

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH AT PUNE

ORIGINAL APPLICATION NO. 109 OF 2023

IN THE MATTER OF:

PRALHAD TUKARAM GAWANDE AND ANR.

.... APPLICANTS

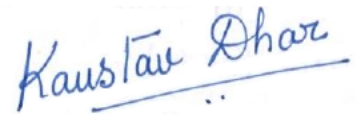
VERSUS

STATE OF MAHARASHTRA AND ORS.

.... RESPONDENTS

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THROUGH**RAHUL CHOUDHARY****KAUSTAV DHAR
ADVOCATES****COUNSELS FOR THE APPLICANTS**

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New Delhi – 110048

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Email: litigation@dclawchambers.com**PLACE: PUNE/DELHI****DATE: 23.01.2025**

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**WESTERN ZONE BENCH AT PUNE****ORIGINAL APPLICATION NO. 109 OF 2023****IN THE MATTER OF :**

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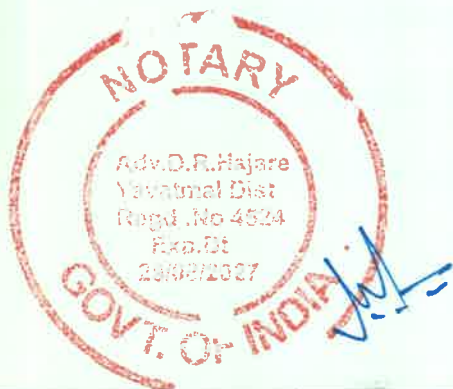
STATE OF MAHARASHTRA AND ORS.

.... RESPONDENTS

ADDITIONAL AFFIDAVIT FILED ON BEHALF OF THE APPLICANTS**MOST RESPECTFULLY SHOWETH :**

I, Balaji Anantrao Yerawar, Applicant No.2, aged about 69 years, S/o Late. Anantrao Nanaji Yerawar, R/o Rutuparn Dayariz, Plot No. 6 Mahadev Nagar, Near Om Society, Yavatmal, Maharashtra – 445001, do hereby solemnly affirm and declare on oath as under:

1. That I am the Applicant No. 2 and is conversant with the facts and circumstances of the case and competent to swear this Additional Affidavit.
2. That I have read and understood the order dated 19.09.2024 passed by this Hon'ble Tribunal in the above captioned matter and hence filing this affidavit in light of the liberty granted by this Hon'ble Tribunal vide order dated 19.09.2024 to bring on record available information regarding the Site Clearance granted to the Respondent No. 3 That the following additional facts were not a part of the Original Application No. 109 of 2023, hence, the Applicants want to file additional facts and documents in compliance of the order dated 19.09.2024 and hence, the same shall be placed on record for perusal of this Hon'ble Tribunal which are necessary for proper adjudication of the above-mentioned Application.



3. That the above titled Original Application was being filed under Sections 14 read with Section 20 of the National Green Tribunal Act, 2010 raising the grievance that the E-Tender No. 1 of 2023-2024 issued on 18.04.2023 for the purpose of commencing the construction of the Lower Penganga Irrigation Project at Yavatmal in Maharashtra after the expiry of Environmental Clearance in violation of Environmental Impact Assessment Notification, 2006.
4. The Applicants herein submit that a RTI Application was filed on October 14, 2024, before the Executive Engineer of the Lower Penganga Irrigation Project Division, Yavatmal in accordance with the provisions of the Right to Information Act, 2005. Through this application, the Applicants specifically sought details regarding the Site Clearance status pertaining to the Lower Penganga Irrigation Project Division, Yavatmal. In response to this application, the Executive Engineer of the said division, through a reply dated October 31, 2024, categorically stated that **no Site Clearance Certificate had been received till date**. This unequivocal statement underscores that no site clearance has been granted to the impugned project despite it being a site specific project and the EIA/EMP and Public hearing has been conducted without the requisite site clearance from the MoEFCC.

The copy of the RTI Reply dated 31.10.2024 with the true translated copy are annexed herewith as **ANNEXURE A/1**.

5. Further, the Applicants submit that it is absolutely pertinent to note that as per Para No. 8 of the EC dated 17.05.2007, the EC granted to the **'project proponent is valid for five (5) years for the commencement of construction work'**, which accordingly got expired on 16.05.2012. That after the expiry of the valid EC on 16.05.2012, the Superintending Engineer of Lower Penganga Irrigation Project vide letter dated 18.06.2012 applied to the MoEFCC for extension/corrigendum of the EC. That in response to which a Corrigendum dated 27.09.2013 was issued by the MoEF&CC thereby making an amendment

with regard to the extension of the EC and the validity of the EC was thereafter extended for a period of 10 years from the date of the issue of the EC, therefore, the new expiry date of the EC was 16.05.2017. That considering the corrigendum, it was allowed to be extended till the year 2017:

As per Para-3 of the EC of even number dated 17.5.2007, the validity was mentioned as 5 years for commencement of construction work. In this context, the following amendment in para-8 of the EC of even number dated 17.5.2007, is hereby made:

The environmental clearance is valid for a period of 10 years from the date of issue of this letter for "commissioning of the project"

Instead of

The environmental clearance is valid for a period of 5 years from the date of issue of this letter for "commencement of construction work"

6. It is crucial to note here that there is a specific modification in the phrases used in the corrigendum regarding the validity of EC i.e., the EC dated 17.05.2007 states that the same is valid for "5 years for commencement of construction work" whereas the corrigendum dated 27.09.2013 states that the EC is valid for "10 years for commissioning of the project". That the Corrigendum clearly states that EC is valid for 10 years for commissioning of the project which means completion of all construction work and starting of the project. However, the project proponent has failed to commission the project with the stipulated timeframe of 10 years i.e., 16.05.2017. Thus, any further construction is legally not permissible till fresh EC is obtained in accordance with the EIA Notification, 2006. Hence, the E-Tender Notification No. 01 for 2023 dated 18.04.2023 is bad in law and is in complete violation of EIA Notification, 2006.
7. The above-mentioned facts and documents are filed in compliance to the order dated 19.09.2024 passed by this Hon'ble Tribunal in the above captioned matter and hence are necessary for proper adjudication of the matter.

DEPONENT

[Handwritten Signature]

VERIFICATION

Verified on this 23rd day of January, 2025 at YAVATMAL that the contents of the above-mentioned Additional Affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed there from.

Bherawar
DEPONENT

N.R.S. No. 206/25

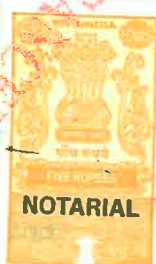
Solemnly affirmed before me by
Shri Balaji Anantkrishna Bherawar

who is personal known to me has been
identified by shri. Suf

Advocate, whom I
personally know

Dt. 23/1/25

Dipak R. Hajare
Advocate & Notary Public
At. Post. Dist. Yavatmal
Govt. of India Reg. No. 4524
Pages 4





कार्यकारी अभियंता, निम्न पैनगंगा प्रकल्प विभाग, यवतमाळ
दाते कॉलेजच्या मागे, उमरसरा, यवतमाळ ४४५ ००१
फॅक्स क्रमांक ०७२३२-२५५११३ दुरध्वनी क्रमांक ०७२३२-२४२३२१
ईमेल- eelppdiv@gmail.com ;eelppd_yvtmal@wrд.maharashtra.gov.in



R.P.A.D./ माहितीचा अधिकार अधिनियम-२००५
जावक क्र. २५४७ निपैप्र/आस्था-६/२०२४

दिनांक :- ३१/१०/२०२४

39/90/2024

प्रती, श्री. प्रल्हाद तुकाराम गावंडे
(मु.पो. उमरी (कापेश्वर)
ता. आर्णा, जि. यवतमाळ. व्हाया सदोबा सावळी.

विषय:- माहितीचा अधिकार अधिनियम-२००५ अंतर्गत माहिती उपलब्ध करून देण्याबाबतचा आपला अर्ज.

संदर्भ:- १) आपला अर्ज दिनांक १४/१०/२०२४, या कार्यालयाला प्राप्त दिनांक १५/१०/२०२४.

महोदय,

उपरोक्त विषयान्वये आपला माहितीच्या अधिकारात माहिती मिळण्याचा अर्ज दि. १५/१०/२०२४ रोजी या विभागास प्राप्त झाला आहे. आपण मागणी केलेली व या कार्यालयात उपलब्ध असलेली माहिती, आपणास माहिती अधिकारातील कलम ७ (१) मधील तरतुदीनुसार उपलब्ध करून देण्यात येत आहे.

मुद्दा क्र.	माहितीचा संक्षिप्त तपशील	पृष्ठसंख्या	मागितलेली व पुरविण्यात येत असलेली माहितीची यादी
१	२	३	४
१	निम्न पैनगंगा प्रकल्पाबाबत पर्यावरण विभागाकडून मिळालेले site clearance प्रमाणपत्र	---	अप्राप्त
२	दिनांक २२/१२/२०११ रोजी मा. जलसंपदा मंत्री यांना विधानभवन नागपुर येथे घेतलेल्या सभेत निम्न पैनगंगा प्रकल्पाचे काम सुरु करण्याचे निर्देश, सभेचे ईतिवृत्त किंवा आदेश	०९	छा.प्रत सोबत जोडण्यात येत आहे..
३	एप्रिल २०२२ ते सप्टेंबर २०२४ पर्यंतचे जमा खर्चाचे विवरणपत्र	०१	छा.प्रत सोबत जोडण्यात येत आहे.
४	निम्न पैनगंगा प्रकल्पात व्याप्तीत बदल झाल्याने लाभ व बुडित क्षेत्रातील गावाची यादी..	---	व्याप्तीत बदल झालेला नाही.
५	लाभ व बुडित क्षेत्राचा नकाशा.	०१	सोबत जोडण्यात येत आहे.
६	निम्न पैनगंगा प्रकल्पच्या व्याप्तीत बदल झाल्यामुळे नविन DPR ची प्रत (जुनी देवु नये)	--	व्याप्तीत बदल झालेला नाही.

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७	मा. उपमुख्यमंत्री तथा जलसंपदा मंत्री यानी ९ जुलै २०२४ ला दिलेल्या निर्देशानंतर प्रकल्पाची कार्यवाही सुरु करण्याबाबत वरीष्ठाकडून आलेल्या आदेशाची प्रत. (पत्र व्यवहार)	०५	छा.प्रत सोबत जोडण्यात येत आहे
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आपणास वरील माहिती मान्य नसल्यास हे पत्र मिळाल्यापासून ३० दिवसांच्या आत श्री. सु. कि. राठोड, प्रथम अपिलीय अधिकारी तथा कार्यकारी अभियंता, निम्न पैनगंगा प्रकल्प विभाग, यवतमाळ यांच्याकडे प्रथम अपील अर्ज दाखल करता येईल. माहिती करीता रवाना.

सहपत्र :- वरील प्रमाणे



(व्ही.जी. बोरकर)

जनमाहिती अधिकारी तथा
उपकार्यकारी अभियंता
निम्न पैनगंगा प्रकल्प विभाग
यवतमाळ



**Office, Executive Engineer, Lower Painganga Project
Division, Yavatmal**

Behind Date College, Umarsara, Yavatmal 445001
Faxer number 07232-255113, telephone number 07232-242321 Email:
celppdiv@gmail.com eelpd.yvtmal@ wrd.maharashtra.gov.in

R.P.K.D/ Right to Information Act, 2005
outgoing No. 2540 /Nipita/Astha-3/2022

Date: 31/10/2024

Copy, Shri Prahlad Tukaram Gawande,
M.P.Umri (Kapeshwar).
T. Arni, Dist. Yavatmal

Subject:- Application for Providing Information Under the Right to Information Act, 2005

Reference:-1) Your application was received by the Office dated 15/10/2024 dated 14/10/2024.

2) Letter No. 1628 /NIPM/Astha-3/2022 dated 19/07/2022.

3) Order No. 3262/Astha-2/MAA 5/Appeal No. 07/2022 dated 02/09/2022 of The First Appellate Officer and Superintending Engineer, Yavatmal Irrigation Project Board, Yavatmal.

Sir,

As per the subject mentioned above, your application requesting information under the Right to Information Act, dated 15/10/2024, has been received by this department. The requested information, as available in this office, is being provided to you in accordance with the provisions of Section 7(1) of the Right to Information Act.

Sr. No.	Brief details of information	Page Number	The list of information that was requested or is being received previously
1	2	3	4
1	Site clearance certificate received from the Environmental Department regarding the Lower Penganga Project	-	Not Received
2	On 22/12/2011, during the meeting held at Vidhan Bhavan, Nagpur, the Honorable Minister of Water Resources gave instructions to start the work of the Lower Penganga Project, along with the meeting's minutes or orders.	09	The copy is attached herewith

3	Statement of income and expenses from April 2022 to September 2024.	01	The copy is attached herewith
4	Due to the change in the extent of the Lower Penganga Project, the list of villages in the beneficiary and affected area	--	There has been no change.
5	Map of the beneficiary and affected area.	01	It is being attached herewith
6	Due to the change in the extent of the Lower Penganga Project, new DPR copies should be provided (old copies should not be submitted)	--	There has been no change.
7	Copy of the order received from the senior authorities regarding the commencement of project activities following the directions issued by the Hon'ble Deputy Chief Minister and Minister of Water Resources on 9th July 2024. (Correspondence)	05	The copy is attached herewith

Should you not accept the information provided above, you are hereby notified that you may file a First Appeal with Shri. Su. Ki. Rathod, the First Appellate Authority and Executive Engineer, Lower Penganga Project Division, Yavatmal, within thirty (30) days from the date of receipt of this letter.

Dispatched for information,

(V. G. Borkar)
Public Information Officer and
Executive Engineer
Lower Painganga Project Division
Yavatmal

Certificate: As mentioned above

t.t.c.





1462

Litigation . <litigation@dclawchambers.com>

Additional Affidavit on behalf of the Applicant in OA No. 109 of 2023 Pralhad Tukaram Gawande & Anr. Versus State of Maharashtra & Ors.

1 message

Litigation . <litigation@dclawchambers.com>


Thu, Jan 23, 2025 at 2:58 PM

To: Kaavyanjali Wadekar <kaavya10jan@yahoo.com>, cs@maharashtra.gov.in, eelppd.yvtmalwrd@maharashtra.gov.in, eelpd.yvtmalwrd@maharashtra.gov.in, seyic.yvtmalwrd@maharashtra.gov.in, Pushkal Mishra <pushkalm6@gmail.com>
Cc: kol_office@dclawchambers.com

Dear Sir/madam,

Please find attached-Additional Affidavit on behalf of the Applicant in OA No. 109 of 2023 Pralhad Tukaram Gawande & Anr. Versus State of Maharashtra & Ors.

Thanks & Regards
Counsel for the Applicant

 **Additional Affidavit on behalf of the Applicant.pdf**
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