

BEFORE THE NATIONAL GREEN TRIBUNAL

SITTING AT PUNE (WZB)

MEMORANDUM OF APPEAL

(Under Section 18(1) read with Section 16 of the
National Green Tribunal Act, 2010)

Appeal No. 168 Of 2024

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BETWEEN

M R Engineering Co.

Through their Proprietor

Gala No. 1, Plot No. 58-4, 58-5

Kapoor Compound, Chakwal

Khairpada Village, Virar,

Taluk Vasai, District Palghar-401303,

Maharashtra

...Appellant

141

AND

Maharashtra Pollution Control Board

Through the Regional Officer, Thane

and Others

...Respondent(s)



Filed By:

A handwritten signature in black ink, consisting of a long horizontal stroke followed by a shorter horizontal stroke and a vertical stroke.

Mr. S. Bhartari

Bhartari Law Chambers

Environment Law Advisers

Bhartari House

C-77 Neeti Bagh

New Delhi-110049

sbhartari@gmail.com

7982565849

Date-2-1-2025

Pune Maharashtra

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Filed By:

(Handwritten signature lines)



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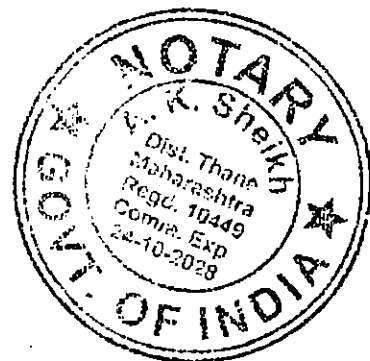
Appeal No. Of 2024

BETWEEN

M R Engineering Co.
Through their Proprietor
Gala No. 1, Plot No. 58-4, 58-5
Kapoor Compound, Bhawkal
Khairpada Village, Virar,
Taluk Vasai, District Palghar-401303,
Maharashtra
mr_engg_co@yahoo.in
9867077133 ...Appellant

Versus

1. Maharashtra Pollution Control Board
Through the Regional Officer



145

2

5th Floor, Office Complex Building

Near Mulund Check Naka

Thane- 400 604 Maharashtra

rothane@mpcb.gov.in

022-25802272

2. Maharashtra Pollution Control Board

Through the Sub-regional Officer

Plot No. P-30, 5th Floor, Office Complex

Mulund Checknaka

Thane II, Maharashtra - 415 605

srothane2@mpcb.gov.in

022-25829582

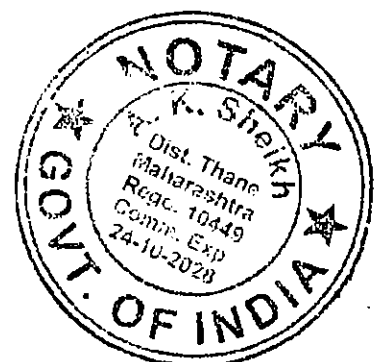
3. Maharashtra Pollution Control Board

Through the Member Secretary

Kalpataru Point, 1st Floor

Opposite PVR Theatre

Sion (E), Mumbai- 400022 Maharashtra



146

mpebnumbair@mpeb.gov.in

022-24010437

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4. Maharashtra State Electricity

Distribution Company Ltd.

Through the Executive Engineer

Vidyut Bhavan, Manor Road,

Juna Palghar, Palghar Maharashtra-401404

sewasai/mahadiscom.in

9028154266

5. Vasai Virar City Municipal Corporation

Through the Executive Engineer

Kala Kutir Road, Dongarpada

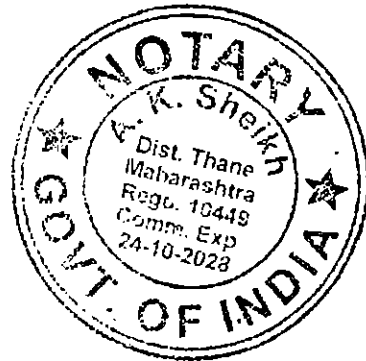
Vartak Vard, Virar West, Virar

Water Supply, Palghar Maharashtra-401305

vasaivirarcorporation@gmail.com

02525-252097

.. Respondents

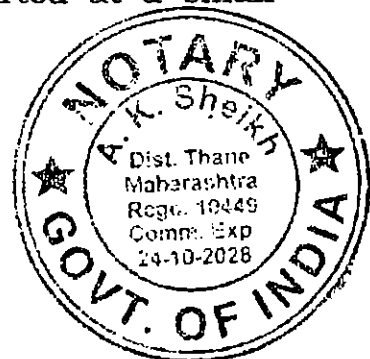


ADDITIONAL AFFIDAVIT ON BEHALF OF THE
APPELLANT

4

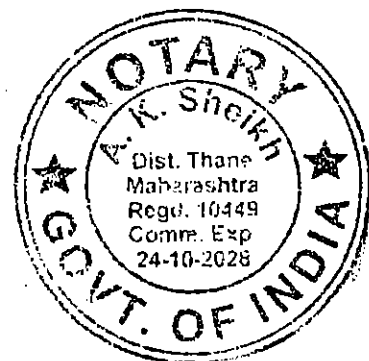
I Mukarab Rukumuddin Kapoor, son of shri Rukumuddin Kapoor, aged about 67 years, resident of B-306, Meena Apartment, Jai Vijay Nagar, Inside Chandresh Accord, Mira Road (E), District Thane-401107, Maharashtra do hereby solemnly affirm and state as under:

1. The appellant has filed an appeal before the Hon'ble Tribunal against Closure Order dated 18-10-2024 passed by respondent No. 1 against the appellant industry unit, which is annexed as Annexure A-1 with the appeal.
2. The appellant is a Small Scale Industry Unit and is duly registered with the Ministry of Micro, Small and Medium Enterprises and falls under the 'Orange' category. The business initially started at a small



level from the residence of the proprietor and subsequently shifted to a suitable plot of land situated in the Virar area near Mumbai, Maharashtra. However, this plot of land had to be handed back to the government on account of acquisition proceedings under the Land Acquisition Act, 2015 on 28-8-2024 August 2024 and the business was shifted to the present address. A copy of the letter of handing over of possession as annexed as **Annexure-1** to this affidavit.

3. That after handing over possession of earlier plot of land back to the government and shifting machinery to the present place of business on 28-8-2024 August 2024, the appellant applied for consent to operate ('CTO') on 23-8-2024 through the online mode and deposited the requisite fee as required, a copy whereof is annexed as Annexure A-3 with the appeal.
4. The appellant also applied for a requisite permission/no objection certificate ('NOC') from the Forest Department on 3-10-2024. As per the



appellant understanding, the Forest department has initiated the process of internal enquiry relating to their application for NOC and the process is pending with the said department. The appellant is in the process of collecting additional requisite information and documents' and these too would be submitted to the Forest department shortly. The appellant understands that after submission of the information and documents', their application would be put up before the monitoring committee of the department for their consideration and opinion. On the date of the impugned order, the application for CTO was pending with the pollution department.

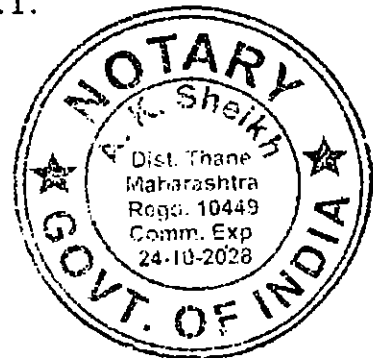
5. The appellants' application for CTO was rejected by the pollution department on 12-12-2024 copies of which are annexed as Annexure A- Colly with the appeal.
6. It is relevant to submit that the appellant did not issue any show cause notice to the appellant



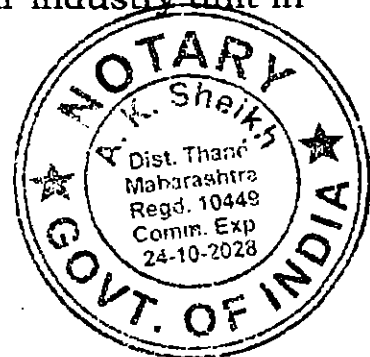
industry unit before passing the impugned order,
nor any personal hearing was given to them with
prior to the impugned closure order based upon the
inspection carried out on 27-9-2024.

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7. The appellant submitted a representation application dated 28-12-2024 to the respondent No.1 for reconsideration of the closure order passed against their industry unit and for withdrawal of the order, a copy whereof is annexed as Annexure A-6 with the appeal. The appellant also requested the respondent No.1 to provide a hearing to them to appear and explain the facts in person. The appellant has not received any response to their application till date, not any hearing has been provided to them by respondent No.1.



8. The impugned closure order has inter alia, been passed against them on the ground that their industry unit did not have a CTO, even though their application for CTO was pending approval with the pollution department. Further, the appellant was operating their unit without providing air pollution control system, whereas, as the air pollution control system was already installed on the date of the closure order as is evident from the photographs of the equipment annexed with the appeal as Annexure-A-4. Apparently, the impugned closure order is seemingly based on the observations of the inspection done on 27-9-2024, without ascertaining the ground realities existing on the site. The impugned order also inter alia, referred to the fact that the appellant is operating their industry unit in

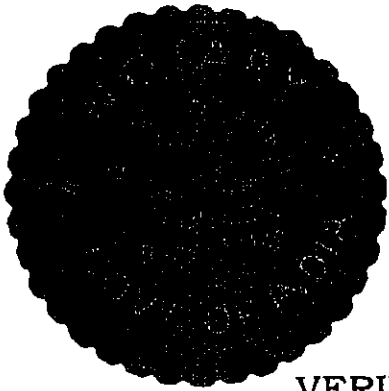


the Eco Sensitive Zone ('ESZ'), which is violation of ESZ notification. The ESZ notification however, provides for regulation and not prohibition. It is also pertinent to note that an adjacent industry unit belonging to the 'red' category is running their operations' in the same area as the appellant. bearing Survey No. 58 ('PSP Industrial Works, Vasai Virar, Palghar, Maharashtra. Infact, the two units' share the same boundary wall. Apparently, that 'red' category industry unit is being permitted by the pollution department to continue their operations' in the ESZ zone, and in all probability have been granted CTO as well by the pollution department. However, the same pollution department has issued the impugned closure order dated 18-10-2024 against the appellant, even though on the date of



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the closure order their application for CTO and application for no objection certificate ('NOC') was pending before the pollution department and the Forest department respectively.

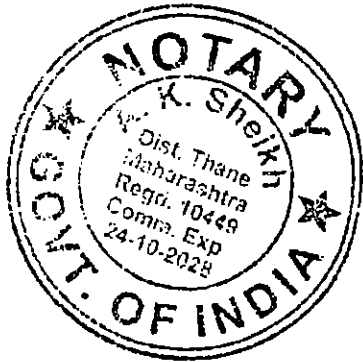


मिर्जापुर
DEPONENT

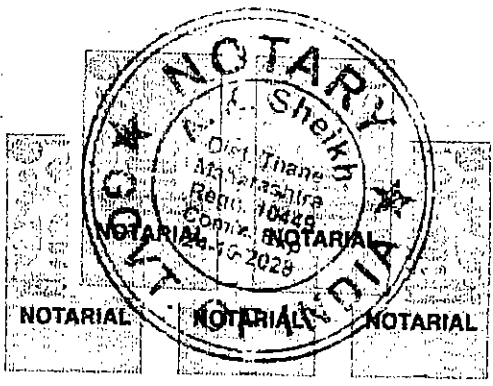
VERIFICATION

I the above named deponent do hereby verify that the contents of Para 1-8 of my affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed therefrom.

Verified at Thane, Maharashtra on this 2nd day of January 2025.



मिर्जापुर
DEPONENT
Aadhar No. 9217 6977 4857



Before Me
A. K. Sheikh 21/1/2025
A. K. Sheikh
NOTARY PUBLIC GOVT. OF INDIA
102, A-Wing, Dev Ashirwad,
Laxmi Park, Mira Road (E),
Dist. Thane- 401 107. (M. S.)

| | | | |
|------------|---------|----------|----------|
| Book No. | A | Page No. | 01 |
| Serial No. | 05/2025 | | |
| Date | 2nd | Month | Jan 2025 |

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9/2 Kapoor Est, NH8, Opp. Western Point Hotel, Mandev's Ring, Vasai (E), Dist. Palghar-401303

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ANNEXURE-1

DATE: 28.08.2024

To,
The CALA Office,
Vasai, Dist. Palghar,
Maharashtra.

SUBJECT: Handover of Land Possession and Objections Regarding Unsettled Compensation for Survey Nos. 9/2 and 9/3.

Dear Sir,

I am writing to confirm the handover of land in my possession of Survey Nos. 9/2 and 9/3, as per the Gutbook records, to facilitate the timely progress of the Mumbai Vadodara Delhi Expressway project. While I am committed to avoiding any further delays or obstacles to this important infrastructure project, I must raise strong objections regarding several unresolved compensation issues that have not been addressed adequately:

1. NON-COMPENSATION FOR SHIFTING, RELOCATION AND REHABILITATION COSTS:


Despite the submission of a detailed report by the Public Works Department (PWD) dated 24/01/2022, which outlines the expenses related to the shifting, relocation, and rehabilitation of the factory premises under the Compulsory Land Acquisition Act, no compensation has been provided.

2. UNADDRESSED COMPENSATION FOR 16 GUNTHAS OF LAND IN SURVEY NO. 9/3:

I have been in possession of 16 gunthas of land in Survey No. 9/3 for the past 18 years. This land, which includes a compound wall and sand filling up to 10 feet, has been clearly documented in the Joint Measurement Report (JMR) and the National Highway (NH) survey report. However, compensation for this land remains outstanding.

3. OUTSTANDING EXPENSES FOR ELECTRIC SUPPLY AND TRANSFORMER INSTALLATION:

Significant costs were incurred for the installation of a 315 KVA transformer and electric supply to the factory premises. A letter detailing these expenses was submitted to the office, Thane, but no compensation has been provided to date.


29/08/2024
लिपिक

उपविभागीय अधिकारी वसई
यांचे कार्यालय


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4. DELAYED PAYMENT FOR FRUIT TREES AND BOREWELL:

Despite previous communications, the payment for the fruit trees and borewell situated on the affected land has not been released.

5. INCOMPLETE ASSESSMENT OF INTERNAL STRUCTURES AND MACHINERY:

While external structures have been assessed and compensated, the internal structures, including several machine foundations, have not been examined. The valuation of this machinery dated 03/05/2018 has been submitted and included in the Award Copy, yet compensation remains pending.

I urge you to address these issues promptly and ensure that the rightful compensations are provided. While I am handing over the land in good faith to support the project, it is crucial that these financial matters are resolved without further delay.

Thank you for your attention to these concerns. I look forward to a swift and fair resolution.

Yours sincerely,

For M. R. ENGINEERING CO.

Himanshu mye
PROPRIETOR

COPY to

1. NHAI, PIU, Thane for kind information, please.
2. Collector- Palghar for kind information, please.

*True Copy
Adv.*