Focusing upon the purpose and object of the statute, we hope and trust that the Municipal Corporation shall act with vigilance and strictly follow the procedure contemplated in the Act along with the directives issued by this Court in case of ***Rohit Manohar Joshi*** (*supra*) and treat them as binding.

11. As regards the contention of Mr. Anturkar that when the Tree Officer, conduct an inquiry, he must record some reasons in support of the conclusion drawn and when he grant the permission for felling of the tree, and we concur with the said submission, but we must record that all these reasons need not necessarily be published in the notice, but they should be made available, if at all a question is raised about the procedure not being followed or the permission granted being not justiciable.

We, therefore, must only record that as Sub-Section (3) of Section 8 contemplate giving of a public notice by advertising it in atleast one local newspaper and also affixing such notice on the conspicuous part of the tree which is to be felled, coupled with the inspection of the tree, we are of the view that whenever such inquiry is held, the reasons shall be

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recorded and maintained in the file by the Tree Authority, as the consideration of an application for felling of the tree, must be justified and only when it is felt necessary to grant the permission and that too on consideration of the objections that are raised. Since there is no appeal against such an order which is amenable to writ jurisdiction, we expect the reasons and the inputs to be recorded in writing and so that it can be available for examining its justiciability.

12. With the above directions, we dispose off the Writ Petition.

We direct Registrar (Judicial-II) to communicate this order to the Principal Secretary, Urban Development Department, so that it can be circulated to the heads of the Municipal Corporations as well as the Municipal Councils under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act.

The Contempt Petition listed along with the Writ Petition being not pressed, is disposed of.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)

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