

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ) AT CHENNAI

APPEAL NO.10 OF 2020

M/s.Fatima Poultry Farm

... Appellant

-vs-

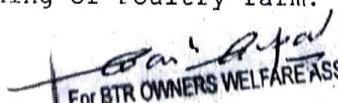
Telangana State Pollution Control Board  
And 2 others

... Respondents

**REPLY FILED BY THE 3<sup>rd</sup> RESPONDENT**

The 3<sup>rd</sup> Respondent states as follows:-

1. The 3<sup>rd</sup> Respondent denies all the allegations, averments and statements contained in Appeal No.10 of 2020 as false and incorrect, save those that are specifically admitted herein.
2. The 3<sup>rd</sup> respondent states and submits that the present appeal is clearly barred by limitation and ought not to be entertained by this Hon'ble Tribunal as it has been filed beyond the period of time envisaged by law. It is respectfully submitted that the J.A.No:26 of 2020 seeking for condonation of delay even without mentioning the number of days delay is not at all maintainable. The order against which the appeal is filed is dated 27/09/2019 and the instant appeal has been filed only on 10/02/2020 i.e after a period of about 106 days which is beyond the condonable period.
3. Without prejudice to the submission that the present appeal is barred by limitation and also not at all maintainable before this Hon'ble Tribunal, the 3<sup>rd</sup> respondent proceeds to make the following submissions.
4. It is respectfully stated that that the Appellant is running their poultry farm immediately adjacent to Banyan Tree Retreat, wherein the members of the 3<sup>rd</sup> Respondent association are the owners/residents of Villas in that development. The Appellant has never followed the safeguards recommended nor any conditions stipulated by the Authorities for functioning of Poultry farm.

  
For BTR OWNERS WELFARE ASSOCIATION  
General Secretary

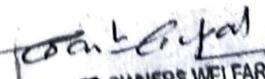
The appellant has haphazardly managed the farm with the only ulterior motive of profit making. The Appellant has not managed solid waste in proper manner. Dead birds, excreta and other solid wastes were not properly disposed off and was literally kept accumulated in open air causing foul smell and burnt and posing health hazards to the occupants of the Banyan Tree Retreat. The Appellant has also not installed any mechanism for waste water treatment and discharge thereby causing both Air and Water Pollution. The lives of the members of the 3<sup>rd</sup> respondent association became miserable and totally unpleasant due to the appellant's unregulated activities and given the fact that the appellant was carrying on activities just next door to the campus of the Banyan Tree Retreat, the difficulties created by the activities of the appellant became unbearable day by day.

5. It is respectfully submitted that, hence, the members of this Respondent Association have made several complaints to various authorities. The 3<sup>rd</sup> Respondent was not be successful in resolving the issue and all their attempts were defeated by the Appellant through his political and money clout. Hence, the 3<sup>rd</sup> Respondent association made a complaint before the 1<sup>st</sup> Respondent herein on 24.06.2019.
6. It is respectfully submitted that, inter alia, in response to the above complaint, the 1<sup>st</sup> Respondent herein, by order dated 27.09.2019, has issued a closure order to the Appellant's unit after visiting the Appellant's Poultry farm on 02.07.2019. During the inspection, it was found that there were about 1,42,000 birds at the said unit. The 1<sup>st</sup> Respondent board has also observed that the Appellant firm is being operated without necessary permissions and had not provided adequate air and water pollution control measures and was causing water, air pollution and odour nuisance in the surrounding area, thereby affecting the public health and environment. The 1<sup>st</sup> Respondent herein has also directed the 2<sup>nd</sup> Respondent to disconnect power supply to the Appellant Poultry farm.

  
For BTR OWNERS WELFARE ASSOCIATION  
General Secretary

7. It is respectfully submitted that, aggrieved by the closure order of the 1<sup>st</sup> Respondent, the appellant filed WP No.22353 of 2019 before the Hon'ble High Court for State of Telangana at Hyderabad rightly as the Closure order was a combined closure order issued under Sec.33 (A) of the Water (Prevention and Control of Pollution) Amendment Act, 1988 and Sec. 31(A) of the Air (Prevention and Control of Pollution) Amendment Act, 1987. On 06/12/2019, the Appellant herein undertook before the Hon'ble High Court in the said writ petition that he would relocate the birds from the farm within a period of 8 weeks from 06.12.2019 and would not operate the poultry farm unless he obtained express consent from 1<sup>st</sup> Respondent and recording the same the Hon'ble High Court for the State of Telangana granted six weeks time for relocation of the birds and directed the 2<sup>nd</sup> Respondent herein to restore power supply to the Appellant. However, the Appellant never complied with the undertaking and has filed the above Appeal No.10 of 2020 before this Hon'ble Tribunal on 10/02/2020 misrepresenting the nature of the undertaking given to the Hon'ble High Court for the state of Telangana. In view of the contempt committed by the appellant of violating his undertaking on the basis of which interim order was granted by the Hon'ble High Court, the 3<sup>rd</sup> respondent has filed Contempt Petition CC No:332 of 2020 before the Hon'ble High Court for the State of Telangana at Hyderabad and the same is pending consideration.

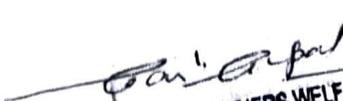
8. It is respectfully submitted that the Appellant has been forum hunting through frivolous and vexatious litigation and as the Appellant could not get a favourable order before the Hon'ble High Court for the State of Telangana, they have filed the above appeal before this Hon'ble Tribunal in a vexatious attempt to protract the matter. The Appellant was rightly before the Hon'ble High Court for the State of Telangana under its Extra Ordinary Jurisdiction under Article 226 of the Constitution of India, 1950 as the directions issued under Sec.31-A of the Air Act is not Appealable before this Hon'ble Tribunal.

  
For BTR OWNERS WELFARE ASSOCIATION  
General Secretary

The Appellant has applied for consent with the 1<sup>st</sup> Respondent herein on 14.01.2020. However, to escape from the clutches of law and to escape from the punishment for his contemptuous activities, the Appellant has filed the present Appeal before this Hon'ble Tribunal. Without disclosing the fact that this Hon'ble Tribunal was hearing matters, the Appellant herein appears to have filed WP No.10680 of 2020 before the Hon'ble High Court for the State of Telanagana sometime in July 2020 challenging the proceeding of the Tahsildar seeking closure of the Poultry farm.

9. It is respectfully submitted that when this Hon'ble Tribunal raised an issue about the maintainability of same reliefs before two courts, the Appellant withdrew the WP No.22353 of 2019 on August 7, 2020. The Appellant has also withdrawn WP No.10680 of 2020 on the file of the Hon'ble High Court for State of Telangana on the same day and the bare perusal of the affidavit filed in that writ petition would prove that the Appellant is mischievous and adventurous and has not complied with the undertaking dated 06.12.2019 before the Hon'ble High Court for the state of Telangana and has committed contempt of Constitutional Court and has hopped from the Hon'ble High Court to this Hon'ble Tribunal and back to the High Court and then withdrawing proceedings before the High Court after flouting undertaking given there.

10. It is submitted that even after the expiry of the 6 weeks time granted by the Hon'ble High Court, the appellant was running the poultry farm with the help of solar power and by using generators even after the disconnection of the power supply. Such is the conduct and attitude of the appellant. It was only in July, 2020 that the appellant vacated the poultry farm and it is by communication dated 25.07.2020 to the Tahsildar, Maheshwaram Mandal, the appellant had stated that he has removed the layer birds and would not resume any poultry activities and nothing prevails as of now.

  
For BTR OWNERS WELFARE ASSOCIATION  
General Secretary

11. It is respectfully submitted that the 3<sup>rd</sup> respondent is given to understand that the 1<sup>st</sup> Respondent has rejected the application dated 14.01.2020 for consent by order dated 12.06.2020 and that the Appellant has not challenged the said rejection of application for consent and the same has attained finality and as such nothing lies for adjudication in the present appeal in No.10 of 2020.

Therefore, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to dismiss the Above Appeal with costs and thus render justice.

Dated at Hyderabad on this the 27<sup>th</sup> day of February, 2021.

*J. Krishna*

Counsel for 3<sup>rd</sup> Respondent

VERIFICATION

I, *Gopal Ganti*, Son of *Ganti Satyanaraya Murthy* do hereby verify that what are all stated above are true and correct to the best of my knowledge, information and belief.

Verified at Hyderabad on this the 27<sup>th</sup> day of February, 2021.

*Gopal Ganti*  
3<sup>rd</sup> Respondent  
For BTR OWNERS WELFARE ASSOCIATION  
General Secretary

*Gopal Ganti*  
Respondent  
For BTR OWNERS WELFARE ASSOCIATION  
General Secretary

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... Appellant

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REPLY FILED BY THE 3<sup>rd</sup> RESPONDENT

FILED ON: 01/03/2021

**M/s.S.Kishore Kumar**  
Counsel for 3<sup>rd</sup> Respondent  
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