BEFORE THE NATIONAL GREEN TRIBUNAL SOUTH ZONE AT CHENNAI

MEMORANDUM OF APPLICATION

Original Application No. 239 of 2021

1. **Navroz Kersasp Mody**
   S/o Kersasp Mody Aged about 76

   Aurodam, Auroville,

   Vanur Taluk, Villupuram – 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 …1st Respondent

2. **Union of India,**
   Rep by its Secretary

   The Ministry of Environment, Forests and Climate Change

   Jorbagh, New Delhi …2nd Respondent

3. **The State of Tamilnadu**
   Rep by its Director Department of Environment No.1,

   Jeenis Road, Panagal Building, Ground Floor,

   Saidapet, Chennai-600 015 …3rd Respondent

4. **Ravindrakumar Solanki**

   S/o Khatubhai, Vikas Community

Auroville (Tamil Nadu) 605101

5. **Joy Chowdhury**
   D/o Chowdhury,

   Dana Community

   Auroville (Tamil Nadu) 605101

6. **Divya Karun**
   W/o. Manish Chaudhry

   Flat No.703, Jawahar Nagar,

   Jaipur (Rajasthan) 302004

7. **Alok Malick**
   S/o. Babaji Mallick
   138, Akka Samu Madam Street,
   Vazhaikulam Padmini Nagar,
   Pondicherry 605 012

…**4th ,5th , 6th & 7th Respondent permitted to intervene as per the order of this Hon'ble Tribunal dated 3.1.2022 in OA No.239 of 2021 vide IA No.1 of 2022 filed by the intervening respondents.**

WRITTEN ARGUMENTS ON BEHALF OF THE INTERVENING RESPONDENTS

The Intervening Respondents herein humbly submits brief written submissions as follows:-

1) **No demonstrable environmental issue raised by applicants:-**
   a. This Hon'ble Tribunal is concerned only with environmental issues and in this case, there is no demonstrable case of environmental issue and the petition is liable to be dismissed on this sole ground alone.

b. The entire issue pertains to the clearing of Right of Way for the Crown Road which is part of the Master Plan of the Auroville foundation itself. There is no case made out by the applicant to bring this act of clearing of the right of way within the realm of s. 14 of the NGT Act, 2010.

c. The applicants originally approached this Hon'ble Tribunal with the specious argument that the lands at Auroville constitute "deemed forest" as per the dictionary meaning of forests and hence they cannot be felled as per the Judgment of the Hon'ble Supreme Court in the *Godavarman* case. In this regard, it is vehemently denied that the lands situated at Auroville which is the subject matter of this application would fall within the definition of "deemed forest".

d. It is submitted that Expert committee in pursuance of ***Godavaraman*** judgment has not classified these lands as forest lands. The Revenue records shows these lands as agricultural lands. The applicant, apart from other material, has relied on satellite images to further his case. In this regard, the judgment of the Hon'ble Apex Court in the case of ***Noida memorial complex case; 2011 1 SCC 744*** is directly on the point wherein it has been stated as follows:-

"23. The satellite images tell us how things stand at the time the images were taken. We are not aware whether or not the satellite images can ascertain the different species of trees, their age and the girth of their trunks, etc. But what is on record does not give us all that information. What the satellite images tell us is that in October, 2006 there was thin to moderately dense tree cover over about half of the project site. But this fact is all but admitted; the State Government admits felling of over 6000 trees in 2008. How and when the trees came up there we have just seen with reference to the revenue and land acquisition proceedings records.. ***Now, we find it inconceivable that trees planted with the intent to set up an urban park would turn into forest within a span of 10 to 12 years and the land that was forever agricultural, would be converted into forest land. One may feel strongly about cutting trees in such large numbers and question the wisdom behind replacing a patch of trees by***

large stone columns and statues but that would not change the trees into a forest or the land over which those trees were standing into forest land" *[emphasis supplied]*

"30. Almost all the orders and judgments of this Court defining "forest" and "forest land" for the purpose of the FC Act were rendered in the context of mining or illegal felling of trees for timber or illegal removal of other forest produce or the protection of National Parks and wild life sanctuaries. In the case in hand the context is completely different. ***Hence, the decisions relied upon by Mr. Bhushan can be applied only to an extent and not in absolute terms.*** *To an extent Mr. Bhushan is right in contending that a man made forest may equally be a forest as a naturally grown one. He is also right in contending that non forest land may also, with the passage of time, change its character and become forest land. But this also cannot be a rule of universal application and must be examined in the overall facts of the case otherwise it would lead to highly anomalous conclusions. Like in this case, Mr. Bhushan argued that the two conditions in the guidelines adopted by the State Level Expert Committee, i.e., (i) "trees mean naturally grown perennial trees" and (ii) "the plantation done on public land or private land will not be identified as forest like area" were not consistent with the wide definition of forest given in the December 12, 1996 order of the Court and the project area should qualify as forest on the basis of the main parameter fixed by the Committee.* ***If the argument of Mr. Bhushan is accepted and the criterion fixed by the State Level Expert Committee that in the plains a stretch of land with an area of 2 hectares or above, with the minimum density of 50 trees/hectare would be a deemed forest is applied mechanically and with no regard to the other factors a greater part of Lutyens Delhi would perhaps qualify as forest. This was obviously not the intent of the order dated December 12, 1996.***

31. In light of the discussion made above, it must be held that the project site is not forest land and the construction of the project without the prior permission

from the Central Government does not in any way contravene Section 2 of the FC Act.

[emphasis supplied]

e. Thus, the lands at Auroville which were all through and continue to remain agricultural lands, cannot now be classified as forest lands at the behest of the applicants.

f. The relevancy of revenue records have also been recently stated by the Hon'ble Supreme Court of India in the case of ***C.A. No. 4452 of 2019 Chandra Prakash Budakoti v. Union of India***.

g. Thus, the primary basis of the applicants approaching this Hopn'ble Tribunal stands vitiated and hence the application deserves to be dismissed.

2) Applicants estopped from proceeding beyond their pleadings. They can't build new case during arguments:-

a. This Hon'ble Tribunal is bound to follow the Principles of Natural Justice as per section 19(1) of the NGT Act, 2010. The application has no pleading on environmental clearance. The rejoinder makes a vague reference to EIA without stating which provision would apply. However, during oral arguments, the applicants point out that the EIA notification applies and in the absence of clearance, the clearing of right of way cannot continue.

b. Even more shockingly, the applicants during oral arguments, find fault with the Auroville Master Plan itself and say that the master plan requires prior environmental clearance when in fact their only basis for approaching this Honourable Tribunal was for clearing of the right of way for the crown road

c. It is submitted that in the additional affidavit, the applicant has changed the very nature of their application. Hence, the respondents cannot be asked to respond to an allegation not founded on pleadings and consequentially, the oral arguments on the necessity of EIA clearance will have to be rejected.

d. It is reiterated that in the absence of a specific plea in respect of the requirement for prior environmental clearance, the oral plea made for the first-time during arguments ought not to be entertained by the Tribunal.

e. It is further very pertinent top note that vide order dated 093.01.2022, this Hon'ble Tribunal has specifically recorded that pleadings are complete and oral arguments also began from the side of the applicants and the matter was heard in part. Para 3- 6 of the order dated 03.01.2022 is extracted hereunder:-

> *"3. I.A. No.01 of 2022 (SZ) is allowed to the limited extent of permitting the applicants in that interlocutory application to intervene and support the case of the original applicant.*
>
> *4. The 2nd Respondent has filed their counter.* ***Pleadings complete. [EMPHASIS SUPPLIED]***
>
> *5. Heard in part. Due to want of time, the case is adjourned to tomorrow for further hearing at 02:30 p.m.*
>
> *6. For further hearing, post on tomorrow (i.e. 04.01.2022)."*

It is submitted that post this order and after beginning oral arguments, the applicants have filed a rejoinder affidavit on 04.01.2022 along with numerous additional documents without leave of the Tribunal. It is submitted that these pleadings and documents will have to be summarily rejected as it runs contrary to the order dated 03.01.2022 which states that pleadings were complete. Further, the applicant never stated before the tribunal on 03.01.2022 that they wanted to file a rejoinder affidavit and additional documents. Hence, they are estopped from now contending that their rejoinder affidavit and additional documents filed on 04.01.2022 can be taken on record. As stated earlier, the principles of natural justice is sacrosanct as per s. 19 of the NGT Act, 2010 and hence when arguments have begun and after the tribunal has recorded that pleadings are complete, it is not open to the applicants to improve their case through a rejoinder affidavit especially when no

leave was sought or obtained from the tribunal. Grave prejudice would be caused to the respondents in the event the rejoinder affidavit is taken on record in violation of the said procedure.

3) **Project already under execution right from 1968 hence EIA notification won't apply**

a. Assuming that the tribunal entertains the oral plea in respect of the requirement for prior environmental clearance, the said plea is liable to be rejected because such clearance is required prior to the commencement of the implementation/execution of the project and not during the execution of the project. Since, the implementation/execution of the galaxy plan and the master plan had commenced prior to the EIA Notification of 2006, at this stage, no environmental clearance is required.

b. It is submitted that the issue complained of namely the clearing of the right of way for the Crown road is almost 90% completed and therefore there can never be an argument built up by the applicants that prior environmental clearances necessary for clearing the right of way for the crown road.

c. Assuming without conceding that the applicant can even be heard on prior environmental clearance for the master plan itself, even then, the argument of the applicant fails. The master plan has already been under implementation since 1968 and important components of the master plan have already been completed including the Matrimandir in the centre of Auroville and numerous residential buildings, Bharat Nivas, schools, community services, pavilions, cultural facilities, sports complexes, playgrounds, art galleries, shopping complexes, amphitheatres, guest houses, restaurant and roads workshops and fabrication units, schools and other educational facilities, buildings for cultural events, a visitors information centre, guest houses, community kitchens, sports facilities etc. Therefore it is seen that substantial work of

the Auroville project has already been ongoing and executed at various stages even as far back as in 2001.

d. Thus, when the project is already under execution right from 1968 onwards and various components have already been completed, the question of getting prior environmental clearance does not arise.

e. It is submitted at the risk of repetition that once the applicants themselves knew that there was no merit in their weakest argument of the lands at Auroville being a deemed forest, the applicants made an oral plea on alleged violation of EIA notification, which in any event would not be applicable.

f. Furthermore, the counter affidavit filed by the MoEF has solved the entire issue. They have taken into account all relevant facts and stated in Para 12-14, that no EIA clearance is required for the execution of the Master Plan at Auroville.

g. It is also submitted that Para 15 of the counter affidavit filed by MoEF is incorrect inasmuch as since Auroville is a township of which construction commenced in 1968, the question of individual building environmental clearances does not apply. Environmental impact, if any, in the case of a township needs to be considered at overall township level and not at individual building or road level.

h. It is also necessary to trace the history of the Auroville township plan evolution:

1. The Divine Mother worked closely with Mr. Roger A., the Chief Architect appointed by her, on the design of the Auroville township from September 1965 after the Divine Mother gave a broad outline of the proposed township.
2. March 1966: First models presented by Roger A. to the Mother. One of these models is known as the "nebula model".
3. Mid-1967: Roger A. presents the "macro-structure model" and the first "galaxy model".

4. February 1968: The galaxy plan is displayed during the Auroville inauguration along with the Charter of Auroville.
5. December 1999: The Residents Assembly decides that the Auroville Master Plan formulated by it (under section 19(2)(c)) of the Auroville foundation Act) may be presented to the Governing Board.
6. The Governing Board refers the plan formulated by the Residents Assembly to the Town and Country Planning Organisation (TCPO) of the Ministry of Urban Development (GoI) for an expert review.
7. The TCPO and other experts improved the plan but retained the overall lay-out with the circular Crown Road, the outer ring and radials connecting both.
8. The plan thus named as "*Auroville Universal Township Master Plan (perspective 2025)"* was approved by the Governing Board and the Ministry of HRD in February 2001 and was notified in the Gazette in August 2010.

i. It is also submitted that in section 17(e) of the Auroville Foundation Act, it has been stated that the Governing Board ***shall ensure*** development of Auroville in accordance with the Auroville Master Plan approved by it. Thus, there is a statutory mandate on the Governing Board of the Auroville Foundation to develop Auroville in accordance with the master plan of Auroville. Thus, the master plan of Auroville which has been prepared and approved as per a Central enactment namely the Auroville Foundation Act, 1988 is a statutory binding document.

j. Thus, under no stretch of imagination can it be contended by the applicants that the Governing Board of the Foundation does not have the power to implement the master plan and further, that prior environmental clearances are required for executing the plan.

k. In this regard useful reference can be made to the judgment of the Honorable Supreme Court in the case of Project director v PV Krishnamurthy 2021 3 SCC 572 where in the Honourable Supreme Court has stated as follows:-

> *"The view that we have taken is reinforced from the opening part of this notification. It expounds that no project involving potential environmental impact "shall be undertaken" or "commenced" in any part of India without obtaining prior environmental clearance in the manner provided for. Same position obtains from the recitals of this notification, namely, prior environmental clearance is required "before" any construction work or preparation of land by the project management, except for securing the land, is started on the project or the activity. A priori, the decision in Delhi Development Authority (supra), does not take the matter any further in the present case. Therefore, no interference is warranted with the decision of the Committee regarding the change of stretch/section to be implemented during Phase I between CKS (NC); including the impugned notifications under Sections 2(2) and 3A of the 1956 Act".*

4) Issue qua DDP and master plan completely outside scope of the NGT Act, 2010:-

a. It is submitted that the NGT is a creature of the statute and therefore it can exercise the powers that are expressly conferred on it by the statute. It is submitted that NGT has jurisdiction only to deal with matters relating to environment and no further.

b. In the present matter, the applicant herein has made the following prayer:- *"Direct the 1st Respondent (Auroville Foundation) to prepare a detailed development plan including a mobility plan which is based on and respects the present-day ground realities to be approved as mandated in the master plan and implement projects based on such plan after necessary impact assessments and feasibility studies in an environmentally sustainable manner"*

c. It is submitted that such a prayer is simply not maintainable before this honourable tribunal. The direction sought for is to prepare a detailed development plan for the implementation of the projects of the Foundation. As has been held by a two-judge bench of the Hon'ble Supreme Court in the case of ***TN Pollution Control Board v. Sterilite Industries limited (2019 19 SCC 479),*** the NGT is not a Tribunal constituted under Article 323 A or 323 B of the Constitution of India and it is a Tribunal constituted only under a statute and therefore the NGT

has no power of judicial review under Article 226 of the Constitution of India.

d. In the light of the above judgments of the Hon'ble Supreme Court, the Tribunal has got no power to adjudicate upon a civil dispute which involves no question relating to environment or to exercise the power of judicial review like the High Court under Article 226 of the Constitution of India.

e. **Undoubtedly, approving and implementation of a master plan of Auroville on the basis of the vision of the Mother is exclusively within the wisdom and authority of the Auroville Foundation as per sections 11(3), 17(e) and 19(2)(c), read with the Preamble of the Auroville Foundation Act, 1988.**

f. If anyone has any grievance that preparation of the detailed development plan was not done by following the procedure established, the remedy for him lies elsewhere either before a civil court or before the Hon'ble High Court.

g. It is to be borne in mind that the Auroville Foundation i.e. the first respondent is "state" within Article 12 of the Constitution of India and the activities of Auroville are in Public interest as per the Auroville Foundation Act, 1988 and the same cannot be thwarted by the applicant herein.

h. The dispute if at all seem to be an internal one within Auroville and it does not fall within the purview of NGT.

5) Allegation on Crown Road is entirely misconceived and factually incorrect:-

a. The land area of the Crown road / right-of-way is only 0.36% of the total Auroville master plan land area. There has been a major exaggeration by the applicant that limited tree felling for clearing the right-of-way would result in the land becoming barren.

b. In this regard, it is submitted that more than 10,000 trees have been planted in the last 3-4 years alone. The trees being felled now is only 0.05% of the trees already planted. This action will not affect the green belt and green zone in any way.

6) The Auroville Foundation Act, 1988 mandates the Governing Board of Auroville to implement the Master Plan. The argument that residents will have to be further consulted prior to execution of the Master Plan is entirely misconceived:-

A. Sections 11(3), 17(e) and 19(2)(c) of the Auroville Foundation Act, 1988 are extracted hereunder :-

> *"s.11(3) The general superintendence, direction and management of the affairs of the Foundation shall vest in the Governing Board which may exercise all the powers and discharge all the functions which may be exercised or discharged by the Foundation."*
>
> *"17. Powers and functions of the Governing Board. – The powers and functions of the Governing Board shall be –*
> *(e) to prepare a master-plan of Auroville in consultation with the Residents" Assembly and to ensure development of Auroville as so planned;"*
>
> *"19. Functions of Residents' Assembly. – (1) The Resident"s Assembly shall perform such functions as are required by this Act and shall advise the Governing Board in respect of all activities relating to the residents of Auroville.*
> *(2) In particular, and without prejudice to the foregoing powers, the Residents" Assembly may –*
> *(c) formulate the master plan of Auroville and make necessary recommendations for the recognition of organisations engaged in activities relatable to Auroville for the approval of the Governing Board;"*

A bare perusal of these provisions would clearly show that the Auroville Foundation Act itself has very clearly stated that it should be the mandate of the Governing Board to approve and ensure implementation of the master

plan. Hence, when a statutory mandate exists as per an Act of Parliament, it is not open to the applicants to contend otherwise.

b. The present issue which is now being agitated by a few disgruntled elements seems like a rehash of the disputes which existed earlier only difference being that earlier it was a dispute qua a society namely the Sri Aurobindo Society.

c. It is submitted that based on various complaints which was received against the management of Sri Aurobindo Society, the then central government was pleased to introduce an ordinance to take over the Auroville. This action of the central government led to litigation and the challenge when right up to the Honorable Supreme Court where in in the *SP Mittal case*, the Honorable Supreme Court upheld the power of the central government to issue the ordinance to take over Auroville. Interestingly, the argument raised therein was on Auroville being a religious denomination, not that it was a forest.

d. It is only post this event that the Auroville Foundation Act, 1988 was introduced wherein and whereby the management and general superintendence of the affairs of the Auroville Foundation vest in the Governing Board. Thus, the contention of the applicants that as residents, they are required to be further heard and consulted prior to implementation of the master plan is entirely misconceived as it goes against the basic tenets of the Auroville Foundation Act 1988 itself.

7) Limitation:-

a. It is also relevant to note that as per the NGT Act, 2010, the limitation to file the application is provided under section 14(3) which states that the limitation period shall be 6 months from the date on which the cause of action ***first*** arose. The prayer sought for in the application relates to the Master Plan. The plan was approved by the Government of India (Ministry of HRD) and the Governing Board in 2001 and notified in 2010. The cause of action first arose then.

b. The Applicant who claims to be a resident of Auroville for the last 20 years could have approached this Tribunal much earlier. There is absolutely no explanation as to why the applicant did not approach the Tribunal earlier qua the master plan. Thus, the application is hopelessly barred by limitation.

c. Further, even according to the applicant, the detailed development plan should be prepared for every five years. If according to the applicant the detailed development plan was not prepared, he could have approached this Honourable Tribunal in 2010 itself. There is no explanation by the applicant as to why he did not approach this honourable tribunal at least in the year 2015 (five years after master plan notification) for implementation of the detailed development plan.

d. Further, roads have been built and right of ways have been getting cleared from the very inception of Auroville in 1968 onwards. The applicant was and is deemed to be very much aware of it. However, for reasons best known, the applicant has approached the Honorable Tribunal at this very late stage.

e. The applicants have not chosen to file any application before the NGT within the 6-month period and hence the application is hopelessly barred by limitation.

8) Reply to other Oral Arguments of Main Applicant:-

a) **The applicant had contended that no development has taken place in Auroville.**

Response:- The argument is entirely misconceived. In this regard, useful reference can be made to the Master Plan itself, internal page 23 [Pg 161 of the applicant typed set], para 1.6.3 wherein it has been stated that the population in 2001 is given as 1,519 with ages break-up in table 4. How can this population exist without houses, community services, schools, roads, infrastructure etc. Now there are about 3,200 persons.

Further, at Para 1.6.6. on the same page namely Pg. 161 of the applicant typed set speaks of 5,000 persons who come to work in Auroville from

nearby villages. This shows that work of all types, including construction work was in progress providing employment to 5,000 persons. Also, how can these 5,000 persons reach the various work spots without roads?

Thus, the stand of the applicant is entire baseless. In any event this argument is entirely irrelevant for the purpose of the considering the present application before this honourable tribunal.

b) The applicant has contended that the Galaxy plan does not include roads.

Response:- This argument is entirely misconceived as well.The details of roads (width, length) were developed over time. But any town plan will have provisions for roads and the galaxy plan provides for the same. In any case what matters is that the approved Master Plan does have roads included with specifications and even a budget provision in the case of the Crown Road, the outer ring road and the main access road (page 81 of the Master Plan booklet).

c) The applicant has contended that the Green Belt in Auroville will be affected because of clearing of the Right of Way.

Response:- This again is misconceived. Throughout the arguments, the applicant has not mentioned that the Auroville Master Plan includes a Green Belt, which is planned to be three times the city area in addition to city green parks and corridors. There is no net environmental impact because of the alleged impugned action.

d) The applicant has contended that the Foundation is pushing through execution of the master plan in a hurry.

Response:- The Auroville Foundation has decided to accelerate township development on the occasion of 150th anniversary of Sri Aurobindo. There is no legal basis in the assertion of the applicant.

e) The Applicant has contended that individual structures within the township may require environmental clearance.

Response:- This is too general a statement. The entire argument is proceeding like an anticipatory injunction. The applicant can't make a general statement without any basis and seek to sustain their application. The Entire arguments on the basis of surmises and conjectures are much outside the pleadings itself. ***Further, there is no concept in law to require prior environmental clearance for individual components of a township else the concept of environmental clearance for a township would be rendered otiose.***

f) The applicant has relied on the video of one Christopher Pohl to substantiate his case that the lands in Auroville constitute a deemed forest.

Response:- this would not further the applicants case in any manner. It is submitted that the said Christopher Pohl is not an expert under section 45 of the Indian Evidence Act, 1872. He has not filed a proof affidavit before this Hon'ble Tribunal and did not subject himself to cross examination even though this Hon'ble Tribunal has enough and more powers to record evidence. The applicant has also not chosen to lead formal evidence in this regard before this Hon'ble Tribunal. The clip is also admittedly an edited clip produced without a s. 65 B certificate as mandated under the Indian Evidence Act, 1872. Even though evidence act *stricto sensu* does not apply to proceedings before this Hon'ble Tribunal, the principles surely do and the same is founded on the avowed objective of Principles of Natural Justice. In any event, this video damages the case of the applicants as it shows that development at Auroville began from 1968 when it was merely barren land. Further, the opinion of Mr. Pohl cannot override statutory records and the judgments of the Hon'ble Supreme Court of India.

g) The applicant has contended that what they are seeking is deviation regarding the cutting of trees

Response:- This again is a damaging argument to the applicant. If the applicants' argument that the lands in Auroville are a deemed forest is

accepted, where is the question of cutting trees in another part of the area. Further, the deviation as suggested by the applicant will only result on more trees to be cut. This is an institutional plan and cannot change or be deviated from on the basis of objections from individuals like the applicant.

h) **The applicant has contended that individual structures at Auroville has not crossed the plinth level and hence require environmental clearance.**

Response:- This again is an absurd and general statement. No specifics have been provided by the applicant through pleading. The subject matter of the *lis* is clearing the right of way for the Crown road. There is no plinth level in roads.

9. **Reply to Oral submissions of the intervening applicants:-**

It is firstly submitted that one of the intervening parties namely Tejaswini Mistry was a member of the Auroville Town Development Council. They claim to support the case of the main applicant but there is no whisper on the steps taken by them for preparation of DDP when they had an opportunity to do so. Hence, today to make an assertion that DDP was not prepared only shows that there are vested interest in making such submissions.

a) **The applicant contends that they are entitled to be consulted while executing the Master Plan.**

Response:- It is not known how this is an environment issue. Further, the Auroville Foundation Act doesn't state that they have to be consulted. In such an event, this argument has to be rejected. Further, the applicant and intervening parties ought to have clarified which consultative process was followed for the construction of the houses they occupy and for the roads leading to the houses they occupy in Auroville. Thus, these are merely arguments of convenience and cannot be given any weight by this Hon'ble Tribunal. Also, there is no question of "public consultation" being applicable to an institutional township.

b) **The applicant contends that the Galaxy Plan of the Mother has no influence on the Master Plan.**

Response:- This submission is entirely wrong. The Master Plan is based on the Galaxy Plan [See page 45 of the Master Plan]. In fact, it is entirely wrong to state that no structure was executed according to the Galaxy Plan. The Matrimandir, and the developments in the various zones have been built on the basis of the zoning of the Galaxy Plan. The Master Plan merely legitimizes and details the Galaxy Plan.

c) **The applicant contends that their representation to the Governing Board was not considered.**

Response: this is not an environment issue falling within the ambit of s. 14 of the NGT of 2010. If the intervening parties have an issue qua their representation to the Governing Board, they ought to approach the appropriate forum.

d) **The intervening applicant relied on an email of the "Forest Group" to contend that lands at Auroville are a forest.**

Response:- This has no legal basis. The intervening parties can't just come up with a term and claim from an email and argue as if it's of some substance. No group, by whatever name called, can redesignate Auroville lands as a forest.

e) **The intervening applicant argued that the Master Plan is only tentative**

Response:- This is erroneous. The Resident Assembly formulated a December 1999 plan, which is the plan that went to the Governing Board for approval and thereafter with changes, the Governing Board approved the Master Plan after expert inputs from the Ministry of Urban Development. The 2001 "Auroville Universal Township Master Plan" replaces all previous plans, drafts meeting minutes and is binding. It cannot be termed as tentative. Else, the very purpose of section 17(e) of Auroville foundation Act would be rendered otiose.

f) The intervening applicant argued that the Governing Board cannot take decisions for Auroville.

Response:- This again is not an environment issue falling within the ambit of s. 14 of the NGT of 2010. Further, if the intervener is aggrieved with the decision of the Governing Board, then, it is for them to challenge such action before the appropriate forum. By virtue of such arguments, the Auroville Foundation Act, 1988 itself is being challenged.

g) The intervening applicant relied on the Judgment of principal bench of NGT in the case of *Society for preservation of Kasauli and its environs vs Bird View resort OA no. 69 of 2017*.

Response:-The said judgment is entirely different on facts. Para 2-3 of the said judgments deals with facts therein. Resorts were being constructed in Himachal Pradesh in violation of environment norms. It is pertinent to mention that all directions issued therein were relating to environment only. The present case is entirely different. Auroville Foundation has been set up in public interest by an Act of Parliament to fulfill the ideals of Auroville as given by the Mother and to create an international cultural township as envisioned by her. There is nothing in the said judgment which mandates that local town and country planning laws, if any, could be enforced by the NGT.

10. THE APPLICATION FILED IS AN ABUSE OF PROCESS AND DESERVES TO BE DISMISSED WITH EXEMPLARY COSTS:-

a) s. 23(2) of the act states as follows:-

"23(2) Cost. -
Where the Tribunal holds that a claim is not maintainable, or is false or vexatious, and such claim is disallowed, in whole or part, the Tribunal may, if it so thinks fit, after recording its reasons for holding such claim to be false or vexatious, make an order to award costs, including lost benefits due to any interim injunction."

b) The applicants themselves in their own application at Para 11, have stated that youth center was demolished and that's why approached this Hon'ble Tribunal. However, the first respondent has included in their typed set of papers that structures have been erected brazenly at the very same venue and parties are being held therein namely New Year parties, pizza parties etc. The applicant has not bothered to request this Tribunal to restrain such activities. If the applicant's argument that the lands are a deemed forest is to be accepted then how can structures be put up therein and that too after the interim order granted by this Hon'ble Tribunal. Clearly the intention of the applicants don't seem to be to protect the environment.

c) The important factum is that Auroville which is meant to be a township for 50,000 is being utilized by 3000 alone out of which 300 are mainly enjoying. The very purpose of the Auroville foundation act, 1988 is being stifled. It is submitted that Landlordism exist at Auroville at the behest of a select few.

d) There are few select persons at Auroville who are enjoying Auroville as if it's their own private property and private fiefdoms. It is pertinent to mention that in 2019 there was an inquiry initiated by Auroville itself recommending a probe by appropriate Central agencies into complaints about irregularities in the complex web of land transactions, fund-raising and foreign donations at the universal township, in what the universal township's governors say, is a measure of "upholding transparency and oversight". The report of an inquiry committee submitted in September 2019 to the Ministry of Human Resource Development, observed that there was "a prima facie case that requires the entire matter to be handed over to an appropriate Central agency (agencies) in order to unravel the complex web of incidents, ostensibly criminal in nature. Thus, it is very obvious that power structures which exist at Auroville are being shaken and a select few are using an alleged environment issue as a smokescreen to prevent the Governing Board from taking earnest and effective action to usher in transparency and accountability.

e) The applicants have not mentioned that when Divine Mother came to Auroville and set up Auroville, it was nothing but barren land. So many efforts have been taken to transform Auroville into a green and beautiful place. None of these aspects have been brought to the knowledge of this Hon'ble Tribunal.

f) It is submitted that there are many genuine persons at Auroville who wanted to make Auroville a pride of India which is also the mandate of the Auroville Foundation Act, 1988. However, the applicants who represent a few disgruntled elements are hijacking the entire proceedings using the smokescreen of an alleged environment issue.

g) The applicants have been silent for the last few decades and have chosen to challenge an activity which has already been ongoing for the last many years under the pretext of an alleged environment issue. The applicants speak about Detailed Development Plans in their application. They were there for the last 20 years as per their own application. Why is it that there was no mention on what they did for the last 20 years in their application? Their intentions are not genuine and adverse inference ought to be drawn against them since they have not stated why they kept silent for the last many years.

h) It is also relevant to note that Auroville gets grants from Government of India for approx. 20 crores every year. No gram panchayat of a meagre population of just 3000 get grants from GoI for over 20 crores every year. Further, at Auroville, the residents get free land, income tax exemptions, subsidized food and electricity along with various other amenities whereas people in Gram panchayats own lands themselves. It's thus clear that reason why such emoluments are being granted to Auroville is because Auroville has been set up for an Honorable Purpose for higher spiritual living and learning. However, sadly, few select persons at Auroville seem to be professing an attitude exactly the opposite of what Auroville stsnds for.

i) The applicants have also not chosen to come before this Hon'ble Tribunal or stage a protest when Gaia playing field was set up. There were many trees felled before the Gaia Frisbee ground was set up. This shows the Double standards in the applicants conduct. If the applicant was serious of their deemed forest argument, they should have not allowed the Gaia Playing field to be set up.

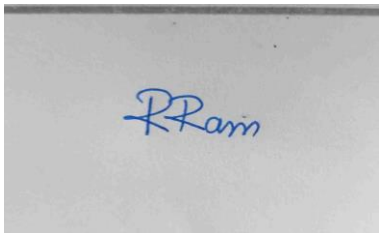
j) The resident assembly have already approved the master plan way back in December 1999. The applicants cannot now claim that they want a fresh approval to be taken contrary to the statutory mandate under the Auroville Foundation Act, 1988. The applicants must explain why they did not challenge the master plan which was approved by the Governing Board in 2001 itself.

k) Its also equally disheartening to note that criminal cases exist against few Aurovillean residents and Auroville is not today what it was envisioned to be. There are also documented disheartening instances of few Aurovilleans who have indulged in nefarious drug related activities and Aurovillenas have been caught with possession of banned narcotic substances through raids conducted by the Narcotics Intelligence Bureau. The Present Governing Board wants to usher in transparency and accountability in Auroville and ensure that Auroville establishes itself as the pride of India. The first step in that direction is to ensure orderly execution of the master plan so that Auroville becomes what it was meant to be – an international cultural township. Sadly, the actions of the applicants is a retrograde step and belittles the efforts taken by the Governing Board to usher in transparency and accountability.

l) The application has been filed with absolutely no basis and there is no substance in the application. It is thoroughly misconceived and suffers from enormous delay and laches. therefore the application ought to be dismissed with exemplary cost.

For the reasons stated above, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the present application filed by the applicants in O.A.No.239 of 2021 with exemplary cost and thus render justice.

Dated at Chennai on this the 20th day of January 2022



COUNSEL FOR INTEVENING RESPONDENTS

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE AT CHENNAI

OA No: 239 of 2021

WRITTEN ARGUMENTS FILED ON BEHALF OF THE INTERVENING RESPONDENT

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