

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH
AT PUNE**

ORIGINAL APPLICATION NO. 115 OF 2023 (WZ)

BETWEEN

Dr. Atul Sheth&Ors.

...Applicant

VERSUS

The Guhagar Nagar Panchayat, Guhagar &Ors.

...Respondents

**AN ADDITIONAL AFFIDAVIT ON BEHALF THE APPLICANTS TO
BRING ON RECORD ADDITIONAL FACTS AND DOCUMENTS**

ADVOCATE FOR THE APPLICANTS: ADV. NRUPAL DINGANKAR

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Drawn on: 17.10.2023

Filed by:

Filed on :18.10.2023



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**AN ADDITIONAL AFFIDAVIT ON
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BRING ON RECORD ADDITIONAL
FACTS AND DOCUMENTS.**

I, Dr. Atul Sheth, Age: Adult, Occupation: Medical Practitioner R/ at: 438D, Markandi, Chiplun, Dist. Ratnagiri-415605 do hereby solemnly affirm and state as under:

1. That I am the Original Applicant No.1 in the present Original Application pending adjudication before this Hon'ble Court. This Hon'ble Court was pleased to issue to Notice in the present O.A No. 115 of 2023 (WZ) vide its Order dated 01.09.2023, this Hon'ble Tribunal was pleased to constitute a Joint Committee to visit the site and assess the present status of the Solid Waste Management at Guhagar, assess the suitability of the site, in terms of the Solid Waste Management Rules, 2016 and also identify alternative site available, if any and submit a report within period of 4 weeks.



Noted and Registered
at Sr. No, 1253/2023
Date- 17/10/2023



2. In terms of the Order dated 01.09.2023 passed by this Hon'ble Tribunal in the present matter, a Joint Committee conducted a site visit on 06.10.2023. The Applicant No.1 was present during the site visit and assisted the officers during the site visit. During the site visit the Applicant No.1 submitted a brief representation on behalf of the Applicants to the Joint Committee regarding the issues raised in the present Original Application and appraising the Committee regarding such other issues which were relevant for consideration of the Joint Committee to assess the suitability of the Proposed Site for establishing a MSW Facility in terms of Solid Waste Management Rules, 2016. The contents of the representation submitted to the Joint Committee on behalf of the Applicants dated 06.10.2023 are not repeated herein to avoid burdening of the docket of the present Application, however, the Applicants seeks to rely upon the same during the course of arguments and the same be considered as part and parcel of the present Affidavit.

A copy of the Representation dated 06.10.2023 on behalf of the Applicants submitted to the Joint Committee constituted by this Hon'ble Tribunal along with documents submitted therein is enclosed herewith as ANNEXURE A-1.

3. Further, it is submitted that the Respondent No.1 till date is dumping the Municipal Solid Waste at the Proposed Site without following any scientific procedure. Also, it is most respectfully submitted the Respondent No.1 tried to pull the wool over the eyes of the Joint Committee during the site visit on

06.10.2023. However, the Applicant being familiar with the conduct of the Respondent No.1 had on 01.10.2023 i.e. 4 days prior to the site inspection had captured photographs of the Proposed Site showing heaps of half burnt and unscientifically disposed MSW. On 04.10.2023 and 05.10.2023, the Respondent No.1 with the help JSB machines dug the pits on the Proposed Site and filled the same with the MSW, thereafter covering the same with soil. This was nothing but an attempt of the Respondent No.1 to hide its illegal dumping from the Joint Committee during the visit. Further, the Respondent No.1 time and again started dumping the MSW at the Proposed Site after the site visit dated 06.10.2023 was completed. Thus, the Proposed Site again has become a place of heaps of MSW. A Copy of the Photographs dated 17.10.2023 of the Proposed Site is enclosed

herewith as ANNEXURE A-2.

4. Also, the counsel appearing on behalf of the Applicants has relied on a reply 02.06.2023 given by the Respondent No.1 to the Applicant No.1 which had referred a letter 30.05.2023 issued by the Applicant No.1 seeking information regarding the Proposed Site. The letter dated 30.05.2023 and a reply dated 02.06.2023 finds a reference in the Order dated 01.09.2023 passed by this Hon'ble Court in the present matter at para 6. Although, the reply dated 02.06.2023 forms a part of the records at 'ANNEXURE A-10' of the present Original Application, the letter dated 30.05.2023 was not on record. Thus, vide the present affidavit the Applicant also seeks to bring on record the letter

30.05.2023 issued by Applicant No.1 to the Respondent No.1. On perusal letter dated 30.05.2023, it is clear that the Applicant No.1 had clearly sought information regarding the MSW Project and more specifically the permissions granted by the Environment Department. A Copy of the letter dated 30.05.2023 addressed by the Applicant No.1 to the Respondent No.1 along with its translated copy is enclosed herewith as ANNEXURE A-3.

- 5. The contents of the present Affidavit may be considered as a part and parcel of the submissions on behalf of the Applicants and the contents of the Original Application are not repeated herein for the sake of convenience and brevity.


DEPONENT



VERIFICATION

Whatever stated hereinabove is true and correct to the best of my knowledge and belief and nothing material has been concealed there from. Also, the Annexures enclosed herewith this Affidavit are true copies of the Original Documents. Solemnly affirmed at Chiplun on 18th Day of October, 2023.


DEPONENT



06.10.2023. However, the Applicant being familiar with the conduct of the Respondent No.1 had on 01.10.2023 i.e. 4 days prior to the site inspection had captured photographs of the Proposed Site showing heaps of half burnt and unscientifically disposed MSW. On 04.10.2023 and 05.10.2023, the Respondent No.1 with the help of ISB machines dug the pits on the Proposed Site and filled the same with the MSW thereafter covering the same with soil. This was nothing but an attempt of the Respondent No.1 to hide its illegal dumping from the Joint Committee during the visit. Further, the Respondent No.1 has again started dumping the MSW at the Proposed Site after the site visit dated 06.10.2023 was completed. Thus, the Proposed Site again has become a place of heaps of MSW. A copy of the photographs dated 01.10.2023 of the Proposed Site is enclosed



BEFORE ME

[Handwritten Signature]

NITIN S. KELKAR
 Reg. No. 1177
NOTARY & ADVOCATE
 Krishneshwar Nagar,
 Office No. 7 Mumbai-Goa
 Highway, **Pag Chiplun**

Noted and Registered
 at Sr. No. 1253/2023
 Date - 17/10/2023



**THE REPRESENTATION ON BEHALF OF THE APPLICANTS TO THE
JOINT COMMITTEE CONSTITUTED BY THE HON'BLE NATIONAL
GREEN TRIBUNAL, WESTERN ZONE BENCH, PUNE VIDE ITS ORDER
DATED 01.09.2023 IN ORIGINAL APPLICATION NO. 115 OF 2023 (WZ)**

Received
[Signature]
06/10/23

Received copy
[Signature]
06/20/2023

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Date: 06.10.2023

To,

The Joint Committee constituted

by the Hon'ble National Green Tribunal,

Western Zone Bench, Pune vide its

Order dated 01.09.2023 in the Original Application No. 115 of 2023 (WZ),

comprising of:

1. **The Chief Officer,**

Guhagar Nagar Panchayat,

Guhagar.

2. **The Regional Officer,**

Maharashtra Pollution Control Board

Kolhapur, Maharashtra.

3. **The District Collector,**

Ratnagiri District, Ratnagiri.

4. **The Sub Regional Officer (SRO),**

Maharashtra Pollution Control Board,

Chiplun (Having Jurisdiction of Tal. Guhagar, Ratnagiri).

Subject: The Representation on behalf of the Applicants to the Joint Committee constituted by the Hon'ble National Green Tribunal, Western Zone Bench, Pune vide its Order dated 01.09.2023 in the Original Application No. 115 of 2023 (WZ).

Ref: Order dated 01.09.2023 in the Original Application No. 115 of 2023 (WZ).

Sir,

1. We are the Applicants in the Original Application No. 115 of 2023 (WZ) filed before the Hon'ble National Green Tribunal, Western Zone Bench, Pune (hereinafter referred to as "*the said application*"). The grievance in the said Application pertains to the environmental degradation due to the rampant illegal dumping of the Municipal Solid Waste (MSW) and the construction of MSW Facility by the Respondent No. 1 at Survey No. 134/9, Village Guhagar, Taluka Guhagar, Dist. Ratnagiri, Maharashtra (hereinafter referred to as "*the Proposed Site*") without preparing any Solid Waste Management

Plan as mandated under Rule 15(a) r/w Rule 19(2) of the Solid Waste Management Rules, 2016. It is the case of the Applicants that the proposed site is not viable for establishing the MSW Project due to excessive slope and being in a close vicinity of human habitation and water supply wells and rivers. Vide the said Application the Applicants have sought following prayers before the Hon'ble Tribunal:

"In view of the facts and circumstances stated above, it is most humbly prayed that:

- a. *This Hon'ble Tribunal may be pleased to declare that the establishment of the Municipal Solid Waste Facility at the Proposed Site i.e. Survey No. 134/9, Village Guhagar, Tal. Guhagar, Dist. Ratnagiri is contrary of Rule 15 (a) r/w Rule 19 of the Solid Waste Management Rules, 2016 and therefore illegal.*
- b. *This Hon'ble Tribunal may be pleased to direct the Respondent No.1 to prepare Municipal Solid Waste Management Plan in compliance of Rule 15 (a) of the Solid Waste Management Rules, 2016.*
- c. *This Hon'ble Tribunal may be pleased to direct the Respondent No.1 to identify a suitable site for the establishment of the Municipal Solid Waste Facility in accordance with Rule 15 (a) r/w Rule 19 (2) of the Solid Waste Management Rules, 2016 and relocate the Proposed Municipal Solid Waste Facility from the Proposed Site i.e. Survey No. 134/9, Village Guhagar, Tal. Guhagar, Dist. Ratnagiri.*
- d. *This Hon'ble Tribunal may be pleased to constitute an Expert Committee of the Representatives of the Respondent No. 3 with Respondent No. 5 to the Respondent No. 7 to examine and inspect the factual and violation at Proposed Site i.e. Survey No. 134/9, Village Guhagar, Tal. Guhagar, Dist. Ratnagiri in terms of Solid Waste Management Rules, 2016.*
- e. *Pending the disposal of the present Original Application, this Hon'ble Tribunal may be pleased to direct the Respondent No.1 to stop the construction at the Proposed Site i.e. Survey No. 134/9, Village Guhagar, Tal. Guhagar, Dist. Ratnagiri.*
- f. *Pending the disposal of the present Original Application, this Hon'ble Tribunal may be pleased to direct the Respondent No.1 to stop dumping at Proposed Site i.e. Survey No. 134/9, Village Guhagar, Tal. Guhagar, Dist. Ratnagiri.*
- g. *Ad-interim ex-parte relief be granted in terms of Prayer Clause (d) and (e).*
- h. *Order as to costs.*
- i. *Pass any other orders, this Hon'ble Tribunal may deem fit in the interest of justice."*

The copy of the said Application along with the documents relied by the Applicants has been already provided by the Applicant to your office through email as well as postal and by hand service. The Applicant shall rely upon the same during the inspection.

2. The said Application was listed before the Hon'ble Tribunal on 01.09.2023, whereby on considering the said Application and the arguments raised by the Applicants, the Hon'ble Tribunal was pleased to observe that,

"9. ...

But even then, we find prima facie case adversely impacting on environment is made out, therefore, we deem it appropriate to admit this application and accordingly admit the same."

In terms thereof, vide the Order dated 01.09.2023, the Hon'ble Tribunal was pleased to constitute a joint committee to visit the site and assess the present Status of Solid Waste Management at Guhagar, assess the suitability of the site, in terms of the Solid Waste Management Rules, 2016 and also, identify the alternative sites available, if any and submit a report within a period of 4 weeks. The Maharashtra Pollution Control Board was appointed as Nodal Agency for co-ordination and logistic support. A copy of the Order dated 01.09.2023 passed by the Hon'ble Tribunal in Original Application No. 115 of 2023 (WZ) is enclosed herewith as ANNEXURE A.

3. In pursuance of the Order dated 01.09.2023, after the Applicant No. 1 approached the office of the Maharashtra Pollution Control Board, it was informed that the inspection in terms of the order dated 01.09.2023 would be carried out on 06.10.2023. Thus, in terms of the Order dated 01.09.2023, the Applicants has to state as follows and the following points are of utmost importance that may be considered by the Ld. Officials of the Joint Committee during the inspection on 06.10.2023:

- I. Guhagar is a Nagar Panchayat in Ratnagiri district of Maharashtra. Guhagar had been declared as Nagar Panchayat by amalgamation of Gram Panchayat Guhagar and Gram Panchayat Asgoli (hereinafter referred to as '*The Nagar Panchayat*') with a population of 9466 (Census 2011) and area of 18.47 Sq. Km. Guhagar, a small coastal town of Maharashtra is known for its virgin beach, coir items, coconuts, betel nuts and mainly Haapus- Alphanso mangoes. Vide the Notification dated 06.10.2016, the Guhagar Nagar Panchayat was declared as '*local body*'. Thus, under the Solid Waste Management Rules, 2016, the Guhagar Nagar Panchayat is under obligation to establish and provide a full fledged effluent treatment plant and proper disposal arrangements for effluent and MSW generated from the Nagar Panchayat.
- II. The MSW Project as proposed by the Nagar Panchayat is at the opposite-adjacent land to the Tourism Project of the Applicant No. 1. The non-scientific selection of the project site has severely affected the Tourism Activity and as well as agricultural produce of the Applicants, and therefore, the Applicant No. 1 is directly affected by the illegal activity of establishing the MSW Project by the

Nagar Panchayat. It is submitted that the Proposed Site as suggested by the Nagar Panchayat for establishing MSW Plant is without considering the scientific and environmental guidelines and if the present Proposed Site is allowed to be operated as proposed by the Nagar Panchayat, the same would degrade the environment thereby creating nuisance to the local flora and fauna, the biodiversity around the area and in the locality.

- III. The Nagar Panchayat has started dumping the Municipal Solid Waste at the Proposed Site since May 2023. The Nagar Panchayat has created heaps of garbage by disposing the MSW without any procedure. Moreso, the Nagar Panchayat in June 2023 started burning the MSW at Proposed Site. The clouds of smoke and rotten smell of garbage as well as the unscientific disposal of animal carcass is polluting the air as well as the water bodies around the Proposed Site. Even as on date, the Guhagar Nagar Panchayat is dumping the MSW at the Proposed Site without any procedure thereby polluting the environment adversely. The Applicants have captured the images of the Proposed Site on 01.10.2023, which clearly shows stacking of the Municipal Solid Waste at Proposed site being done without following any scientific and environmental norms. Further, the images also shows the attempt by the Guhagar Nagar Panchayat to burn the MSW. A copy of the photographs dated 01.10.2023 depicting the stacking and burning of the MSW at the Proposed Site is enclosed herewith and marked as ANNEXURE B.
- IV. The Applicant No. 1 has a residential house at Survey No. 134/4/1 of Village Guhagar. Even though the said residential house along with the surrounding land was purchased by the Applicant No. 1 in the year 2015, the same existed much prior. The previous owner paid the house tax for the same to Guhagar Nagar Panchayat, then Guhagar Gram Panchayat. The other Applicants also has a residential house. There is a religious-establishments nearby the Proposed Site. A copy of the house tax receipts of the year 1994-95, 1999-2000 and 2009-10 issued by the Guhagar Nagar Panchayat to the previous owner of the land at Survey No. 134/4/1 of Village Guhagar is enclosed herewith as ANNEXURE C.
4. Vide the order dated 01.09.2023, the Hon'ble Tribunal directed the Joint Committee to assess the suitability of the Proposed Site for establishment of MSW Project in terms of the Solid Waste Management Rules, 2016. In terms thereof, the Applicants has to state as follows:

- I. The Solid Waste Management Rules, 2016 puts certain duties and responsibilities on the different authorities. Rule 11 of the SWM Rules, 2016 talks about Duties of the Secretary-in-charge, Urban Development in States and Union Territories. In terms of Rules 11(a), it is incumbent upon the State Government to prepare a State policy and solid waste management strategy for state. Rule 11(d), puts the State government under the Responsibility to ensure the implementation of SWM Rules, 2016. Rule 11(f) states that it shall be the responsibility of the State to ensure identification and allocation of suitable land to the local bodies. Thus, any land which is being used for disposal of MSW ought to have the approval of the State Government under Rule 11(f) of SWM Rules. In the present case, the Proposed Site as suggested by the Guhagar Nagar Panchayat has failed to seek any approval from the State Government and thus, in absence of any approval under Rule 11(f) of the SWM Rules, 2016, the MSW Project of the Guhagar Nagar Panchayat cannot be operated at the Proposed Site.
- II. Rule 12(a) of the SWM Rules, 2016 states that the District Magistrate or the Collector shall facilitate the identification and allocation of suitable land in terms of Clause (f) of Rule 11. Although, the Guhagar Nagar Panchayat is portraying that the Guhagar Nagar Panchayat has been granted permission from the District Collector, however, the said approval is merely for purchasing the Proposed Site and the said approval is not in terms of the Rule 12(a) r/w 11(f) of the SWM Rules, 2016 and thus, it shall be fair to state that the Guhagar Nagar Panchayat has also failed to seek any approval from the District Magistrate in terms of the Rule 12(a) r/w 11(f) of the SWM Rules, 2016, and therefore, the Proposed Site could not be allowed to be operated by the Guhagar nagar Panchayat.
- III. Rule 15 of the SWM Rules, 2016 plays a vital role as the same talks about duties and responsibilities of the Local Bodies. In terms of the Rule 15(a) it is mandatory upon the local bodies to prepare a Solid Waste Management Plan. Local Body is under obligation to arrange for door-to-door collection of segregated solid waste. Rule 15 explains in detail the duties and responsibilities of the Local Bodies. Thus, all the local bodies such as Guhagar Nagar Panchayat is bound by the responsibilities under Rule 15 of the SWM Rules, 2016. It is the contention of the Applicants that the Guhagar Nagar Panchayat has not prepared

any Solid Waste Management Plan in terms of Rule 15(a) of the SWM Rules. Therefore, in absence of any Solid Waste Management Plan being prepared by the Guhagar Nagar Panchayat, the MSW Project at the proposed site would be illegal. It is further submitted that in absence of Solid Waste Management Plan, the Guhagar Nagar Panchayat has also failed to comply with other obligations under Rule 15 of the Solid Waste Management Rules, 2015.

5. Also, the Proposed Site for establishment of the MSW Project of the Guhagar Nagar Panchayat is not feasible for following reasons:
 - I. The Proposed Site at Survey No.134/9 of village Guhagar as selected by the Nagar Panchayat for establishing the MSW plant is in violation of guidelines under the MSW Rules, 2016.
 - II. The Proposed Site at Survey No.134/9 of village Guhagar as selected by the Nagar Panchayat is not viable for dumping the MSW due to the natural excessive slope to the Proposed Site.
 - III. The Proposed Site at Survey No.134/9 of village Guhagar as selected by the Nagar Panchayat is not viable for dumping the MSW due to the laterite soil type at the Proposed Site.
 - IV. Considering the location of the Proposed Site the same is towards the landwards side of the sea shore. It is a scientifically proven phenomenon that during a day the wind always flows from the seaward side to landward side. Thus, a rotten smell of MSW, Poisonous Gas produced from the site shall flow towards the said land of the Aggrieved Party thereby affecting the tourism activity and health of the Aggrieved Party and the Villagers.
 - V. The Proposed Site for establishment of MSW Plant of the Nagar Panchayat is in closed vicinity of dense forested area and there is vast habitat of wild animals such as Bison, Peacock, Indian Mudjack (Bhekar), Porcupine, Blue Cow, Wild Cat, Wild dogs, Wild Boar, Monitor Lizard, Different snakes (Python, King Cobra etc.).
 - VI. The Proposed Site for establishment of MSW Plant of the Nagar Panchayat is in closed vicinity of the Human habitation.

The Applicants have explained in detail the above-mentioned contentions in the Original Application No. 115 of 2023 filed before Hon'ble Tribunal and the Applicants shall rely upon the same during the inspection.

6. The Applicants approached the Office of Maharashtra Pollution Control Board as well as the office of Ld. Principal Secretary, Environment Department, State of Maharashtra thereby filing various complaints requesting to take immediate action in the subject matter. In terms of the Complaints filed by the Applicant No. 1, MPCB conducted a site visit at the Proposed Site. In terms thereof a show cause notice was issued to the Guhagar Nagar Panchayat 20.07.2023. Therefore, it is important to consider that if any action in terms of the Show Cause Notice dated 20.07.2023 has been taken by the Maharashtra Pollution Control Board.
7. Interestingly, on 04.10.2023 i.e. after the receipt of Notice from the Office of the Maharashtra Pollution Control Board of this inspection, the Guhagar Nagar Panchayat with an ill intention to hide the reality and deceive the members of this Ld. Committee, shifted the MSW dumped at the Proposed Site. However, it is evident from the Photographs taken on 01.10.2023 by the Applicant that the dump was on site till 01.10.2023. The Guhagar Nagar Panchayat on 04.10.2023 deployed the machinery such as JCB Machines and trucks on proposed site for clearing the site. A copy of the Photographs of the Proposed Site as on 04.10.2023 is enclosed herewith as ANNEXURE D.
8. Thus, in terms of the facts and contentions in the Original Application No. 115 of 2023 and the contentions raised hereinabove, it is submitted that the land at Survey No. 134/9, Village Guhagar, Taluka Guhagar, Dist. Ratnagiri, Maharashtra is not feasible for establishing the MSW Plant as proposed by the Guhagar Nagar Panchayat and the same shall be shifted to the alternative site which shall be feasible in terms of the Solid Waste Management Rules, 2016.

Date: 06.10.2023

Dr. Atul Sheth.

Item No.3

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.115/2023(WZ)

Dr. Atul Sheth & Ors.

.....Applicant(s)

Versus

The Guhagar Nagar Panchayat, Guhagar & Ors.

....Respondent(s)

Date of hearing: 01.09.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Sangramsingh R. Bhonsle, Advocate along-with
Mr. Nrupal A. Dingankar, Advocate and
Ms. Aarti Bhonsle, Advocate

ORDER

1. This Original Application has been filed with the prayers that Municipal Solid Waste Facility, which is being set up by the respondent No.1/The Guhagar Nagar Panchayat, Guhagar at Survey No.134/9, Village: Guhagar, Taluka: Guhagar, District: Ratnagiri should be declared to be illegal, being contrary to the Rule 15(a) read-with Rule 19 of the Solid Waste Management Rules, 2016 (herein after to be referred in short as "Rules of 2016"); direction be issued to respondent No.1 to prepare Municipal Solid Waste Management Plan in compliance with Rule 15 (a) of the Rules of 2016; direction be issued to respondent No.1 to identify a suitable site for the establishment of the Municipal Solid Waste Facility, in accordance with Rule 15(a) read-with Rule 19(2) of the Solid Waste Management Rules, 2016 and relocate the Proposed Municipal Solid Waste Facility from the Proposed MSW Site i.e. Survey No.134/9, Village: Guhagar, Taluka: Guhagar, District: Ratnagiri; an Expert Committee of

the representatives of the respondent No.3/MPCB with respondent No.5/State Environment Department, respondent No.6/Divisional Forest Officer and respondent No.7/GWSDA be constituted to examine and inspect the factual aspect and violation at the proposed site, in order to submit a report, as to whether there is any violation of Rules of 2016 in setting up Solid Waste Management Processing Facility at the site in question; the respondent No.1 be directed to stop the construction at the proposed site in question of the said facility and further it is prayed that the respondent No.1 be directed to stop dumping at the proposed site in question.

2. The learned Counsel Mr. Sangramsingh R. Bhonsle for applicants has submitted that applicant No.1 is a medical professional practicing being a Radiologist in Ratnagiri District, who is also running a tourism activity at Survey No.134/4/1 and Survey No.134/4/2 at Village: Guhagar, District: Ratnagiri adjacent to which the survey number in question i.e. 134/9 is located where the MSW processing facility is being set up illegally.

3. Our attention is drawn by the learned Counsel for applicants to Rule 12 (a) of the Solid Waste Management Rules, 2016 which provides as follows:-

“facilitate identification and allocation of suitable land as per clause (f) of rules 11 for setting up solid waste processing and disposal facilities to local authorities in his district in close coordination with the Secretary-in-charge of State Urban Development Department within one year from the date of notification of these rules”

4. Thereafter, the learned Counsel for applicants has further drawn our attention to Rule 11 Sub-Clause (f) and Rule 15 Sub-Clause (a) of the Solid Waste Management Rules, 2016, which provide as follows:-

“Rule-11(f):- ensure identification and allocation of suitable land to the local bodies within one year for setting up of processing and

disposal facilities for solid wastes and incorporate them in the master plans (land use plan) of the State or as the case may be, cities through metropolitan and district planning committees or town and country planning department;”

“Rule- 15(a):- prepare a solid waste management plan as per state policy and strategy on solid waste management within six months from the date of notification of state policy and strategy and submit a copy to respective departments of State Government or Union territory Administration or agency authorised by the State Government or Union territory Administration;”

5. Based on these provisions made in this Rule, it is argued by the learned Counsel that the District Collector has granted approval for the purchase of land in question on 01.04.2021 for the establishment of MSW Plant without the Secretary, Urban Development Department through Commissioner or Director of Municipal Administration or Local Body having ensured identification and allocation of suitable land to the local body and without its incorporation in the master plan, which was required as per the Rule-11 Sub-Clause (f) of the Rules of 2016. Till date, no Solid Waste Management Plan has been prepared as per Section 15 Sub-Clause (a) of the said Rules. Therefore, the District Collector was not empowered to grant approval for the purchase of land in question for the establishment of MSW Plant.

6. The learned Counsel for applicants has also drawn our attention to page no.83 of the paper book, which is a reply dated 02.06.2023 given by the respondent No.1 to the applicant No.1, which is sought under RTI, which though finds reference to the letter of applicant No.1 dated 30.05.2023, whereby some documents were required to be provided, the said information has not been furnished so far.

7. Thereafter, our attention is drawn by the learned Counsel for applicants to page no.62 of the paper book, which is a Public Notice dated 10.11.2020 issued by the respondent No.1, where-by the respondent No.1 issued a notice requiring a land admeasuring 2-3 Acres for setting up of

Solid Waste Management Facility. In response to which, one Shri Bhalchandra Vitthal Mhadik came forward and offered his Gat No.134/9 (land in question), where-in it is indicated by the learned Counsel for applicants at page no.64 of the paper book that the distance from habitation is recorded as 300 mtrs. approximately, while the prescribed limit is shown as 200 mtrs. In this regard, it is submitted by the learned Counsel that this information is wrong based on the distance of house of applicant No.1 being found located from the site in question, which is mentioned at page no.120 to be 90.1 mtrs. from boundary to boundary but from the middle point of the property of applicant No.1 to the middle point of the site in question, the distance was found to be 150 mtrs. Similarly, the distance of the residence of applicant No.6 from the site in question was found to be 172 mtrs. as per the Google Map, which is provided at page no.121 of the paper book.

8. Thereafter, the learned Counsel for applicants has drawn our attention to the present condition of the site, photographs of which are annexed at page nos.118-119 of the paper book, shows the solid waste being dumped at the site in question. Based on this, he submits that direction may be issued to stop dumping at the site in question.

9. Thereafter, the learned Counsel for applicants has drawn our attention to page no.99 of the paper book, which is a Show-Cause Notice dated 26.07.2023 issued by the MPCB under Section 33(A) of the Water (Prevention and Control of Pollution) Act- 1974, Section 31(A) of the Air (Prevention and Control of Pollution) Act- 1981 and Hazardous Waste (M, H & T) Rules, 2008 as amended & MSW Rules 2016, pursuant to a complaint received from the applicant No.1 on 09.06.2023, where-in several non-compliances have been noted and it is also recorded therein that why legal action be not taken against the respondent No.1. But this

notice was issued only on 26.07.2023. Therefore, it is likely that the action might be in the process. But even then, we find *prima facie* case adversely impacting on environment is made out, therefore, we deem it appropriate to admit this application and accordingly admit the same.

10. Registry is directed to issue Notice to the respondents, returnable within 04(four) weeks.

11. Applicants are directed to take necessary steps for service to the respondents by both ways (Dasti as well as by Registered Post) and also on available e-mail/WhatsApp and submit service affidavit within one week.

12. Applicants are also directed to provide copy of the application and relevant documents to the respondents within a week.

13. Respondents are directed to submit their reply affidavit within three weeks and also circulate the same to applicants as also other respondents by available e-mail.

14. Rejoinder, if any, is directed to be submitted within one week thereafter.

15. We also deem it just and proper to call for a report from a Joint Committee comprising one Member each of:-

- (i). The Guhagar Nagar Panchayat, Guhagar;
- (ii). The District Collector, Ratnagiri; and
- (iii). The Maharashtra Pollution Control Board (MPCB).

16. The MPCB shall be the nodal agency for coordination and logistic support.

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- (iii). The Maharashtra Pollution Control Board (MPCB).

16. The MPCB shall be the nodal agency for coordination and logistic support.

17. The Committee is directed to visit the site and assess the present status of the Solid Waste Management at Guhagar, assess the suitability of the site, in terms of the Solid Waste Management Rules, 2016 and also identify the alternative sites available, if any and submit a report within a period of four weeks.

18. The Committee is further directed to issue a prior notice to the applicants before conducting the inspection of the site in question.

19. Applicants are further directed to supply the required documents and copy of the application to MPCB for circulation to the members of the Committee within one week.

20. The report in the matter be submitted by MPCB through e-filing by using portal of NGT in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

Put up this matter for further consideration on 19.10.2023

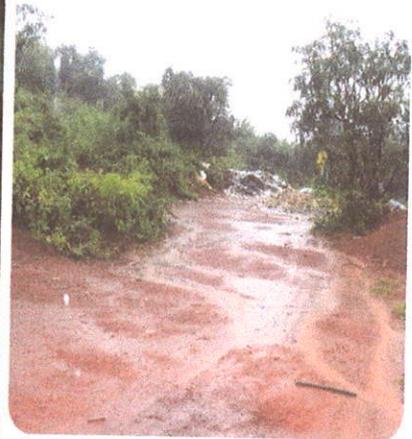
Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

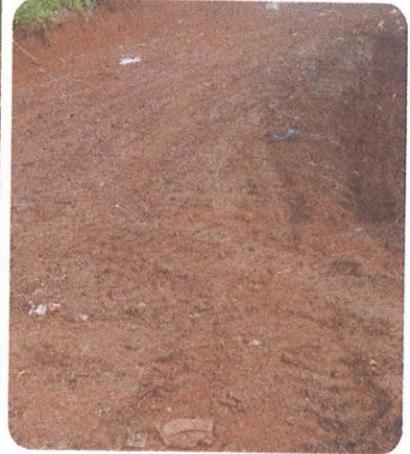
September 01, 2023
Original Application No.115/2023(WZ)
P.Kr

ANNEXURE B





ANNEXURE D



Dweepal
-TRUE COPY-

ANNEXURE A-2





Drupal

-TRUE COPY-

ANNEXURE A-3

दि. 30-05-2023

अतुल वसंत शेठ
9970323369

प्रति मा. मुख्याधिकारी

गुहागर नगर पंचायत

विषय:- कचरा डपोच्या जागेच्या कागदपत्रे

महोदय,

मी अतुल वसंत शेठ आपणांस विनंती करतो की मला गुहागर नगर पंचायत हद्दीतील नियोजित कचरा डपो (डपिंग ब्रांड) संबधितता खालील नमुद केलेली कागदपत्रे देण्यात यावी

- १) सदर जागेसंबंधी काढलेली निविदा
- २) सदर जागेसंबंधी केलेला ठराव
- ३) सदर जागेचे जपेटी खत
- ४) सदर जागेच्या फायनल करणेबाबत व त्या संदर्भातील असलेला Expend अमितीचा अहवाल
- ५) सदर जागेबाबत जेजारील ताहेकार कारकांनी नोंदविलेले आवेप व नगर पंचायतीची उत्तरे
- ६) सदर आवेपांबाबत मि. मा. जिल्हाधिकारी यांच्या अक्षधेच्याली घटित केलेल्या अमितीचा अहवाल व मा. जिल्हाधिकारी यांचा आदेश
- ७) पर्यावरण विभागाने दिलेली मान्यतापत्र
- ८) विकास बाराबंद्यामुळे सदर जागेसंबंधी केलेल्या तरतुदीची कागदपत्रे व अतर कागदपत्रे यांची xerox द्यावी ही विनंती.


अतुल वसंत शेठ
नगरपंचायत गुहागर

अतुल वसंत शेठ

TRANSLATED COPY OF THE ANNEXURE A-3

Date: 30.05.2023

Atul Vasant Sheth,

9970323369

To,
Chief Officer,
Guhagar Nagar Panchayat

Subject: The documents related to Dump site.

Sir,

I, Mr. Atul Vasant Sheth request you to provide following documents regarding the proposed garbage depot (dumping ground) within the boundary of the Guhagar Nagar Panchayat.

1. Tender issued regarding said land.
2. Resolution passed regarding said land.
3. Sale deed regarding the said land
4. The Expert Committee Report regarding the same and regarding finalization of the said land.
5. The objections raised by the easement holders and replies by the Nagar Panchayat regarding the same.
6. The report of the Committee constituted under the chairmanship of the Ld. District Collector and the Order passed by the Hon'ble Collector.
7. Permission granted by the Environment Department.
8. The documents regarding the provisions made in the development plan of the said land.

Kindly provide xerox copies of the documents

-Sign-
(Atul Vasant Sheth)

-Sign-
30.05.2023
Clerk, Guhagar Nagar Panchayat



-TRUE COPY-



Nrupal Dingankar <nrupal252525@gmail.com>

Service: Additional Affidavit in Original Application No. 115 of 2023 (WZ) pending before the Hon'ble National Green Tribunal, Western Zone Bench, Pune.

1 message

Nrupal Dingankar <nrupal252525@gmail.com>
To: adv.manasi.joshi@outlook.com

Wed, Oct 18, 2023 at 4:27 PM

Ma'am/Sir,

We are the Advocates appearing on behalf of the Applicants in the above mentioned matter. We are filing the Additional Affidavit on behalf of the Applicants dated 18.10.2023 (Pg 223-253). Please find attached herewith a copy of the same and consider this email as service of the same on your esteemed office.

[Addl Affidavit in Atual Seth.pdf](#)

Regards,
Nrupal Dingankar
Advocate
Supreme Court of India
A10, LGF, Lajpat Nagar III,
New Delhi, 110024.