

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH

AT PUNE

ORIGINAL APPLICATION NO. 115 OF 2023

IN THE MATTER OF:

Dr. Atul Sheth & Ors.

...Applicant

VERSUS

The Guhagar Nagar Panchayat,

Guhagar & Ors.

...Respondents

ADDITIONAL AFFIDAVIT ON BEHALF OF THE APPLICANTS

ADVOCATE FOR THE APPLICANTS:

Nrupal A. Dingankar, Pushkara A. Bhonsle,

Naman Shrestha & Mahesh Jadhav.

Office: H-5, Second Floor, Lajpat Nagar III, New Delhi 110024

Email: nrupal252525@gmail.com

Mob: 7773969845

INDEX

Sr. No.	Particulars	Pg. No.
1.	Additional Affidavit on behalf of the Applicants.	492-495
2.	ANNEXURE A-1: A copy of the Order dated 27.05.2024 passed by this Hon'ble Tribunal in the present Case.	496-499
3.	ANNEXURE A-2: A copy of the letter dated 27.06.2024 addressed by the Applicant No. 1 to the NEERI.	500
4.	Proof of Service.	501

Date: 26.08.2024
Place: Pune



ADVOCATE FOR THE APPLICANTS:
Nrupal A. Dingankar, Pushkara A. Bhonsle,
Naman Shrestha & Mahesh Jadhav.
Office: H-5, Second Floor,
Lajpat Nagar III, New Delhi 110024
Email: nrupal252525@gmail.com
Mob: 7773969845

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

AT PUNE

ORIGINAL APPLICATION NO. 115 OF 2023

IN THE MATTER OF:

Dr. Atul Sheth & Ors.

...Applicant

VERSUS

The Guhagar Nagar Panchayat,

Guhagar & Ors.

...Respondents

**ADDITIONAL AFFIDAVIT ON
BEHALF OF THE APPLICANTS.**

To,

The Hon'ble Chairman and

His Hon'ble Companion Members of

The Hon'ble National Green Tribunal.



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

1. Vide the present Original Application, the Applicants had approached this Hon'ble Tribunal u/s 14 r/w Sec. 18(1) of the National Green Tribunal Act, 2010 raising a substantial question of Environment, thereby challenging the establishment of the Municipal Solid Waste Facility at the Proposed Site i.e. Survey No.134/9, Village Guhagar, Tal. Guhagar, Dist. Ratnagiri by the Respondent No. 1, which is contrary to the Solid Waste Management Rules, 2016.

2. The present matter was listed before this Hon'ble Tribunal on 01.09.2023, whereby after considering arguments raised on behalf of the Applicants, this Hon'ble Tribunal vide its order 01.09.2023 was pleased to admit the present case. Further this Hon'ble Tribunal deemed it just and proper to call for Joint Committee Report. In terms thereof, the Joint Committee conducted a site visit on 06.10.2023 and submitted its Report before this Hon'ble Tribunal in October, 2023. The Applicants submitted detailed objections to the Joint Committee Report on 27.11.2023 as well as Additional Objections on 25.05.2024.

3. Thereafter, this Hon'ble Tribunal was pleased to consider the present matter on 27.05.2024. After considering the arguments made on behalf of the Applicants, more specifically that Joint Committee being comprised of the members having interest in the outcome of the present case, the Report cannot be said to be trustworthy, this Hon'ble Tribunal was pleased to grant liberty to the Applicants to get the site inspection conducted by NEERI. Admittedly, on instructions, the Advocate appearing on behalf of the Applicants submitted that Applicants were ready to bear the whole expenses of the same.

A copy of the Order dated 27.05.2024 passed by this Hon'ble Tribunal in the present Case is enclosed herewith and marked as ANNEXURE A-1.

4. Thereafter, in compliance of the Order dated 27.05.2024, the Applicants through the Applicant No. 1 approached the Office of Senior Principal Scientist and In-Charge, CSIR – National Environmental Engineering Research Institute, Mumbai, Zonal Center, through Director, NEERI Nagpur. On 27.06.2024, the Applicants through the Applicant No. 1 made a representation to NEERI thereby explaining in detail the proceedings in the present case as well as the grievance of the Applicants regarding the said Project. The said representation was supported by a letter dated 27.06.2024, thereby requesting for constituting a team for visiting and inspecting the proposed Site for assessing its suitability for



establishing the Municipal Solid Waste Management Facility as proposed by the Respondent No. 1. The said letter was also enclosed with a copy of complete records of the present case, Order dated 27.05.2024 passed by this Hon'ble Tribunal and representation as mentioned hereinabove. The said letter was received by the Office of NEERI Nagpur on 27.06.2024.

A copy of the letter dated 27.06.2024 addressed by the Applicant No. 1 to the NEERI is enclosed herewith and marked as ANNEXURE A-2.

5. In pursuance of the letter dated 27.06.2024 addressed by the Applicant No. 1, an Officer from NEERI approached the Applicants and after understanding the crux of the inspection to be carried out, stated the cost/fees that would be incurred for the said inspection. It is most respectfully submitted that the Applicants belong to a small village of Guhagar. The Applicants, till date has invested the substantial amounts of funds for conducting the present case. Even though the Applicant No. 1 is a Medical Practitioner practising radiology, has huge expenses to bear. The Applicant No. 1 suffered huge losses as a result of breakdown of the machinery in the clinic due to the flood situations in the city of Chiplun. Also, the Applicant No. 1 has two daughters who are still pursuing the higher education for which the Applicant No. 1 is solely responsible. In such circumstances, the Applicant No. 1 is not in a financial position to bear further expenses for the cause in the present Case, even though the grievance raised by the Applicant in the present Case survives.
6. With regard to the other Applicants, it is submitted that the other Applicants are also on the similar footing as the Applicant No. 1 and has no financial capacity at this stage to bear expenses for undertaking the inspection through NEERI or any other institution.



7. It is most respectfully submitted that nothing in the present Affidavit shall prejudice the rights of the Applicants before any judicial or quasi-judicial authority in future or otherwise.

DEPONENT

VERIFICATION

Verified at Chiplun on this ___ day of August, 2024 that the contents of the present Affidavit are true and correct and nothing material has been concealed therefrom.

DEPONENT



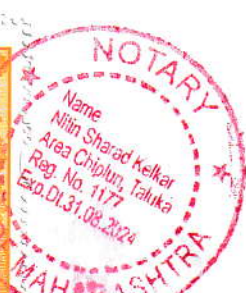
BEFORE ME

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

Noted and Registered
at Sr. No.

972/2024
Date: 26.8.2024

**NOTARY IS NOT RESPONSIBLE FOR
THE CONTENTS OF DOCUMENT**



ANNEXURE A-1

Item No.22

(Pune Bench)

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

[Through Physical Hearing (with Hybrid Option)]

ORIGINAL APPLICATION NO.115 OF 2023 (WZ)

Dr. Atul Sheth & Ors.

Applicant

Versus

The Guhagar Nagar Panchayat,
Guhagar & Ors.

Respondents

Date of hearing : 27.05.2024

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

Applicant : Mr. Nrupal Dingankar, Advocate

Respondents : Mr. Aniruddha Kulkarni, Advocate for R-2, R-4 and R-5
Ms. Manasi Joshi, Advocate for R-2/MPCB**ORDER**

1. From the side of the applicant, learned counsel Mr. Nrupal Dingankar has appeared and submitted additional objections dated 25.05.2024 against the Joint Committee report. The same is taken on record, copy of which is stated to have been served on other parties.

2. From the side of respondent No.1 – Guhagar Nagar Panchayat, we have received an e-mail dated 26.05.2024, sent by learned counsel Mr. Swanand Kulkarni, representing respondent No.1, stating therein that he was not informed by the applicant about this matter being preponed and therefore, he is not in a position to remain present physically or virtually as he is in a remote area. He has further requested that this matter be placed for hearing after 04.06.2024. Further it is mentioned by him that he has to seek instructions to file reply to the objections raised by the applicant, but the same is not possible because the concerned officers are

not available before 05.06.2024 because they are busy in general elections. It is further submitted that waste management project has been completed and the answering respondent has started using the same for waste management purpose. The activity of this waste management is conducted in an enclosed shed area in six pits, specifically constructed for waste management purpose. The answering respondent will ensure that the water will not come inside of the processing unit by making it fully enclosed. Therefore, there is no chance that the land belonging to the applicant gets contaminated. He further prays that an opportunity be given to bring all these facts on record.

3. This request made on behalf of respondent No.1 for adjournment is being vehemently opposed by the learned counsel for the applicant by sending an e-mail dated 27.05.2024 and it is urged by him that the matter should be taken up today only.

4. The learned counsel for the applicant drew our attention to the objections raised against the Joint Committee report which he alleges to have been submitted based on the data provided by respondent No.1 and that the Committee did not make efforts on its own to collect the data or any diligent exercise in this regard. When enquired as to what is independent base for saying so, he drew our attention to page 290 of the paper-book, which is a report of H & Z Associates (a report privately obtained by the applicant), wherein it is recorded that slope of the plot in question lies in Slope of 1:4 (avg) and as per the Unified Development Control and Promotion Regulations for Maharashtra State, January 2022, Clause No.3.1.1, no piece of land shall be used as a site for the construction of building, if the site is hilly and having gradient more than 1:5. Thereafter, our attention is drawn to page No.292 of the paper-book which is Chapter-3 of General Land Development Requirements in point No.3.1.1 thereof, it is recorded that site not eligible for construction of building and beneath that, it is recorded that no piece of land shall be

used as a site for the construction of building and sub-clause (iii) thereof, it is recorded that if the site is hilly and having gradient more than 1:5. Thereafter, our attention is drawn to page 291 of the paper-book, where it is shown that several wells were found to be within distance of less than 200 mtrs from the site in question. Similarly, several houses are found to be located within the distance of less than 200 mtrs from the site in question, which is illegal as the said distance should have been beyond 200 mtrs.

5. Thereafter, he drew our attention to additional objections wherein he mainly relied upon the judgment of the Hon'ble Supreme Court reported in **(1984)4 SCC 103** wherein it has been held that the principle *Nemo Judex in Causa Sua* applies not only to judicial proceedings but also quasi-judicial and administrative proceedings, which means no man can be judge in his own cause. In the case in hand, the Joint Committee comprises respondent No.1 as a member, which is an interested party. The District Collector is also said to be an interested party and it is the District Collector who had granted the approval to this project. These two Authorities should not have been the members of the Joint Committee. Therefore, the Joint Committee report cannot be said to be trustworthy.

6. The applicant wants that an independent body/institution should visit the site in question and assess the suitability of the MSW plant, for which he suggested that NEERI/IIT would be the appropriate Institutions, one of whom may be instructed/directed to conduct the site inspection and submit its report. Learned counsel for the applicant submits that the applicant is ready to bear the whole expenses for the same. Therefore, we allow the applicant to get the site inspection conducted by NEERI, which shall render its findings after such visit and the report of NEERI shall be submitted by the applicant before us within two*- months. Advance copy of the same shall be served on other parties

as soon as the same is filed before us, who may file their objections against the same, if any, within two weeks thereafter.

7. Put up this matter for next consideration on 27.08.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

May 27, 2024
O.A. NO.115/2023(WZ)
npj


-TRUE COPY-

To Director.
NEERI, NAGPUR
440020

ANNEXURE A-2

27
Date- __.06.2024

To,

Sr. Principal Scientist and Incharge,
CSIR- National Environmental Engineering Research Institute,
Mumbai Zonal Center.

Subject: Request for constituting a team for visiting, inspecting the land at Survey No. 134/9 of village Guhagar, Tal. Guhagar, Dist. Ratnagiri for assessing its suitability for establishing the Municipal Solid Waste Management Facility as proposed by the Guhagar Nagar Panchayat, Guhagar.

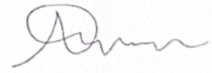
Ref:

1. O.A. No. 115 of 2023 (WZ) between Dr. Atul Sheth and Ors. V. The Guhagar Nagar Panchyat, Guhagar and Ors. pending before the Hon'ble National Green Tribunal, Western Zone, Pune
2. Order dated 27.05.2024 in O.A. No. 115 of 2023 (WZ) passed by the Hon'ble National Green Tribunal, Western Zone, Pune.

Sir/Madam,

I am the Applicant No. 1 in above mentioned O.A. No. 115 of 2023 (WZ). The Hon'ble Tribunal granted liberty to the Applicants to approach your office seeking a report as to the suitability of Survey No. 134/9 of village Guhagar, Tal. Guhagar, Dist. Ratnagiri for establishing MSW Facility as proposed by the Guhagar Nagar Panchayat, Guhagar. The records of the O.A. No. 115 of 2023 (WZ) pending before the Hon'ble Tribunal are attached herewith for your ready reference. The undersigned is also submitting a brief representation which may also be considered while conducting the inspection.

Thus, you are requested to communicate the procedure which would be followed by your office for inspection and the cost for the same. We undertake provide any further assistance to your office if need be.



Dr. Atul Sheth

Enclosures:

1. A copy of the complete record of O.A. No. 115 of 2023 (WZ) pending before the Hon'ble National Green Tribunal, Western Zone, Pune.
2. Order dated 27.05.2024 in O.A. No. 115 of 2023 (WZ) passed by the Hon'ble National Green Tribunal, Western Zone, Pune.
3. Representation on behalf of Dr. Atul Sheth (Applicant No. 1).

Received:

प्राप्त हुआ / Received
डायरी अनुक्रम / Diary Section
नं. नागपुर 20 / NEERI Nagpur - 20
दि. Date 27/5/24 समय / Time 10.50 -


-TRUE COPY-

508

PROOF OF SERVICE

501



Nrupal Dingankar <nrupal252525@gmail.com>

**OA No. 115 of 2023 pending before the Hon'ble National Green Tribunal,
Western Zone, Pune: Additional Affidavit on behalf of the Applicants.**

1 message

Nrupal Dingankar <nrupal252525@gmail.com>

Mon, Aug 26, 2024 at 8:56 PM

To: swanand23@gmail.com, adv.manasi.joshi@outlook.com, aniruddha1488@gmail.com

Sir,

The above mentioned matter is pending before the Hon'ble National Green Tribunal, Western Zone Bench, Pune. Please find attached herewith a copy of the Additional Affidavit on behalf of the Applicants dated 26.08.2024.

Kindly consider this email as a service of the same on your esteemed office.

Regards,
Nrupal Dingankar
Advocate
Supreme Court of India
H5, Second Floor, Lajpat Nagar III,
New Delhi, 110024.

 **Additional Affidavit_Atul Sheth.pdf**
3457K