

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

**M.A.No.126/2014 (WZ) in  
APPLICATION NO.60 (THC)/2014(WZ)  
Village Panchayat of Top Vs The State of Maharashtra**

**CORAM: HON'BLE MR JUSTICE V.R. KINGAONKAR, JUDICIAL MEMBER  
HON'BLE DR. AJAY A. DESHPANDE, EXPERT MEMBER**

**Present Applicant/ Appellant : O.D. Bhorkar Adv  
Respondent Nos. 5,6 : Dhairyashil V.Sutar Adv  
Respondent Nos. 7,8 : D.M.Gupte Adv**

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item Nos. 6,11 October 9, 2014 Order No.6</b>	<p>Heard learned Counsel for the parties.</p> <p>The affidavit of Mr. Suryakant Doke, is filed on behalf of the MPCB.</p> <p>The affidavit of MPCB, does not show as to whether MSW plant and efficacy thereof is examined as an issue before granting of approval to the proposed site at village Top. Secondly, it appears from the report of the Court Commissioner that there was accumulation of water in the query during course of visit paid, in the month of March, 2014. It was brought to our notice that the report of Geologist, indicates absence of any natural spring at the place. It is contended that in the absence of natural spring, there will be no environmental damage caused, if the landfill site at village Top will be approved and will be permitted to be used.</p> <p>In our opinion, <i>prima facie</i>, it is necessary to verify whether the natural water resources are available at the bottom of the query, though it is not in use, inasmuch as if such water resources are available, it is probable that problem of leachate flowing from landfill site or excess leachate flow may give rise to damage to environment at the place. We cannot overlook the 'Precautionary Principle' underlying in Section 20 of the NGT Act, 2010.</p> <p>MPCB shall file detail affidavit, including the quantum of MSW generated ordinarily from Kolhapur city at the present, performance of present MSW sites, expected generation in coming ten (10) years, capacity of the MSW plant, which will be installed to deal with MSW, which will be generated, capacity addition from time to time, in accordance with load which will be added, after some period of years, in order to cope with the difficulty faced by the citizens, and other relevant factors so as to clarify the position, including the fact whether the MSW site was cleared as per the Rules in the Meeting and if so, then a copy of minutes of the Meeting, be also kept on record.</p>

**Item Nos. 6,11  
October 9, 2014  
Order No.6**

The Applicant simply alleges that there are certain houses surrounding the alleged site. The Applicant, however, failed to describe the location of the houses, house numbers, since when the houses are in existence. All such details are necessary, inasmuch as at a times, it may happen that the site may be without surrounding of any such houses, but location may go near the place due to passage of time and then perhaps the locality start complaining about the problems of environment. For Example, there may not be any locality when the Airport is constructed at a place, but after construction of Airport when locality goes near the Airport the people may have grievance that there is harsh and loud noise or excessive decibels created due to alighting or take off of the Aircrafts, which create air pollution. Therefore, such variables also are required to be explained and taken into account. The Applicant is, therefore, directed to place on record all the relevant material in order to verify the original record about existence of houses, since when the houses were constructed, the registration numbers thereof, copies of the voters list, so on and so forth.

The parties shall file their affidavits and relevant documents within three (3) weeks and may exchange the same amongst themselves. Thereafter immediately the Application will be heard finally without any kind of further adjournment and without any kind of murmur for accommodation of any reason.

**Stand over to 14<sup>th</sup> November, 2014.**

....., **JM**  
**(Justice V. R. Kingaonkar)**

....., **EM**  
**(Dr.Ajay A. Deshpande)**