

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTH ZONE, CHENNAI.
O.A.No.145 OF 2022 (SZ)**

IN THE MATTER

V. Paramesh, Bengaluru.

...Applicant

VS

Deputy Commissioner,
Bangalore Urban District and Ors.

... Respondents

INDEX

S.No.	DESCRIPTION	PAGE NO.
1.	Counter Affidavit filed by the Karnataka Pollution Control Board on behalf of the 3 rd Respondent	1



M.R. GOKUL KRISHNAN
Counsel for 3rd to 5th Respondent
(KSPCB)

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI

O.A. No. 145 of 2022

BETWEEN

Sri. Paramesh. V
S/o Sri. Late – Venkatesh,
near Om Shakthi Temple,
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e-mail- parameshpar56082@gmail.com
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...Applicant

-vs-

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2. The Commissioner
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Phone no: 9480685700
3. The Chairman
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e-mail: chairman@kspcb.gov.in
phone no.: 080-25589111




Senior Environmental Officer
Infrastructure & Lake Development
Karnataka State Pollution Control Board
Bengaluru

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6. The Manager
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Varthur Hobli,
Bangalore East – 560087
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phone No.: 6364445577
7. Joint Commissioner,
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E-mail: jcmpura@bbmp.gov.in
Phone no.: 9513322144

...Respondents

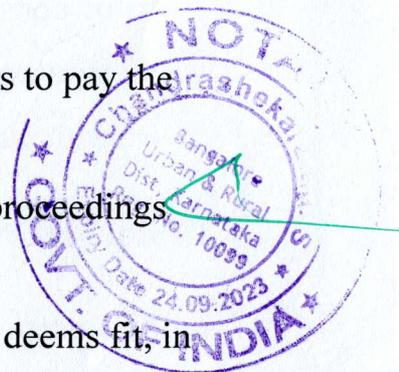


COUNTER AFFIDAVIT FILED ON BEHALF OF 3RD RESPONDENT

I, Yathish M. G. S/o Gopal M. V. Senior Environmental Officer, of Karnataka State Pollution Control Board, having office at Parisara Bhavan, No. 49, Church Street, Bengaluru – 560001 do hereby solemnly state and sincerely affirm as follows:

1. I state that I am well acquainted with the facts and circumstances of the case and I am competent to swear this Affidavit.
2. I state that the Applicant filed the above Original Application praying the Hon'ble Tribunal to:

- A. Direct the Respondent Authorities to stop and take strict actions against Respondent No. 6 on the ongoing construction activities in the Storm Water Drain/Stream/Nala buffer zone, and its buffer zone and also review issued NOC and approvals.
- B. Direct the Respondent authorities to maintain the Storm Water Drain/Stream/Nala and its buffer zone free from any encroachments.
- C. Direct the Respondent authorities to rebuild the waterbody as it was earlier by evacuating all dumped highly contaminating construction waste at the cost of Respondent No.6
- D. Hon'ble Tribunal be pleased to impose huge cost on respondents due to the damages caused to the environment.
- E. Hon'ble Tribunal be pleased to direct the Respondents to pay the legal expenses incurred by the complainant/applicant.
- F. Direct the appropriate authority to intimate criminal proceedings against all the perpetrators.
- G. Pass such other order/orders as this Hon'ble Tribunal deems fit, in the facts and circumstances of the case, including an order as to costs, in the interest of justice.

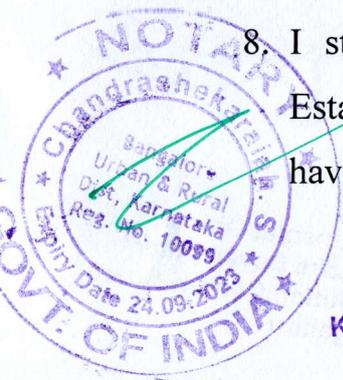



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Bengaluru

3. I state that I deny the each and every averment made in the Original Application except those are admitted hereunder.
4. I state that the residential apartment project “United Highlands” by M/s. United Infrastructures at Sy. No. 326, 327/3, Ammani Bellandur Khane Village, Varthur Hobli, Bengaluru East Taluk, Ward No. – 149, Bengaluru has obtained modified plan approval from BBMP dated 01.10.2020. As per the approved plan the said project is a Residential Apartment project having total build up area of 31,139.20 sq. m (Gross BUA of 31,577.69 sq. m) comprising of Stilt+GF+3UF+TF with 232 units.
5. I state that Sri. Gangadhar has obtained Environmental Clearance from SEIAA vide no. SEIAA 73 CON 2019 dated 10.03.2020 for construction of residential apartment having TBUA of 31,590.93 sq. m. comprising of Stilt+GF+3UF+TF with 232 units and STP of capacity 180 KLD.
6. I state that M/s. United Manufactures has obtained CFE to construct residential apartment having 232 flats with built up area of 31,590.93 sq. m with water consumption of 157 KLD, wastewater generation of 126 KLD and STP of capacity 135 KLD from Board Office vide no. CTE-319737 dated 21.08.2020 which is valid upto 20.08.2025.
7. I state that M/s United Infrastructure had applied for CFO by filing application through XGN vide inward no. 156096, dated 30.04.2022 (date of consent fee payment) seeking consent for their residential apartment. However, CFO has been issued vide no.AW-336300 dated 20.02.2023 with validity upto 30.06.2026.

INSPECTION

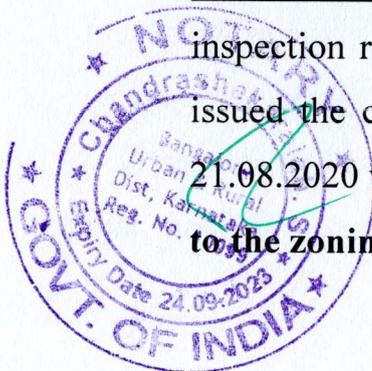
8. I state that M/s. United Infrastructure had applied for Consent for Establishment for their residential apartment project at above said address having Total build up area of 31,590.93 sq. m comprising of with 232



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Bengaluru

units. On receipt of application, the project site was inspected and observed that, they had already taken up the construction activity and during the inspection, the Site engineer was asked to produce the site plan for verification and in order to measure the distance from the lake fencing. The site engineer had produced the BBMP approved site plan dated 21.12.2019, wherein it was noted that, plan has been approved for residential apartment project having TBUA of 27,078.27 sq. m comprising of Stilt+GF+3UF+TF with 196 units wherein play area, swimming pool, STP & OWC location were proposed in 30m lake buffer area. Also, the same was depicted in their brochure. However, on enquiry, the site engineer and marketing executive orally informed that they are planning to apply for modification as per site plan submitted with Consent for Establishment application wherein 30m lake buffer is shown as no development zone. Hence, the Board issued notice vide No. 190 dated 02.07.2020. Copy enclosed as Annexure I. In response, the Applicant had submitted an undertaking on e-stamp dated 08.07.2020 stating that, they will relocate the location of STP, OWC & swimming pool from southern side lake buffer to northern side setback area. Copy enclosed as **Annexure II**.

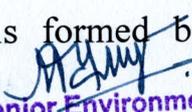
9. I further state that the Board had forwarded the Consent for Establishment application to B.O. vide no. 278 dated 27.07.2020 with a recommendation that, the issue of Consent may be considered with a **specific condition to comply with the PROJECT AUTHORITY committment dated 08.07.2020 with regard to relocation of STP from lake buffer area** along with general terms and conditions. Copy of inspection report enclosed as **Annexure III**. Later, the board office has issued the consent for establishment order vide no. CTE-319737 dated 21.08.2020 with the condition that, “ **The applicant shall strictly adhere to the zoning regulation with respect to buffer zone towards and lake,**

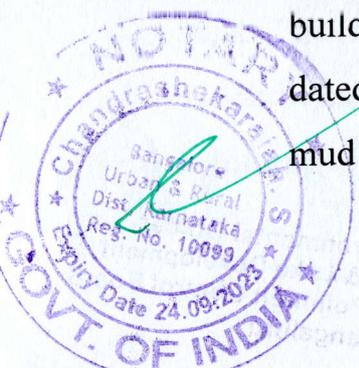


Nala, drain or any other water bodies as per the local planning authorities guidelines” and “The applicant STP shall not be permitted in the buffer zone” (at page 2 & 8 of Annexure-I respectively uploaded in XGN). Copy of Consent for establishment order enclosed as Annexure-IV.

10. I state that later, the Project Authority had applied for Consent for Operation vide inward no. 132651 bearing PCB ID; 119279 on 13.01.2022. However, the Board had queried to the Project Authority that, “earlier they had submitted on undertaking on e-stamp dated 08.07.2020 (received at this office on 14.07.2020) stating that, they will relocate the location of STP, OWC & swimming pool from southern side lake buffer to northern side setback area and had applied for Consent for Establishment with PCB ID 86842. Now, you have applied in another new PCB ID which is not acceptable. Hence, apply CFO through existing ID only along with compliance made report on relocation o the STP (in respect of Lake buffer Zone”.

11. I state that during routine inspection of the area, the said residential apartment project by name “United Highlands” was inspected on 17/03/2022 to verify the status of compliance with regard to Consent for Establishment order regarding STP location and Project Authority committment stated in the undertaking letter in respect of “**relocation of STP, OWC and swimming Pool from Southern side lake buffer to Northern side setback area**”. During inspection, it was noticed that, the Project Authority has erected/installed Sewage treatment plant, Swimming pool and changing rooms within 30m area i.e., the distance between the compound wall of the project and building line of apartment building which was in violation to the undertaking given on e-stamp dated 08.07.2020. Also, during inspection, it was noted that, presently, a mud road is formed between the project compound wall and lake


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Bengaluru



boundary for the purpose of vehicular movement for de-silting work of varthur lake. Hence, exact lake boundary could not be ascertained.

12. I state that hence, in view of the above said non-compliances, the Board had issued a notice to the Project Authority vide No. 1425 dated 24.03.2022 (copy also marked to SEIAA & ADTP-BBMP) informing them to relocate the STP location and swimming pool amenities which are located in the lake buffer zone to other location within the project premises as per their earlier commitment in the undertaking letter. Copy of the Board notice is enclosed as **Annexure – V** for kind reference.

13. I state that later, the project consultant had approached the Board and informed that they have filed new CFO application on 26.04.2022 with same PCB ID: 86842 and have re-located the STP. Hence, the Board had accepted the application bearing inward no. 156096. The hard copy of the application was received by the Board on 07.05.2022.

14. I state that hence, the apartment was once again inspected on 12.05.2022 and observed that, the Project Authority has not yet demolished any amenities provided in 30m lake buffer zone, viz., STP, swimming pool along with changing rooms and play area. However, the swimming pool was filled with sand. I further state that the Applicants had set up Pressure Sand Filter & Activated Carbon Filter, pumps and other pipelines towards North-East side within the building wherein there were three numbers of underground tanks (Civil constructed tanks) and board displayed as STP pump rooms. The filters, pumps and pipelines appeared to be temporary set up as no equipments were completely installed (not yet screwed on to the ground, but simply kept). Also, earlier pipelines made to carry the sewage to STP located in lake buffer zone still existed which was a permanent connection made.

15. I state that the modified plan has been approved by BBMP dated 01.10.2020 with STP location marked within 30m lake buffer. Later, the



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Bengaluru

Regional Office-Mahadevapura, KSPCB had forwarded CFO application filed by M/s. United Infrastructure to Board Office vide no. 204 dated 19.05.2022 along with above said observations and with a recommendation that, suitable decision on disposal of application may be taken at Board Office level by placing the subject before Enforcement Committee Meeting as the civil structures and STP equipment viz., STP room, changing rooms, swimming pool and play area are still existing in 30m lake buffer area. Copy of Inspection Report enclosed as **Annexure-VI**. In this regard, the Project Authority was called for personal hearing at Board Office on 02.09.2022 vide Board Office Notice No. 3261 dated 10.08.2022.

16. I state that meanwhile, the Board had received an e-mail complaint from Sri. Paramesh. V dated 05.09.2022 against the project for lake buffer encroachment and he had requested the Board to cancel issued Consent for Establishment, remove the construction in buffer zone and initiate legal action.

17. I state that later, the proceedings of Personal Hearing vide no. 4351 dated 27.09.2022 was issued by the Board wherein the Project Authority had been directed to demolish all the constructed infrastructure in the buffer zone and to submit the compliance report to the Board along with photographs within one month time. Copy of Personal hearing proceedings enclosed as **Annexure-VII**.

18. I further state that the Board had issued a notice to the Project Authority vide no. 866 dated 29.09.2022 informing them to comply with the personal hearing directions and submit compliance report to the Board with photographic evidence within one month time. Copy enclosed as **Annexure-VIII**. However, the project authority failed to submit the compliance report.



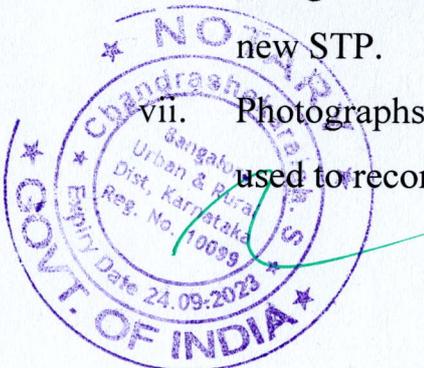

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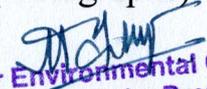
19. I state that, the Board has received the copy of application filed before Hon'ble National Green Tribunal vide no. 145/2022 (SZ) by the applicant Sri. Paramesh. V reading the same issue of lake buffer encroachment by this project on 16.01.2023 (hard copy).

20. I state that hence, in view of this, the apartment was inspected on 21.01.2023 and following observations were made:

- i. The project Authority has demolished the STP room and removed the pipelines and equipments which were in lake buffer zone.
- ii. Though the STP room is demolished, the STP tanks provided below ground level are still existing. On enquiry, the Project Authority informed that, they will use these tanks for fresh water/rainwater storage to be used for emergency viz., fire fighting purposes.
- iii. The swimming pool area has been filled with sand. On enquiry, the Project Authority informed that, this will be used as play area.
- iv. Children play area is in 30m lake buffer zone. **(As per Government of Karnataka notification dated 21.04.2020 following infrastructure are permitted within buffer area along the river and other water bodies, namely water pumping stations, walking tracks, play fields without any building constructions, cycling tracks and parks. Copy enclosed as Annexure-IX).**
- v. The Project Authority has constructed new STP at the entrance of the apartment viz., towards North side.
- vi. Sludge handling system and flow meter is yet to be installed for new STP.

vii. Photographs taken during inspection are as below (Newspaper was used to record the date of inspection while taking photographs).




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However, CFO has been issued vide no.AW-336300 dated 20.02.2023 with validity upto 30.06.2026.

It is therefore prayed that this Hon'ble Tribunal may pleased to take the above facts on record and dismiss the application with cost and pass such further or other Orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.


DEPONENT
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Infrastructure & Lake Development
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VERIFICATION

I, Yathish M. G. S/o Gopal M. V. Senior Environmental Officer, The Kamataka State Pollution Control Board having office at No.49, "Parisara" Bhavan, Church street, Bengaluru-560001, do hereby verify and state that the contents of Paragraph No. 1 to 13 are true and correct to the best of my knowledge, belief and information.


DEPONENT
Senior Environmental Officer
Infrastructure & Lake Development
Karnataka State Pollution Control Board
Bengaluru


SWORN TO BEFORE ME

CHANDRASHEKARAIYAH.
Advocate & Notary
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3rd Cross, Muthurayaswamy Extention.
Sunkadakatte, Bangalore - 560091

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