

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTH ZONE AT CHENNAI
MEMORANDUM OF APPLICATION
(Under Sections 14, 15 read with 18(1) of the National Green Tribunal Act, 2010)
Original Application No. 239 of 2021

1. **Navroz Kersasp Mody**

S/o Kersasp Mody Aged about 76
Aurodam, Auroville,
Vanur Taluk, Viluppuram - 605101

2. **Sandeep Vinod Sarah**

S/o Vinod Gopalan Panayoram, Fertile,
Thelem Road
Auroville Tamil Nadu 605101

...Applicants

Vs.

1. **The Auroville Foundation**

Rep by its Secretary.
Auroville Foundation Bhavan
Auroville, Tamil Nadu - 605101

2. **Union of India,**

Rep by its Secretary
The Ministry of Environment, Forests and Climate Change
Jorbagh, New Delhi

3. **The State of Tamilnadu**

Rep by its Director Department of Environment No.1,
Jeenis Road, Panagal Building, Ground Floor,
Saidapet, Chennai-600 015

...Respondents

COUNTER FILED ON BEHALF OF THE ANSWERING RESPONDENT NO.1

The Respondent No.1 hereby humbly submits as follows :-

1. At the outset, the answering respondent submits that the allegations contained in the present application filed by the petitioner is completely denied as false, misleading, except those that are specifically admitted hereunder. The

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Under Secretary

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petitioner is guilty of suppressing material facts, records, documents before this Hon'ble Tribunal and has approached this Hon'ble Tribunal with unclean hands. The petitioner has not provided the whole picture before this Hon'ble Tribunal and is guilty of *suppressio veri and suggestio falsi*.

Prefatory Facts:-

2. From its inauguration in February 1968, Auroville has been conceived and has been developed as an international cultural township and not as a forest. Auroville Foundation was established by an Act of Parliament (the Auroville Foundation Act, 1998, hereinafter referred to as the "Act of 1988") for the purpose of realising the ideals of Auroville including the building of the Auroville township with a population of 50,000. The Auroville Master Plan had been prepared and was approved under the authority of the Act of 1988. The Auroville Universal Township Master Plan (perspective 2025) was approved by the Government of India (Ministry of HRD) in April 2001.
3. The Auroville Master Plan provides for a green belt that is planned to be three times the size of the city area. The city area of the township also has green corridors and parks. Trees have been planted in Auroville in the green belt, in designated city green corridors and parks but also on land earmarked for roads and urban development to stop soil erosion (along with bunding) with the clear understanding that these trees will be removed when a particular area is ready for development.
4. The Crown road is a master plan ring road with a length of 4.3km. A major part of the Crown right-of-way (RoW) area has already been cleared and infrastructure (electricity, water, OFC) has been installed along it. Auroville Foundation is now clearing the last parts of the Crown RoW with a width of 16.70m. The land area of the Crown RoW is only 0.36% of the total Auroville Master Plan land area.
5. The clearing work must be completed soon so that infrastructure work can be completed and proper access can be provided to underground infrastructure services that have already been installed. Auroville Foundation is constructing

the township including the Crown road on its own land and this land is not designated as a Forest.

6. The Auroville Master Plan area is not a 'Deemed Forest' as envisaged by the Hon'ble Apex Court in the Godvaraman case since it is not a statutorily recognised forest, whether designated as reserved, protected or otherwise for the purpose of Section 2 (1) of the Forest Conservation Act and is also not a forest in the government record. It is submitted that as per the revenue records of the Government of Tamil Nadu, the lands situated at Auroville are not classified as forest lands. Hence the very premise of the assertions of the petitioner is without any basis and liable to be rejected *in limine*. If Auroville area was indeed a 'Deemed Forest' as claimed by petitioner, petitioners' own houses in Auroville and all the facilities that petitioners use in Auroville could not have been constructed and will have to be demolished.
7. The claim that the cutting of trees within the Crown RoW will have great impact on the environment is not maintainable on the following grounds:
 - i. The trees that are being removed for the last segments of the Crown RoW represents an estimated 0.05% of the trees already planted.
 - ii. New solar PV capacity installed in Auroville during the last two years alone, results in annual CO2 emission reduction equal to what 20,000 trees would absorb.
 - iii. In the last 3-4 years alone more than approximately 10,000 trees have been planted all over Auroville.
 - iv. There is a green belt and there are green corridors inside the city. Green work has taken place, and will continue to happen there.
 - v. Trees alone cannot take care of emission reduction. Trees absorb CO2 and release it again when they die or are burnt. Auroville targets 100% renewable energy and that will *avoid* CO2 emission to start with.
 - vi. Auroville has demonstrated the use of both stand-alone and grid-connected solar energy. Auroville plans to have a network of solar energy generation and storage systems that are interconnected with an

internal grid that is coupled with the State grid. This is the way forward for a sustainable energy future.

- vii. Auroville has made progress with the introduction of e-mobility that will replace the fossil fuel motorcycles and cars that are still used by many of its residents. The master plan road lay-out with a circular inner ring (the "Crown"), 12 radials and an outer ring, allow for sustainable mobility solutions and resilient infrastructure services.

These are just of *a few* of the many measures that Auroville Foundation has already taken and will continue to take to ensure a sustainable future for all. Contrary to what petitioner claims, there is no (net) negative environmental impact and in fact a net positive impact if the total picture is taken into account. Thus, it is seen that the petitioner has approached this Hon'ble Tribunal with misleading and incomplete facts which are contrary to record. Therefore, on this sole ground, the petition deserves to be dismissed.

8. It is submitted that the Auroville Foundation has already decided to continue with Auroville's tree plantation drive to increase bio diversity.
9. There exists no "Auroville Forest Area" that needs to be protected against destruction. The argument of the petitioner is misconceived. Auroville is a township under construction since 1968 where trees have been planted in designated green zones and also in areas that are earmarked for roads, community services, residential and other buildings. These trees were planted to stop soil erosion with the clear understanding that they will be removed if needed for development in a given area as stated above. It is again pertinent to mention that the revenue records do not classify any land at Auroville as forest land.
10. It is also stated that Auroville is a township under construction and was inaugurated by the Mother on 28-02-1968 with the following Auroville Charter:


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- i. *Auroville belongs to nobody in particular. Auroville belongs to humanity as a whole. But to live in Auroville one must be a willing servitor of the Divine Consciousness.*
- ii. *Auroville will be the place of an unending education, of constant progress, and a youth that never ages.*
- iii. *Auroville wants to be the bridge between the past and the future. Taking advantage of all discoveries from without and from within, Auroville will boldly spring towards future realisations.*
- iv. *Auroville will be a site of material and spiritual researches for a living embodiment of an actual Human Unity.*

It may be seen that the word "Forest" does not appear anywhere in the Auroville Charter and is also not found in the Act of 1988.

11. The answering respondent states that Auroville will be a township for 50,000 residents from all parts of the world. It was never envisaged as a "forest" or "deemed forest" and the voluntary planting of trees that were on Auroville Foundation's own land does not make Auroville, or any part of it, a forest or 'deemed forest'. If that were to be the case, no person or institution, including educational campuses or government estates would plant trees for the fear of being converted into a (deemed) forest and all voluntary tree planting initiatives would come a halt.
12. Auroville has presently a population of about 3,500. In the centre of Auroville is the Matrimandir, which the Mother referred to as the Soul of Auroville. There are four township zones (residential, international, industrial and cultural) and additionally a green belt which is planned to be three times the size of the city area, of which more than 50% is open and green. In addition to the Matrimandir, developments have taken place in each of the township zones, some of which are listed below:
 - i. The residential zone: various types of residential buildings, mainly in sector 1 and 2 and community services.

- ii. The international zone: Bharat Nivas the pavilion of India, various other pavilions, and spaces for cultural activities.
- iii. Industrial zone: various income-generating units, the Centre for Scientific Research, an e-cycle service, guesthouses etc.
- iv. Cultural zone: Schools and other educational facilities, residential quarters.
- v. City Centre: The Town Hall, various office buildings, the Auroville Archives building, a media centre, various community services, residential buildings etc.
- vi. Crown: Community kitchen, library, health services, residential buildings etc.
- vii. Green corridors and parks inside the city area: Trees, landscaping.
- viii. The Green Belt: Trees, botanical garden, agriculture, some residences.

It may be seen from the above example list of already completed developments, that Auroville is a township under development and not a forest or 'deemed forest'. It is humbly submitted that without understanding the real purport of the Act of 1988, a small section of residents has been attempting to enjoy the lands of Auroville like *zamindars* and as their own private fiefdoms. This is extremely unfortunate as this contravenes the provisions of the Act of 1988 and the Charter of Auroville, which is sought to be implemented through the Act of 1988.

- 13. Thus, on a conspectus of all of the above, the very premise and foundation on which the petitioner has approached this Hon'ble Tribunal that the lands at Auroville are deemed forest is entirely misconceived and contrary to facts and therefore the petition is clearly not maintainable.
- 14. The answering respondent also states that there is no substantial question relating to environment as defined under the national green tribunal Act 2010 and hence the petition deserves to be dismissed. It is also submitted that the present application suffers from latches and delay as the same is questioning the master plan of Auroville which has been approved by the Government of

India in the year 2001 and notified in the year 2010. Therefore, the petition is hopelessly barred by limitation and has to be rejected *in limine*.

15. Without prejudice to the aforesaid, the answering respondent wishes to add the following para wise rebuttal.

Para-Wise Rebuttal

16. It is submitted that insofar as the reply paragraph No.1 is concerned, it is patently erroneous on the part of the petitioner to state that the 1st respondent has arbitrarily commissioned the project. In this regard, as has been stated above, the Auroville Master Plan has been approved by the Governing Board of the Auroville Foundation, which is the competent authority in terms of the Act, of 1988 way back in April 2001 and further has been notified in the Gazette of India on 16th August 2010. The petitioner has no *locus standi* to question the decisions of the Governing Board, which is the competent authority in terms of the Act of 1988 and therefore the petition is entirely misconceived.
17. It is submitted that insofar as para 2 is concerned, the 1st respondent has no specific comments to offer on the same. Suffice it to state, the answering respondent has always focussed on realising the ideals of Auroville and will continue to do so.
18. Insofar as para 3 is concerned, it is submitted that in 1999, the Resident Assembly of Auroville approved the Auroville Universal Township Integrated Master Plan formulated by it. Thereafter, the Governing Board finalised and approved the Master Plan after taking expert advice from the Town and Country Planning Organisation (TCPO) of the Ministry of Urban Development, Government of India and resolved to implement the same vide minutes of meeting dated 15-02-2001. It is pertinent to mention that the said meeting was attended by the Chairman and members of the Governing Board, Auroville Foundation, officers of the Ministry of HRD, Secretary, Auroville Foundation, Chief Planner and Additional Planner, TCPO (Ministry Urban Development, Government of India), Special Commissioner, Town and Country Planning, Tamil Nadu Government, an architect-planner from

Auroville, and an educationist from Auroville. Further, post this meeting and approval by the Governing Board, the Ministry of Human Resource Development, Department of Secondary Education and Higher Education, Government of India issued a letter dated 26-2-2001 forwarding the minutes of the aforesaid meeting to the Ministry of Urban Development. Subsequently on 12-4-2001 a letter was sent by the Ministry of Human Resource Development to the Secretary of Auroville Foundation informing him that the Master Plan of Auroville had been approved. It is in pursuance of the aforementioned actions that on 16th August 2010, Auroville Foundation notified the Auroville Master Plan in the Gazette of India. Till date, no one has challenged the notification dated 16th august of 2010 nor the approval of the concerned ministry in the year 2001.

It is submitted that there is no necessity in law for the decision of the Governing Board to be submitted to the Resident Assembly. Further, the petitioners who are complaining about the approved Master Plan have not mentioned before this Hon'ble Tribunal as to what steps have been taken by them since 2001 to question it. By virtue of the present petition, the petitioners are indirectly seeking collateral challenge to the Master Plan itself, which is simply impermissible in law. On this ground as well, the petition deserves a summary dismissal as being hopelessly barred by limitation. The petition suffers from laches and delay.

19. Insofar as para 4 & 5 is concerned, it is necessary to mention that the Auroville Master Plan, which was gazetted on 16th August, 2010 includes development plans for the first 5 years. These development plans include the Crown and outer ring road, which have been specifically provided for with an estimated cost. The work, which the petitioner complains of has been undertaken by the 1st respondent only in pursuance of the Auroville Master Plan. It is also submitted that the assertions of the petitioner regarding a detailed development plan is absolutely irrelevant for the purpose of the present petition, since, the work which has been complained about namely, the clearing of the Crown right of way is an integral part of the Master Plan itself.

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Further, there is no legal basis for the petitioner to make an assertion that the Master Plan has to adapt to the present and evolving ground realities. Such a vague submission without any legal basis has to be summarily rejected.

20. Insofar as para 6 is concerned, the submission of the petitioner is entirely incorrect and contrary to facts. The Crown area, including the Crown road is an integral part of the Master Plan itself and has been described as follows (page 49):

“There is another special use zone, which traverses all the four zones in a concentric fashion with a width of 75 meters, consisting of a circular road with buildings facing it. This Crown area will provide most of the service facilities required to support the activities in the four zones mentioned above”.

A drawing (and not just a “sketch”) of the main roads of the township, including the Crown Road (inner ring road) is included in the Master Plan on page 59 while road dimensions are given on page 60. As stated above, the Crown Road was included in the “Development Plan Five Year Programme 2001-2006” included in the Master Plan itself with an estimated cost (page 81). Further, the implementation of the Master Plan is a statutory mandate in terms of section 17(e) of the Act of 1988 and the petitioner is no one to question the same.

21. Insofar as para 7 is concerned, the argument is repetitive. As already submitted above, there is a statutory mandate to implement the Master Plan, which had already been approved in the year 2001 and notified in the year 2010 and therefore, the petitioner cannot indirectly question the same.
22. The petitioner has also made misleading averments that there exists forest land within Auroville. As has been submitted hereinbefore, no land comprised in Auroville has been classified as forest land and further, the answering respondent states that the present work which is being undertaken will not affect flora and fauna in any manner whatsoever. Therefore, the submission of the petitioner is misconceived and misleading.

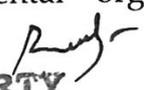


23. Insofar as para 8 is concerned, as per the Act of 1988 only the Governing Board, is the competent authority to approve and ensure implementation of the Master Plan. The petitioner is no one to question the same. It is denied that the Master Plan is only a broad framework and the answering respondent states that it is a binding legal document which will have to be implemented in terms of s.17(e) of the Act of 1988.
24. Insofar as para 9 and 10 are concerned, it is submitted that there are no extraordinary circumstances of any kind that justify the entertaining of the petition. The case of the petitioner that the removal of trees that have been planted voluntarily pending township development has a negative environmental impact and endangers the property cannot be maintained by any stretch of imagination.

The Auroville project is about integrality, synthesis and harmony, a living demonstration and a beacon for India and the world on how a futuristic city can be built, for housing a population of 50,000 with complete and super-sensitive concern and respect for ecology and environment. Auroville will demonstrate integral sustainability that includes both inner and outer growth, a new economy, a focus on education and research and values inspired by the vision of Sri Aurobindo and the Mother.

It is denied that the lands comprised in Auroville falls within the mandate of the *Godavarman* case of the Hon'ble Supreme Court. It is again reiterated that no part of the lands in Auroville has been classified as forest lands in the revenue records. The petitioner has lost sight of the fact that Auroville is a developing integrated township, which will have to be implemented as per the Auroville Foundation Act and the Auroville Master Plan as provided for in that act to develop a model township, the Ideal Town, as described by the Mother and specifically denies the assertion of the petitioner that it falls within the dictionary meaning of the word "Forest".

It is also submitted that UNESCO had passed resolutions concerning Auroville in 1966, 1968, 1970, 1983 and 2017. In these resolutions, UNESCO invites Member States and international non-governmental organizations to


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participate in the development of Auroville as an international cultural township designed to bring together the values of different cultures and civilizations in a harmonious environment with integrated living standards that correspond to people's physical and spiritual needs.

It is clear from these resolutions that UNESCO also relates to Auroville as an "International Township" and not as a forest.

25. Insofar as para 11 to 13 are concerned, it is specifically denied that there has been mindless destruction as has been falsely projected by the petitioner. The petitioner has raised a very dangerous and mischievous argument of the lands in Auroville being a deemed forest and if the averments of the petitioner were to be accepted, the entire Auroville Township will have to be closed down and the entire Act of 1988 will have to be scrapped. The answering respondent has only followed the mandate of law and implemented the Master Plan, which is a statutory duty of the Foundation. The petitioner is put to strict proof of the averments made herein. The answering respondent also states that there is no important question relating to the environment warranting the petitioner to approach this Hon'ble Tribunal for relief. The petitioner has not provided the whole picture before this Hon'ble Tribunal and is guilty of *suppressio veri suggestion falsi*.

Reply to grounds :-

26. Insofar as Ground A is concerned, for the reasons already afore stated, the answering respondent denies that Auroville falls within the definition of "forest" and therefore the very premise of the petitioner approaching this Hon'ble Tribunal is erroneous.
27. Insofar as Ground B is concerned, the Auroville Master Plan has been approved by the concerned Government of India Ministry in the year 2001 and notified in the Gazette of India on the 16th August 2010 and the petitioner who is a busy body and a meddlesome interloper has no *locus* to question the same.


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28. Insofar as Ground C is concerned, it is reiterated that the Crown road is an integral part of the Master Plan itself and does not require a separate project document.
29. Insofar as Ground D is concerned, it is denied that the actions of the respondent are arbitrary and illegal. The answering respondent has followed the due process of law. It is in fact the actions of the petitioner which can be termed as an abuse of process and therefore the petition deserves to be dismissed with exemplary cost.

Responses to reliefs sought:

30. It is submitted that the assertion of the petitioner that the detailed development plan must be prepared on the basis of the alleged "ground realities" has no foundation in law. The entire petition seems to proceed on incorrect and misleading facts and without any basis in law. Auroville Foundation has been mandated by Parliament to ensure that the Auroville township is built in accordance with the Auroville Master Plan as per section 17(e) of the Auroville Foundation Act.
31. It is also submitted that the Secretary, Auroville Foundation is also the Estate Officer of Auroville Foundation under the Public Premises [Eviction of Unauthorised Occupants] Act 1971 and as such is empowered to ensure that Auroville Foundation lands are used strictly in accordance with the land use as stated in the Auroville Master Plan. The prayer of the petitioners to stop work on the Crown Road until detailed development plans have been completed needs to be dismissed for the above reasons.
32. For all of the afore stated reasons, it is humbly submitted that there is no substantial question relating to environment which warrants the interference by this Hon'ble Tribunal of the matters complained of. The petition is clearly misconceived and has been filed for vexatious and with *malafide* intention. As has been submitted above, the answering respondent is only following the statutory mandate in terms of s.17(e) of the Act of 1988 and implementing the Master Plan, which was notified as early as on 16th August 2010. It is further

pertinent to mention that Auroville was inaugurated on 28th February 1968 with the charter of Auroville and the Auroville galaxy plan approved by the Mother, which forms the basis of the Auroville Master Plan. Therefore, it was known to one and all that the intention of building a township is, and has always been, the fundamental premise on which Auroville was founded already in 1968.

33. The answering respondent submits that the balance of convenience is clearly in favour of answering respondent and irreparable loss would be occasioned to the answering respondent if the interim order is allowed to continue at the instance of a busy body who has filed the petition on misconceived and erroneous grounds. There is immense public interest in favour of the answering respondent to ensure that the Master Plan is implemented and that the works namely the Crown road is completed at the earliest.

Therefore, it is humbly prayed that the Interim order passed by this Hon'ble Tribunal is vacated and the application filed by the petitioner is dismissed with exemplary cost, since it is a clear case of abuse of process and therefore, this Hon'ble Tribunal may dismiss the petition as prayed for.

COUNSEL FOR THE 1ST RESPONDENT

1ST RESPONDENT

VERIFICATION

I P.R. Srinivasamurty S/o Shri. P.P. Vithal aged about 58 years, Under Secretary, Auroville Foundation, do hereby verify that the contents in the above paragraphs are true to the best of my knowledge and based on legal advice and that I have not suppressed any material fact.

Date: 15/12/2021

Place: Chennai


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Signature of the 1st Respondent