

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1 OF 2011  
IN  
PUBLIC INTEREST LITIGATION NO.42 OF 2009

Dighi Port Ltd. ..Applicant.  
Vs.  
Dighi Koli Samaj Mumbai  
Rahivasi Sangh and ors. ..Respondents.

CIVIL APPLICATION NO.167 OF 2011  
IN  
PUBLIC INTEREST LITIGATION NO.42 OF 2009

The State of Maharashtra  
through Urban Development Department  
Maharashtra and anr. ..Applicants.  
Vs.  
Dighi Koli Samaj Mumbai  
Rahivasi Sangh and ors. ..Respondents.

Mr. I. M.Chagla, Sr. Advocate with Z. T. Andhyarujina i/by Little &  
Co.for the Applicant and original Respondent No.6.  
Mr. R.K. Mendarkar for the original Petitioner.  
Ms. Naveena Kumari for Respondent No.2-Union of India.  
Ms. Sharmila Deshmukh for Respondent No.5.  
Mr.J.K.Bhatia for Respondent No.6.  
Mr. Ganesh Salvi i/by Rutuja Ambekar for Respondent.  
Mr. Makarand Nargolkar for Respondent No.7.  
Mr. U.P. Warunjikar for Respondent Nos. 11 to 13.

CORAM : MOHIT S. SHAH, C.J. &  
S.C. DHARMADHIKARI, J.  
Friday, 21<sup>st</sup> January, 2011

PC :

While disposing of Public Interest Litigation No.42 of 2009 this Court had given specific directions in the following terms.

“For the reasons afore recorded, the Public Interest Litigation is disposed of with a specific direction that Respondent No.6 in particular and all the Authorities including the Central Government and the Maharashtra Control Pollution Board to ensure that the water supply scheme should be fully implemented within a period of six months from today and so should be the scheme for electricity supply as required under the conditions. In any case there shall be a prohibition upon all the Respondents from commissioning the project at the Port without fully satisfying these conditions. Rule discharged but subject to above directions”.

2 Civil Application No.1 of 2011 is filed by Dighi Port Limited for modification of the order dated 9<sup>th</sup> July, 2009 passed in PIL No.42 of 2009 to the extent that the applicant be directed to follow up with the concerned authorities for implementation of the scheme of drinking water supply to the villages and for permission to commission the port and for clarification that the direction regarding electricity supply is for the project and not for the villages.

3 Civil Application No.167 of 2011 is filed by State of Maharashtra and collector, Raigad for extension of above time limit by a period of atleast 18 months from the date on which the work order is issued for implementation of water scheme.

4           The reasons given in the application do not show that the authorities have taken the matter with the urgency which it deserved. It is however, now stated that the agreement is arrived at between the Government and Dighi Port Ltd. on 22<sup>nd</sup> July, 2010 for implementation of the water scheme at cost of Rs.826.25 lacs, out of which Government has sanctioned Rs.164.45 lacs, the Dighi Port Ltd. shall bear cost of Rs.579.09 lacs and the Maharashtra Jeevan Pradhikaran will bear cost of Rs.82.62 lacs. The Scheme is to be implemented by Maharashtra Jeevan Pradhikaran. Accordingly tender notice was issued on 7<sup>th</sup> October, 2010 and the Dighi Port Ltd. has deposited the first instalment amount of Rs.145 lacs with the Maharashtra Jeevan Pradhikaran. The estimated time for completion of the project is 18 months. The tender received is for more than 40% of the estimated tender amount and therefore, the tender has been forwarded to the Tender Committee on 9<sup>th</sup> December, 2010. It is therefore, prayed that after the work order is issued, a period of 18 months is necessary to install the water supply scheme and to make it fully operational.

5           Mr. Iqbal Chagla, learned counsel for Dighi Port Ltd. submits that Dighi Port Ltd. has always shown its readiness and willingness to make necessary contributions for installation and implementation of the water supply scheme and therefore, Dighi Port Ltd. which has already made all the necessary arrangements for commissioning the port should not be further prevented from commissioning the same .

6. The learned counsel for the writ petitioner in PIL, however, submits that the villagers of Dighi have been suffering on account of delay in installation of the water supply scheme and on account of interruption of electricity supply. It is submitted that the Court had granted respondents only six months time from 9<sup>th</sup> July, 2009. By now 18 months time has already lapsed and the villagers are asked to wait for further period of 18 months, making it 36 months from the date of the judgment. It is also submitted that Dighi Port Ltd. has been providing only five water tankers per day which can never be sufficient for the population of about 12,000. It is, therefore, vehemently submitted by the learned counsel for the petitioner that Dighi Port Ltd. should at least supply 200 water tankers per day. It is also submitted that Dighi Port Ltd. be also required to provide for generator for uninterrupted electricity supply.

7 In response to the above, Mr. Iqbal Chagla, learned counsel for the Dighi Port Ltd. states that Dighi Port Ltd. is ready to supply 200 water tankers per day, if required, but it will start supplying 100 water tankers per day immediately. .

8 Having heard the learned counsel for the parties, we grant extension as prayed for by the State and also accept the request made on behalf of the Dighi Port Limited that Dighi Port Limited may be permitted to be commission the port, subject to compliance with the following conditions:-

- a) The work order for installation of the water supply scheme shall be issued by 15<sup>th</sup> February, 2011.
- b) The installation of the water supply scheme shall be completed and it will be made fully operational within a period of 18 months from the date of issuance of the work order.
- c) Dighi Port Ltd. shall supply 100 water tankers per day to the people of Village Dighi till installation of the water supply scheme is completed.
- d) Dighi Port Ltd. will be at liberty to commission Port after issuance of the work order for installation of the water supply scheme.

CHIEF JUSTICE

S.C. DHARMADHIKARI, J.