

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI.
O.A.No.77 OF 2022 (SZ)

Sri Paramesh V

...Applicant

-Vs-

The Commissioner,
Burhat Bengaluru Mahanagara Palike & others

...Respondents

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Dated at Chennai on this the 21st day of October, 2022



COUNSEL FOR 4th RESPONDENT

1

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AFFIDAVIT ON BEHALF OF 4TH RESPONDENT

I, M.G.Yathish S/o Gopal M.V. , aged about 57 years, having office at No.49, "Parisara" Bhavan, Church street, Bengaluru-560001, do hereby solemnly affirm and state on oath as follows:

1. I state that, I am the Senior Environmental Officer at Karnataka State Pollution Control Board and hence I am well versed with the facts of this case from its records and I am competent and authorized to swear this affidavit on behalf of the 4th Respondent.
2. I state that, the case of the applicant is that the 8th respondent, who is the Project Proponent is constructing an apartment complex in the name and style of 'S.V. Elegant' in Sy.No.2/1 and 2/7 of Kumbena Agrahara Village, Bidarahalli Hobli, Bangalore East, by encroaching and blocking the adjacent stream on the east side of the construction project and its buffer zone.



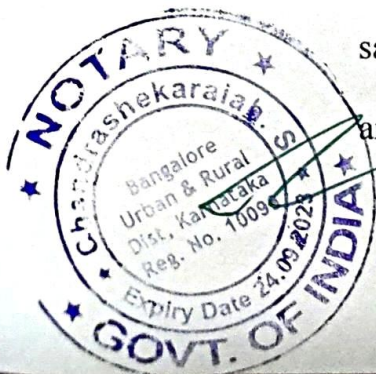
[Signature]
17/10/2022

3. I state that when the matter came up before the Hon'ble Tribunal on 19.09.2022, the 8th respondent filed a memo stating that the unauthorized structures were removed and furnished photographs to show that the swimming pool and the water closets constructed adjacent to nala were removed. However, the Learned Counsel appearing for the applicant would submit that the compound wall constructed is blocking the nala and it is said to be constructed on the buffer zone.

4. I state that the Hon'ble Tribunal directed the Karnataka State Pollution Control Board to confirm whether the statement said in the memo is right or wrong and also directed the Pollution Control Board to file a detailed report in this regard including the assessment of environmental compensation payable by the 8th respondent.

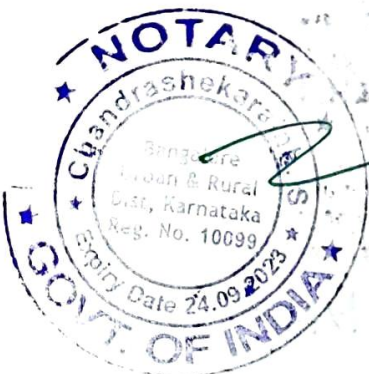
5. I state that as per the order of the Hon'ble Tribunal dated 19.09.2022, Mr. J.N.Yogananda, Environmental Officer (In-Charge), KSPCB has inspected the apartment premises and prepared a detailed inspection report wherein the following are the observations made by him:

1. The project has been completed and obtained the consent for operation of 60 KLD STP for the period up to 30.09.2030.
2. The STP was in operation at the time of inspection, the treated sewage sample was collected, and the sample sent to Central Laboratory for analysis.



[Handwritten signature]
12/10/22

3. All 108 flats have been occupied as informed by the project authorities.
4. They have developed garden area around the apartment premises.
5. The treated sewage is being utilized for gardening and toilet flushing within their premises.
6. There is no lake within 30 mtr buffer from the apartment premises.
7. There is a nala/stream towards east direction of the apartment, the apartment authorities have maintained the 15 meter nala buffer from the center line of nala to the plinth line of the Building and the same has been mentioned in the approved building plan by the BBMP authorities.
8. The apartment authorities / project authorities removed the Swimming Pool, water closet & bathrooms (constructed earlier) & which are within the nala buffer towards eastern side of the apartment.
9. Swimming pool, water closet & bathrooms are removed on 27.08.2022 as informed by the project authorities.
10. The compound wall provided all around the apartment premises and towards eastern side of the apartment the compound wall exists in the nala buffer.
11. The STP provided towards north-west corner of the apartment and is away from the nala buffer.
12. The project authorities have installed 125 KVA DG Set and for which 3 meter above roof level Chimney with Acoustic enclosures provided.



[Handwritten Signature]
17/10/22

4

13. The project authorities have installed organic waste converter of capacity 120 Kg/hr within the apartment premises to convert the organic waste into manure.

14. The photographs taken during inspection

6. I state that as per the detailed inspection report, the Project Proponent has removed the Swimming pool, water closet and bathrooms constructed earlier in the Nala buffer, but the compound wall towards the eastern side is still in existence in the Nala buffer and the Project Proponent is liable for Environmental compensation of Rs. 33,75,000/- for the past violations (as per CPCB Guidelines), calculated for 120 days, from 27-4-2022 to 24-8-2022. Subsequently it was calculated for 164 days from 27-4-2022 to 7-10-2022 which is amounted to Rs 46,12,500 for which demand notice has been issued to the Builder

7. I state that the Inspection Report with Photographs and Environmental Compensation demand note annexed to this affidavit may be read as part and parcel of this affidavit.

I swear accordingly


17/10/22
DEPONENT



SWORN TO BEFORE ME

17/10/2022
CHANDRASHEKARIAH. S
Advocate & Notary

No. 3/7, Kempegowda Nilaya
3rd Cross, Muthurayaswamy Extension
Sunkadakatte, Bangalore - 560091

Page 48
Dated 17/10/2022
COR 10789
Reg No

No. PCB/Ro-MDP/SV Elegant IR/2022-23/

Date:

**Inspection Report of Sri. J.N.Yogananda, Environmental Officer(In-charge), KSPCB,
Regional Office– Mahadevapura, Bengaluru**

Name and address of the project.	Residential Apartment by M/s. Venkateshwara Builders , at Sy. No. 2/1 & 2/7 Kumbena Agrahara village, BBMP Khata No.439,Bidarahalli Hobli, Bengaluru East Taluk, Bengaluru .
Date of Inspection	07.10.2022
Person contacted	1. Sri Giri Babu, Developer. 2. Sri Sudhakar Reddy, Sales Manager, 3. Sri Rajashekar, Accountant, 4. Sri Jaganath Mehra, STP operator.
Category	Large Orange (Sewage generation Less than 100 KLD)
CFE status	The project authorities have obtained the CFE from the Board vide order No.H-633 on 29.8.2018 for construction of Residential Apartment with 64 flats having TBUA of 8930.94 sqmtr with STP capacity of 45 KLD at Sy No.2/1 of Kumbena Agrahara village, Bidarahalli Hobli, Bangalore East Taluk. Further, they have obtained the CFE-Expn from the Board vide order No.CTE-322763 on 6.1.2021 for construction of from 64 flats to 108 Flats and TBUA from 8930.94 sq.mtr to 14,314.72 sq.mtr and STP from 45 KLD to 60 KLD.
Building Plan Approved from BBMP authorities	Approved building plan from BBMP authorities on 11.02.2020 for construction of Residential Apartment with 108 Flats having total BUA of 14,314.72 sq.mtr comprising of SF+GF+3 UF+TF.
Consent status	Obtained the consent for operation under Water Act for the period up to 30.09.2030 for operation of 60 KLD STP in the premises of Residential Apartment having 108 flats with TBUA of 14,314.72 sq. m comprising of BF+ GF + 3 UF.
<p>The said apartment was inspected on 07.10.2022 in view of the Hon'ble NGT(SZ) Chennai Bench order dated.19.09.2022 w.r.t. OA No.77/2022 in view of complaint filed before the by Sri Paramesh V.S/o Late Venkatesh , resident of Belathuru Colony, Kadugodi Post, Bangalore and the next date of hearing is scheduled on 18.10.2022. The following are the observations made during inspection;</p> <ol style="list-style-type: none"> 1. The project has been completed and obtained the consent for operation of 60 KLD STP for the period up to 30.09.2030. 2. The STP is in operation at the time of inspection, the treated sewage sample collected, and the sample sent to Central laboratory for analysis. 	

3. All 108 flats have been occupied as informed by the project authorities.
4. They have developed garden area around the apartment premises.
5. The treated sewage is being utilized for gardening and toilet flushing within their premises.
6. There is no lakes within 30 mtr buffer from the apartment premises.
7. There is a nala/stream towards east direction of the apartment, the apartment authorities have maintained the 15 meter nala buffer from the centre line of nala to the plinth line of the Building and the same has been mentioned in the approved building plan by the BBMP authorities.
8. The apartment authorities/ project authorities are removed Swimming pool, water closet & bathrooms (constructed earlier) & which are within the nala buffer towards eastern side of the apartment.
9. Swimming pool, water closet & bathrooms are removed on 27.08.2022 as informed by the project authorities.
10. The compound wall provided all round the apartment premises and towards eastern side of the apartment the compound wall exists in the nala buffer.
11. The STP provided towards north-west corner of the apartment and is away from the nala buffer.
12. The project authorities have installed 125 KVA DG Set and for which 3 meter Above Roof Level Chimney with Acoustic enclosures provided.
13. The project authorities have installed organic waste converter of capacity 120 Kg/hr within the apartment premises to convert the organic waste into manure.
14. The photographs taken during inspection are as below;



Front view of SV Elegant Apartment



Removed/demolished Swimming pool , water closet and bath rooms constructed in nala buffer earlier



60 KLD STP provided within the apartment premises towards North-West corner of the apartment.



Garden maintained by apartment authorities.



Compound exists in the nala buffer towards eastern side




OWC installed

General:

1. Complaint filed before the Hon'ble NGT (SZ) Chennai Bench by Sri Paramesh V.S/o Late Venkatesh on 22.7.2022 w.r.t. OA No.77/2022, the next date of hearing is scheduled on 18.10.2022 as per the Hon'ble NGT(SZ) order dated. 19.09.2022.
2. This office has calculated the EC (Environmental Compensation) as per CPCB in house Committee report on Methodology for Rs 33,75,000/-(Rupees Thirty three lakh seventy five thousand only) and sent to the Board Office on 27.09.2022 for further needful.

Recommendation:

The apartment authorities have removed the swimming pool, water closet and bathrooms (constructed earlier) within the nala buffer towards eastern side of the apartment and only compound wall exists in the nala buffer. In view of this, the Board Office is requested to take further action for levying the EC for past violations and also requested to submit the latest status with regard to removal of Swimming Pool , Bath rooms and water closet constructed earlier in the Nala buffer to the Hon'ble NGT(SZ) as the next hearing scheduled on 18.10.2022.


Environmental Officer(I/C)
RO-Mahadevapura

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ಹೆಲ್ಪ್‌ಲೈನ್ / Helpline : 080-25582559
 ಈಮೇಲ್ / E-mail : contact@kspcb.gov.in
 ವೆಬ್‌ಸೈಟ್ / Website : kspcb.karnataka.gov.in

080-25581383, 25589112
 080-25589113, 25589114

ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ Karnataka State Pollution Control Board

"ಪರಿಸರ ಭವನ", 1 ರಿಂದ 5ನೇ ಮಹಡಿಗಳು, ನಂ.49, ಚರ್ಚ್ ಸ್ಟ್ರೀಟ್, ಬೆಂಗಳೂರು-560001, ಕರ್ನಾಟಕ ರಾಜ್ಯ, ಭಾರತ
 "Parisara Bhavan", 1st to 5th Floor, # 49, Church Street, Bangalore - 560 001, Karnataka State, India

No. PCB 30 Infra NGT 2022/ 4742

Date:

14 OCT 2022

Environmental Compensation Demand Note

ರವಾನೆಸಲಾಹಿ

Subject:

Imposing Environmental Compensation (EC) for Non-compliances under the provisions of Water (Prevention and Control of Pollution) Act, 1974

References:

1. National Green Tribunal Case Original Application No. 77 of 2022.
2. Inspection of the apartment on 27.04.2022.
3. Inspection of the apartment on 24.08.2022.
4. N G T Order dated: 19.09.2022.

1. The Karnataka State Pollution Control Board has issued Consent for Establishment vide Order No H 633, dated 29.08.2018 for construction of apartment at Sy No 2/1 of Kumbena Agrahra Village, BBMP Khata No. 439, Bidarahalli Hobli, Bengaluru East Taluk, Bengaluru in the name of Venkateshwara Builders. The CFE had been issued with condition that the applicant shall earmark Lake and/ or Nala buffer distance as per NGT Order dated 04.05.2016 in respect of Original Application No 222 of 2014. Thereafter, you have obtained Consent for Expansion issued by the Board Office vide No CTE 322763, dated 0.01.2021 for increasing the No of flats, built up area and additional land on Sy No 2/7 of the above said village.
2. Owing to complaint filed by Mr. Paramesh V, Officer of KSPCB Jurisdictional Regional Office Mahadevapura inspected your Residential Apartment named SV Elegant, located at above mentioned location on 27.04.2022. During the inspection, the Inspecting Officer had observed construction of Swimming Pool, Water Closet and Bath Rooms taking place within 15 m Nala Buffer earmarked towards eastern side of the apartment.
3. As the Nala Buffer is to be treated as No Construction Zone as per Order of NGT Order dated 04.05.2016 in the matters related to OA No 222 of 2014, the Regional Office Mahadevapura issued Notice to you vide No 193, dated 17.05.2022, directing to stop the above said construction taken up in the nala buffer and remove the already constructed structure. However, you have neither responded to the Notice nor submitted compliance report.
4. In the meanwhile, a case has been registered on the above before the Hon'ble National Green Tribunal, Southern Zone bearing Original Application No 77 of 2022.
5. The Inspecting Officer from the Regional Office, during his inspection of your apartment on 24.08.2022, has observed that you have completed the construction of the above mentioned components in spite of issue of Notice. This shows your negligent and collous attitude towards law.
6. Hearing the case, the NGT, in its interim Order dated 19.09.2022, directed to collect Environmental Compensation from the builder which is calculated as below:

$$EC = PI \times N \times R \times S \times LF$$

EC = Environmental Compensation

PI = Pollution Index

N = Number of days violations took place

R = Factor in Rupees

S = Factor for scale of operation

LF = Location Factor

PI value is taken as 50 (Since your apartment falls under orange category)

N= 164 (No. of days calculated since April 27, 2022 to October 07, 2022)

R= 250 (As per guidelines of CPCB)

S= 1.5 (Since your apartment falls under large category)

LF = 1.5 (considering Bengaluru Urban as less than 10 million population city as per census 2011)

So, EC is calculated as below:

$$EC = 50 \times 164 \times 250 \times 1.5 \times 1.5 = \text{Rs. } 46 \text{ } 12 \text{ } 500/-$$

Therefore, EC works out be Rs 28 125/- per day of violation which you are required to pay for further period from 07.10.2022, until the Nala buffer is completely cleared off all the construction.

1. Hence you are hereby directed to pay the Environmental Compensation of INR 46 12 500/- forthwith in the form of Demand Draft drawn in favor of Member Secretary KSPCB, payable at Bengaluru.
2. The receipt of this Demand Note shall be acknowledged.

Sd/-

Member Secretary

Draft Approved by Member Secretary

To:

Mr. Giri Babu GK &
Mr. Mithun Gowda K, Partner,
Venkateshwara Builders, Sy No. 106,
29th Cross, Balaji Layout, Kaggadasapura Village,
C.V.Raman Nagara Post, Bengaluru 560 093.

Copy to:

1. The Chief Finance Officer, KSPCB, for information and to maintain separate account for EC.
2. Law Officer, KSPCB, for information and necessary action.
3. Senior Environmental Officer, Bengaluru East Region, Bengaluru, for information and necessary action.
4. Environmental Officer, Regional Office, Mahadevapura, for information and take action to collect Environmental Compensation charges as above.
5. Office copy.


Senior Environmental Officer

BEFORE THE NATIONAL
GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI.

O.A.No.77 OF 2022 (SZ)

Sri Paramesh V

...Applicant

-Vs-

The Commissioner,
Burhat Bengaluru Mahanagara
Palike & others

...Respondents

AFFIDAVIT ON BEHALF OF

4TH RESPONDENT

M.R.GOKUL KRISHNAN

Counsel for 4th Respondent

OA No: 77 of 2022(SZ) Sri Paramesh V -VS- The Commissioner & others pending before the Hon'ble National Green Tribunal Southern Zone, Chennai.

3 messages

Rajasekaran <mskvakils@gmail.com>

Fri, Oct 21, 2022 at 2:42 PM

To: parameshpar56082@gmail.com, "comm@bbmp.gov.in" <comm@bbmp.gov.in>, jempura@bbmp.gov.in, "aee.hoodysubdivision@gmail.com" <aee.hoodysubdivision@gmail.com>, seoe@kspcb.gov.in, bngmdpura@kspcb.gov.in, dcurban@nic.in, "svelegantsales@gmail.com" <svelegantsales@gmail.com>

Sir/Madam,

Please find the attached copy of Affidavit.

Kindly receive and acknowledge the same.

With Regards,



3rd Floor, Y M C A Building, 223, NSC Bose Road,

Parrys, Chennai - 600 001. TN, India

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