

**BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH,  
BHOPAL**

**M.A.No. 364/2015, 365/2015, 367/2015, 363/2015/2015, 282/2015 to 286/2015,  
291/2015 & 333/2015**

and

**Original Application No. 21/2013 (CZ)**

**Dr. Alankrita Mehra Vs. Union of India & Nine Ors.**

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER  
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

**PRESENT : Applicant : Shri Vivek Choudhary Adv. for  
Shri Vijay Choudhary, Adv.  
Respondent No. 3,4 &7to 10: Shri Sachin K. Verma, Adv.  
Respondent No. 6: Shri Sachin K.Verma, Adv. for  
Shri Purushaindra Kaurav, Adv.  
Respondent/MoEF&CC : Shri Om Shankar Shrivastav, Adv.  
Interveners: Shri Dharamvir Sharma, Adv.  
Shri V.H.Vaswani, Adv.**

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 36 16<sup>th</sup> July, 2015</b>	<p style="text-align: center;"><b><u>M.A.No. 364/2015 and 365/2015</u></b></p> <p>M.A.No. 364/2015 has been filed by Gulshan &amp; Swagat Gardens and M.A.No. 365/2015 has been filed by Lion City Garden located in Halapura, Indore-Bhopal road for recalling and reviewing the order dated 18.05.2015. Learned Counsel appearing for the intervener submitted that the premises have been sealed despite the fact that against the rejection application seeking permission for running the marriage garden by the Bhopal Municipal Corporation (BMC), he had preferred an Appeal which is pending before the Appellate Committee, the premises has been sealed. He submits that so long as his Appeal is not rejected, the premises should not be sealed and the locks put thereon be opened.</p> <p>We have considered the aforesaid application and admittedly the Applicant does not have permission from the BMC or the MPPCB and as such the question of running any</p>

business of marriage garden in his premises in question does not arise. We make it clear that the question of opening of seals and locks will depend upon the outcome of the Appeal.

Accordingly, M.A.No. 364/2015 and 365/2015 stands disposed of.

**M.A.No. 367/2015**

This application has been filed by the State on behalf of the Traffic Police wherein the steps taken by the Police Department and the Traffic Police of Bhopal in terms of our order of 18.05.2015 have been highlighted. The same have been noted and taken on record.

Accordingly, M.A.No. 367/2015 stands disposed of.

**M.A.No. 363/2015**

This M.A. has been filed by the Applicant raising two issues :

- (i) The construction of concrete based retaining wall near the Upper Lake in the Khanugaon area of Bhopal;
- (ii) Construction of new community hall by BMC near the FTL of the Upper Lake in Khanugaon area of Bhopal.

Copy of the said M.A. has been furnished to the Learned Counsel for the BMC. He is directed to submit the reply.

In the meanwhile, we direct that further construction beyond the 2600 meter wall shall not be undertaken. Also the steps planned in respect of the Eco Tourism in the area including cycling track, etc. shall not be carried out till further orders.

M.A.No. 363/2015 stands disposed of.

Shri Sachin K.Verma, Learned Counsel for the State has filed compliance report on behalf of the Collector, Bhopal which is ordered to be taken on record. As per the aforesaid report 38 marriage gardens were inspected by the officials of the District Administration. Out of them, 19 marriage gardens had temporary permission up to 15.06.2015. After their permissions have expired, no further permissions have been granted. Apart from these 19 to whom temporary permissions were granted, 11 marriage gardens out the remaining 38 had been closed in terms of the directions of this Tribunal. Remaining 08 marriage gardens were further closed and sealed and as such all these 38 marriage gardens, list of which has been filed before us, are not permitted to carry out the activity of the marriage garden as none of them have valid permissions.

It is further made clear that if any application is received by the BMC, intimation of the same shall immediately be furnished to the District Administration and if any permission has been granted to any marriage garden, apart from the 38 referred to above, intimation shall be given to the District Administration through the ADM (City) who is present.

All permissions have been granted as it is submitted on behalf of BMC that out of, 95 marriage gardens, as per the list submitted by them, to some of the marriage gardens permission has been granted. District Administration shall look into the aforesaid and if any marriage garden, apart from the 38 marriage gardens mentioned above, is running, they shall be inspected with regard to the permission and observance of conditions by them and action required to be taken in accordance with the

directions contained in our earlier order.

Shri Vivek Choudhary, Learned Counsel brought to our notice that while deciding the *Original Application No. 18/2013 (CZ)* in the matter of *Neel Choudhary Vs. State of M.P. & Ors* in respect of running of the marriage garden, this Tribunal had taken into account direction of the Hon'ble High Court of Madhya Pradesh in the matter of *Dheerendra Jain & Ors. vs State of M.P. & Ors.* and given directions in that behalf. He points out that in the State of Madhya Pradesh, there is in force Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 and in exercise of the powers conferred under Section 85 and 23 of the said Act, the State Government has been pleased to frame and promulgate the Madhya Pradesh Bhumi Vikas Rules, 2012.

Learned Counsel pointed out that in accordance with the Rules of 2012, under Rule 53(3)(iii), specifications in respect of marriage garden have been provided which reads as follows:

S. No.	Components	Planning area having population 2.0 to 5.0 lacs	Planning area having population above 5.0 lacs
(1)	(2)	(3)	(4)
1.	Minimum Plot/Land area	4000 square meters	10000 square meters
2.	Minimum Road width in front	12 meters	18 meters
3.	Minimum frontage	25 meters	40 meters
4.	Maximum FAR	0.10	0.10
5.	Maximum Ground Coverage	10 percent	10 percent
6.	Minimum Parking Area in the front	30 per cent of plot / land area	40 per cent of plot / land area
7.	M.O.S.: Front	6.0 meters after parking space	6.0 meters after parking space
	Sides and Rear	4.5 meters	6.0 meters
8.	Permissibility in land use	Residential / Commercial / Agriculture / PSP	Residential / Commercial / Agriculture

Learned Counsel submitted that while this Tribunal, deciding the case in *Neel Choudhary* had taken note of the judgement in *Dheerendra Jain & Ors. vs State of M.P. & Ors.* of the Hon'ble High Court of MP and had further given directions in respect of the observance of the norms under the Air (Prevention & Control of Pollution) Act, 1981 as also anti-pollution measures, the necessity before the authorities is to ensure the compliance of the norms as provided under Rule 53(3)(iii) without which no the marriage garden can be permitted to be granted any permission.

As far as the above contention of the Learned Counsel for the Applicant is concerned, there can be no two views that the observance of the bye-laws of the Ujjain Municipal Board, as directed by the Hon'ble High Court of MP in *Dheerendra Jain's* case is necessary. However, the Statutory Rules of 2012 and particularly the specifications as mentioned in the table under the table 53(3)(iii) would have an overriding effect as they are Statutory Rules which govern a particular activity. The Bye-Laws framed by the Municipal Board being subordinate legislation, though approval is granted by the State Government, in the event of any contradiction, the MP Bhumi Vikas Rules, 2012 would have an overriding effect. The applications which are pending or have been filed thereafter need to be examined additionally in the light of the provisions contained in the MP Bhumi Vikas Rules, 2012.

**M.A.No. 282/2015 to 286/2015**

These are M.As. filed by the interveners contending that their applications for grant of permissions are pending with the Municipal authorities. It is submitted by the Learned Counsel appearing for the BMC that as of now, no applications is pending and all applications have been decided in accordance with law and communication with regard to the decision has been made to the concerned persons.

In view of the above submission, M.A.No. 282/2015 to 286/2015 stands disposed of.

**M.A.No. 291/2015** stands disposed of in view of the order dated 18.05.2015.

List the matter on **12<sup>th</sup> August, 2015.**

.....,JM  
(DALIP SINGH)

.....,EM  
(BIKRAM SINGH SAJWAN)