

R.M. AMBERKAR  
(Private Secretary)

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DHURI

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 2016 OF 2021  
WITH  
INTERIM APPLICATION (ST) NO. 4145 OF 2022  
WITH  
INTERIM APPLICATION NO. 757 OF 2022**

Mariyayi Machhimaar Sahkari Sansthya Maryadit .. Petitioner

**Versus**

Department of Fisheries & Ors. .. Respondents

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- Mr. Zaman Ali for the Petitioner
- Mr. P.P. Kakade, Government Pleader a/w Mr. A.I. Patel, Addl. G.P. for the State
- Ms. Jaya Bagwe i/by Ms. Sharmila Deshmkh for Respondent No. 5
- Ms. Meenaz Kakalia for the Applicant in IA(ST) 4145/22
- Mr. Sanjay Singhvi, Senior Advocate a/w G.R. Thombare for the Applicant in IA 757/22
- Mr. Saket Mone a/w Mr. Subit Chakrabarti and Mr. Devansh Shah i/by Vidhi Partners for Respondent No. 8 - MSRDC
- Mr. Sharan Jagtiani, Senior Advocate - Amicus Curiae a/w Rohil Bandekar and Siddharth Joshi

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**CORAM : S.J. KATHAWALLA &  
MILIND N. JADHAV, JJ.**

**DATE : FEBRUARY 16, 2022**

**P.C.:**

1. Perused the order passed by this Court dated 12<sup>th</sup> August, 2021, wherein one of the suggestions made is to pay compensation to the fishermen who have been deprived of their livelihood in view of the construction of Thane Creek Bridge III Project (TCB-III). Though six months have passed and the fishermen are unable to carry out any fishing activities, they have not

been provided with any compensation. Even today, we are informed that it will take at least a year to finally decide the issue of compensation by the concerned authority. The fishermen and their family members therefore cannot be expected to starve until the concerned authority decides the quantum of compensation payable to the fishermen. We therefore direct the Central Marine Fisheries Research Institute (CMFRI) to submit to this Court an interim report by 23<sup>rd</sup> February, 2021 and to inform the Court the quantum of interim compensation required to be paid to the fishermen at the earliest i.e. not later than two weeks from today. Although the determination of interim compensation may be an ad-hoc exercise, the extent possible, the CMFRI may have due regard to this Courts Order 12<sup>th</sup> August, 2021 and the principles and guidelines in determining the interim compensation.

2. Learned Advocate appearing for Respondent No. 8 - MSRDC states, on instructions, that upon the CMFRI recommending the quantum of interim compensation, they shall disburse the same to the eligible fishermen. The statement is accepted.

3. As regards the draft policy for compensation for fishermen, Shri Sharan Jagtiani, Amicus Curiae briefly submitted that the recommendation in that policy for determining compensation in the future based on the policy laid down in the NGT Order dated 27<sup>th</sup> February, 2015 (“**the NGT Order**”) is not in keeping with our Order dated 12<sup>th</sup> August, 2021. He submitted that the NGT Order does not contain any guidelines or principles and the conclusion in that Order is an ad hoc amount awarded to the affected

fisherman. That Order cannot serve as a guideline for any policy. Instead, this Courts Order dated 12<sup>th</sup> August, 2021, contains exhaustive suggestions and principles that ought to be considered in formulating any policy both from perspective of establishing customary rights being affect and the methodology for compensation. The suggestions and principles recommended in the Order of 12<sup>th</sup> August, 2021, also take into account the policy framed in respect of the Mumbai Trans-Harbour Link, which is far more scientific that the ad-hoc approach of compensation in the NGT Order.

4. After perusing the draft policy, we find that there is merit in the submission of the Amicus. Prima facie, the NGT Order does not contain any principles or guidelines that can alone form the basis of a policy framework for the future. It would be desirable if the State Cabinet, to whom the draft policy is sent for consideration, take into account this Courts detailed Order 12<sup>th</sup> August, 2021, in all respects, when finalising any policy for compensation for affected fishermen. Additionally, the suggestions qua the draft policy received from the Petitioner and the intervenors shall be forwarded within a period of one week from today to the Fisheries Department. The same shall thereafter be forwarded to the State Cabinet for their consideration as part of the process of framing a policy for compensation for affected fishermen.

4. The responsible officer from the CMFRI shall appear before this Court on 23<sup>rd</sup> February, 2022.

5. A letter dated 06.01.2022 is addressed by the Chairman, Mariyayi Machhimaar Sahakari Sanstha Maryadit to the Commissioner of

Fisheries, Maharashtra and also to the Vice-Chairman and Managing Director, MSRDC seeking information on disposal of daily and total quantity of mud slurry generated from pile boring during construction of TCB-III project till date. Paragraph Nos. 1 and 2 of the said letter are reproduced hereunder for ready reference:-

"1. The undersigned represents the fishing villages located in Navi Mumbai along the Thane Creek Bridge and is the Petitioner in Writ Petition No. 2016 of 2021 before the Hon'ble Bombay High Court. That in the meeting held between representatives of the undersigned and your office on 12.10.2021, a small task force comprising of M.S.R.D.C. members along with members from Mariyayi Macchimar Sahakari Sansthan Ltd. was formed to share relevant information regarding installation of CCTV cameras for the purpose of observing that mud slurry generated at the construction site of TCB-III will be dumped at the appropriate dumping site in Ulwe, Navi Mumbai. A copy of the minutes of the meeting is attached herewith for your immediate perusal. To this day, local fishermen have observed that the barge that is required to carry such mud slurry to Uran has remained stationary in Thane Creek and the drilling mud slurry alongwith 'dirty water' appears to have been dumped within the Creek at the construction side on a regular basis and thereby, severely affecting the creek ecosystem. Further, no CCTV camera footage has been provided to the undersigned till date inspite of having requested so as a taskforce member. That your office is aware and has agreed to follow the mandate of law, which is to properly carry out slurry disposal at the designated dumping site at Uran.

2. In view of the agreed procedure in the meeting dated 12.10.2021 and as a member of the task force, the undersigned seeks the following information from your office:

- (a) How much quantity of mud slurry is being generated daily at the TCB-III construction site?
- (b) How much quantity of mud slurry is being transported and carried

daily from the TCB-III construction site and disposed at Uran?

- (c) How many daily trips is taken by the transportation barges to dispose the mud slurry at Uran?
- (d) How many trips have the transportation barge taken to Uran till date from the commencement of construction of TCB-III?
- (e) Are all CCTV cameras installed to check disposal of mud slurry functioning at the TCB-III construction site?
- (f) Are all CCTV cameras installed to check disposal of mud slurry recording the transportation of mud slurry at the TCB-III construction site."

6. We are informed that the Commissioner of Fisheries, Maharashtra and Vice-Chairman and Managing Director, MSRDC have till date not responded to the said letter dated 06.01.2022. Hence, they are directed to respond to the letter dated 06.01.2022 before the adjourned date.

7. A copy of this order shall be forthwith forwarded by e-mail to CMFRI at their e-mail ID : [director@cmfri.org.in](mailto:director@cmfri.org.in) and [cpccmfri@gmail.com](mailto:cpccmfri@gmail.com) by the Registrar (Judicial) of this Court.

8. A copy of this order shall also be forthwith forwarded by the Advocate for the MSRDC to the Director - CMFRI.

9. Stand over to **23rd February, 2022.**

[ MILIND N. JADHAV, J. ]

[S.J. KATHAWALLA, J.]