

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

APPEAL No. 107 OF 2017 (WZ)



IN THE MATTER OF:

SAMAST BHARUCH JILLA MACHIMAR
SAMAJ & ORS

... APPELLANTS

VERSUS

GUJRAT STATE EIAA & ORS.

...RESPONDENTS

ADDITIONAL AFFIDAVIT ON BEHALF OF NARMADA WATER
RESOURCES, WATER SUPPLY AND KALPSAR DEPARTMENT—
RESPONDENT No. 6

I, Mihirkumar P. Patel, adult, having my office at Project Implementation Unit-2, GERI Compound, Race Course Road, Vadodara 390 007, do hereby solemnly affirm and state on oath as under:

1. I am presently serving as Executive Engineer with the Narmada Water Resources, Water Supply And Kalpsar Department – respondent no. 6 in the present appeal and am working in Gulf of Khambhat Development Project (W.R.). I am conversant with the facts of the case having perused the record pertaining to the case available in my office. I am authorised to swear the present affidavit on behalf of Narmada Water Resources, Water Supply And Kalpsar Department and am otherwise competent to make the present affidavit.


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2. I am filing the present affidavit placing on record the events and developments that have taken place after filing of last affidavit on behalf of the department and during pendency of the present appeal.

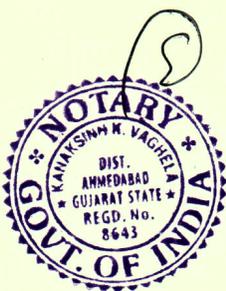
3. In March 2020, the Narmada Water Resources, Water Supply and Kalapasar Department (answering respondent) issued a Notice Inviting Tender for Bhadbhut Barrage Project. The advertisement called for bids from qualifying and interested parties for awarding an Engineering, Procurement and Construction ('EPC') contract for construction of barrage, flood protection embankments and associated works, together with operation and maintenance for a period of 10 years.

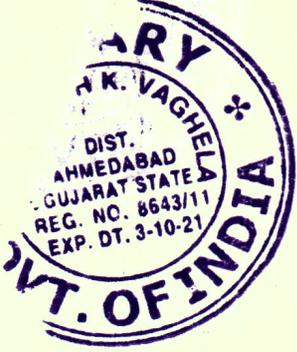
4. A total of 03 bids were received in response to the advertisement. Each of these bids were scrutinised and evaluated. The bid submitted by a joint venture of the Dilip Buildcon Limited- Hindustan Construction Co. Ltd. ('DBL-HCC) was found to be responsive, and most competitive. The answering respondent, after following the procedure and completing other formalities, issued a work order in favour of joint venture of DBL-HCC on 5.08.2020. The total value of the work awarded is Rs. 4167,69,91,057.66

5. Simultaneous to the work of inviting bids and processing them, the department has obtained the following approvals and/or clearances for the project from statutory authorities:

a. The provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 provide that notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for certain facilities managed by the Government only if clearance of such development project is recommended by the


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Gram Sabha. In the present case, some forest land falling in Utraj, Hansot and Kalandara villages is required to be diverted. Accordingly, the Gram Sabha of the concerned villages - Utraj, Hansot and Kalandara, held meetings in 2019 and 2020. The members discussed upon the project for construction of barrage, which is in the nature of a water or rain harvesting structure, by the government, and after deliration recommended clearance of the project.

- b. The Government of India in its Ministry of Environment, Forest and Climate Change (Forest Conservation Division) has in the year 2017 granted 'In-principle / Stage-I' approval for diversion of 186.96 hectares of reserved forest land for acquisition of forest land for the proposed barrage project across river Narmada near Bhadbhut Village in Bharuch. Thereafter, on basis of compliance report submitted by the Government of Gujarat, including the recommendation from the Gram Sabhas as required under provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Central Government has been pleased to grant on 11.01.2021 "Final approval / Stage-II' approval under Section 2 of the Forest (Conservation) Act, 1980 for the project. Such approval is granted subject to conditions mentioned in the approval letter dated 11.01.2021.

Amongst the many conditions imposed by the Central Government, one condition requires the Forest Department of the State of Gujarat to take up compensatory afforestation over 186.96 hectares of non-forest land in Village Tol Sadli, Taluka Jesar, District Bhavnagar and Village Nani, Taluka Abdasa, District Kutch at the cost of the user agency. I state that this condition has been duly complied with by the user agency. An amount of Rs. 7,46,20,000/- has been deposited with the Forest Department for plantation of a


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mixture of local indigenous species. Further, an amount of Rs. 47,75,080/- has been deposited with the Forest Department for plantation of mangrove over 50 hectare land. An amount of Rs. 22,39,60,324, being the Net Present Value, has been collected from the Department, and the same has been deposited in the Compensatory Afforestation Fund. Additionally, processing fee and charges for demarcation and jungle cutting have also been deposited by the Department.

- c. The Inland Waterways Authority of India has issued a 'No Objection Certificate' on 26.08.2019 for construction of barrage at Bhadbhut across river Narmada in continuance of the 'No Objection Certificate' dated 22.04.2019 granted earlier by the Authority.
6. The first phase of work required to be done by the contractor under the contract awarded to it is of building a diversion structure such as coffer dam on either bank of the river. The contractor is required to plan, design and construct the river diversion for the barrage, flood protection embankments and associated works.
- In terms of the scope of work, the contractor conducted preliminary surveys and investigation work at the site. Topographical, geotechnical and geophysical investigations were performed by the contractor at the site. Basis study and analysis of these reports, the contractor prepared the design drawings and submitted them to the department. These drawings have been examined by the department and have been approved by the department.
7. The contractor, prior to commencement of civil work, at the site started the process of obtaining and has obtained the requisite permissions from concerned authorities / department for commencing construction work. In particular, the contractor has obtained the following permissions / clearances:


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- (i) Consent to Establish (CTE) from the Gujarat State Pollution Control Board for manufacture of *kapchi*, greet, metal, etc. at Village Mota Sorva.
- (ii) Consent to Establish (CTE) from the Gujarat State Pollution Control Board for ready mix concrete at Village Kasva;
- (iii) Consent and Authorisation from the Gujarat State Pollution Control Board for manufacture of *kapchi*, greet, metal, etc. at Village Mota Sorva;
- (iv) Consent to Establish (CTE) from the Gujarat State Pollution Control Board for ready mix concrete at Village Hansot;
- (v) License under Section 12 of Contract Labour (Registration and Abolition) Act, 1970 from Office of the Labour Commissioner, Government of Gujarat;
- (vi) Prior Approval of site/layout for storage of petroleum from the Petroleum and Explosives Safety Organization under provisions of the Petroleum Act, 2002 for the sites at Villages Hansot, Mota Sorva, Uttaraj and Manad;
- (vii) Certificate of exemption for ground water withdrawal at Village Kantavav granted by the Department of Water Resources, River Development and Ganga Rejuvenation Central Ground Water Authority, Ministry of Jal Shakti, Government of India;
- (viii) Approval Of Safety Health and Environmental Plan;
- (ix) Approval of Solid Waste Management Plan;

I state that that the answering respondent, in the previous affidavit, had stated that it would commence with the actual construction work at site or permit such construction work only after obtaining requisite permissions from local and statutory authorities. I declare that all necessary permissions / clearances from the statutory authorities have been obtained, and it is only thereafter that the contractor has commenced the work of building the coffer dam and allied works in phased manner on both sides of the river. An aerial image of the work


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being done by the contractor on north side (towards Bharuch) of the river is annexed herewith and marked as **Annexure RR-1**. An aerial image of the work being done by the contractor on the southern side (towards Surat) of the river is annexed herewith and marked as **Annexure RR-2**.

8. I assure the Hon'ble Tribunal that all civil construction work shall be performed by the contractor at site by strictly adhering to the relevant laws, and sufficient precaution shall be taken to ensure that no inconvenience is caused to any fisherman or other persons staying in the surrounding areas and also that no avoidable damage is caused to the environment.

[Signature]

DEPONENT Engineer
Gulf of Khambhat Dev. Project (W.R.)
Project Implementation Unit-2,
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VERIFICATION

(C)

Verified at Ahmedabad on this 28th day of July, 2021 that the contents of the above affidavit are true and correct, nothing stated therein is false and nothing material has been concealed therefrom.

IDENTIFIED BY ME

[Signature]
ADVOCATE
Advocate Clerk
Code No. 153

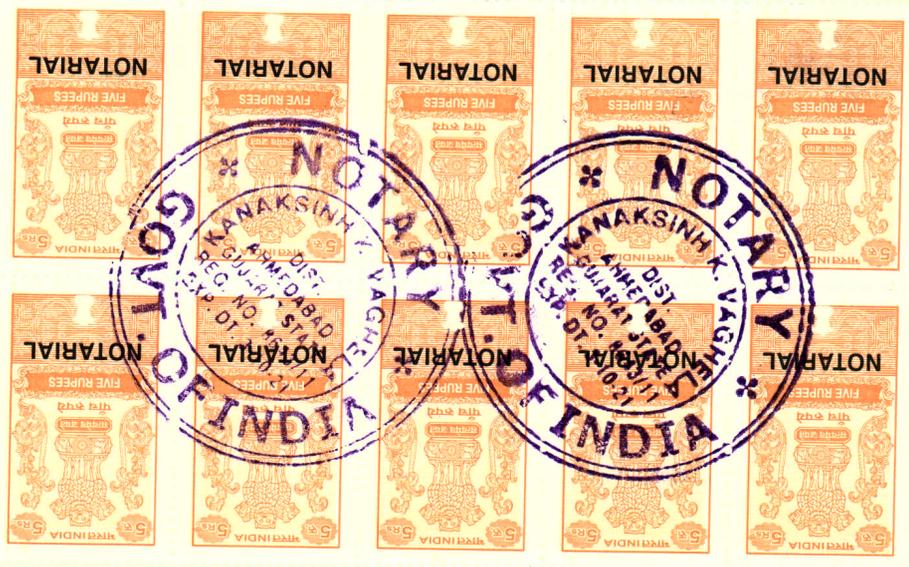
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Executive Engineer
DEPONENT Project (W.R.)
Gulf of Khambhat Dev. Project (W.R.)
Project Implementation Unit-2,
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SR. No. 6612-2021
SOLEMNLY AFFIRMED

BEFORE ME

[Signature]
KANAKSINH K. VAGHELA, NOTARY
DATE : 28/07/2021



Annam - RR




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Annexure - R/R2

LHS Cofferdam




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