

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION NO. 68 OF 2021 (WZ)

Vanashakti & Anr.

... Applicants

Versus

Municipal Corporation of
Greater Mumbai & Ors.

... Respondents

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Filed by



Zaman Ali,
Advocate for Applicants

03.01.2022

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

[RULE 4(e) (i) OF THE BOMBAY HIGH COURT

PUBLIC INTEREST LITIGATION RULES, 2010]

PUBLIC INTEREST LITIGATION (PIL) PETITION NO. _____ OF 2021

Mr. Omkar Mahadeo Supekar & Another.....Petitioners

V / S.

Municipal Corporation of Greater Mumbai, & Ors...Respondents

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24.		Q	<ul style="list-style-type: none"> The Respondent No. 11 issued a letter to the Respondent No. 5 to take a necessary action and inform the same to the Petitioner No. 1 under the intimation of the Respondent No 11. 	213-218
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			<p>Respondent No. 9 to provide the comments at earliest to the representations of the Petitioner No. 1 dated on 9th August and 18th August 2021.</p> <ul style="list-style-type: none"> Respondent No. 11 issues another letter to the Respondent No. 3, Principal Secretary (Forests), Revenue and Forest Department, Mantralaya, Mumbai, with a request to take appropriate action in mater under intimation to the their office. 	
26.		S	<p>The Letter was written by the Petitioner No. 1 to the Respondent No. 11 and Environment Minister, state of Maharashtra (through Email min.env@maharashtra.gov.in),</p> <p>Respondent No. 5 in view of the orders of the Hon'ble Supreme Court and Hon'ble High Court in the case of M.K. Balakrishnan & Ors. v/s Union of India & Ors. W.P. (Civil) No. 230/2001 and Vanshakti v/s Union of India (PIL No. 87 of</p>	223-226

			2013).	
27.		T	Petitioner No. 1 signs an online petition at Change.Org (https://chnng.it/DJr46X2czJ) and received the support from more than the 4807 people and the number is increasing day by day. The shared data of the Construction activities is available in Public Domain at https://cutt.ly/KOD3AHc .	227-331
28.		U	RTI filed by the Petitioner No. 1 with the Environment ministry, Government of Maharashtra to seek the information on the Powai Lake Cycle Track	332-334
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			dated 04.04.2021	
32.		Y	Various Media Reports show how how deplorable state the Wetlands of Mumbai and Mumbai Suburban are in and are being used for construction and development activities.	346-352
33.		Z Colly	<p>A) The present Writ Petition under Article 32 of the Constitution of India relates to conservation of wetlands which in our opinion would include ponds, tanks, canals, creeks, water channels, reservoirs, rivers, streams and lakes.</p> <p>B) Vanshakti v/s Union of India (PIL No. 87/2013): Hon'ble Bombay High Court directed to protect Wetlands under National Wetland Atlas from reclamation and construction.</p>	353-387

			<p>C) Order dated 01.10.2017 by the Hon'ble Supreme Court to protect all the wetlands under the National Wetland Atlas 2011 from any reclamation and construction.</p> <p>D) Wetlands (Conservation and Management) Rules, 2010, November 2010</p> <p>E) WRIT PETITION NO. 303 OF 2018 wherein multiple orders have been passed in context to de-notifications of the wetlands in Maharashtra . The recent order dated 18/2/2020.</p>	
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Date :

Place: Mumbai

Advocate for Petitioners

W/ Krop...

True copy

[Signature]

A

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
[RULE 4(e) (i) OF THE BOMBAY HIGH COURT
PUBLIC INTEREST LITIGATION RULES, 2010]
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Omkar Mahadeo Supekar & Another ... Petitioners

Versus

Municipal Corporation of Greater Mumbai, & Ors... Respondents



B

Office Notes. Office Memorandum of Coram appearance. Court's orders or direction and Prothonotary's Orders	Court's or Judges Orders
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I

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
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Mr. Omkar Mahadeo Supekar & Another.....Petitioners

V / S.

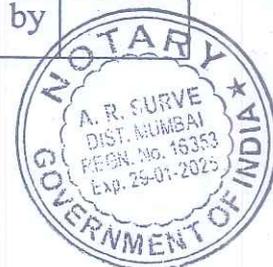
Municipal Corporation of Greater Mumbai, & Ors...Respondents

SYNOPSIS

The petitioner No 1 and 2 are PhD researchers at IITB Mumbai (working on Indian Philosophy, Environmental Ethics and Chemistry respectively) and are law abiding citizens of India.

DATES AND EVENTS

SR. NO.	DATE	EXH	PARTICULARS	PAGE NOS.
1.	Unknown till year 1891		The pre-existing natural water body was declared as a source of Potable Water for Mumbai city and its suburban area by then the British Administration.	
			Powai Lake Notified as Wetland by	



II

			the MoEFCC and mapped in the National Wetland Atlas 2011	
2.	June 2000	A Colly	Powai Lake included in the National Lake Conservation Plan with Rs. 6.62 Crores sanctioned for the restoration of the Powai Lake.	
3.	October 2009	G	World Wildlife Fund discovers 843 species; 44% of which is flora, 39% of invertebrate fauna and 17% vertebrate fauna in IIT Bombay campus. Amidst all the variety, 100 species are either protected under Wildlife Protection Act, 1972 or International Union for Conservation of Nature (IUCN) Red List or Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).	
4.	February 2013- 31.10.2016	F	National Lake Conservation Plan merged with National Wetland Conservation Program to become a unified scheme National Plan for Conservation of Aquatic Eco-systems (NPCA). The 18.675 Crore were spent by the authorities out of the approved cost of 28.57 Crore under NPCA/NLCP.	



III

5.	04.03.2021	L	Dr. Pramod Salaskar, Founder Secretary of Naushad Ali Sarovar Samvardhini (NASS), Association of Lake Conservation and an experienced researcher on Powai Lake since 23 years, wrote to the Principal Chief Conservator of Forests requesting to ensure minimum interference on crocodiles by human, and ban public movement around the basking sites, for the purpose of the crocodile protection.
6.	July 2021	J	Respondent No. 1 begins the construction of a 10 KM cycle track by reclamation over the water body, water catchment area, Crocodile Habitat and Ecologically sensitive and fragile Powai Lake Wetland, by uprooting and cutting the trees, digging and dumping the stones and crushed sand over the water body.
7.	07.08.2021	K	The whistle was blown by the Petitioner No. 1 and a representation was submitted with the Respondent No. 11 (MoEF&CC) to seek the information.
8.	August 2021	M	200 species of birds including Schedule 1 species of birds reported



IV

			to be found at various spots in the Powai Lake wetland through the IITB Bird Inventory.
9.	09.08.2021- 21.09.2021	N O P Q	<ul style="list-style-type: none"> • Letter issued by the Respondent No. 11 to the Respondent No. 3, Principal Secretary, (Forests), Forests and Revenue Department to submit a report within 15 days on my representation. • The Respondent No. 11 issued a letter to the Respondent No. 9 to provide the comments at earliest on the representation of the Petitioner No. 1 • The Respondent No. 11 issued a letter to the Respondent No. 5 to take a necessary action and inform the same to the Petitioner No. 1 under the intimation of the Respondent No 11. • The Respondent No. 11 issued a letter to the Respondent No. 9 to provide the comments at earliest to the representations of the Petitioner No. 1 dated on 9th August and 18th August

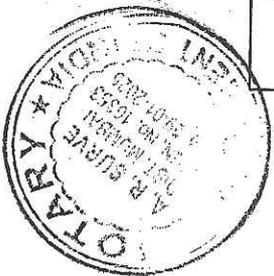


V

		R	<p>2021.</p> <ul style="list-style-type: none"> Respondent No. 11 issues another letter to the Respondent No. 3, Principal Secretary (Forests), Revenue and Forest Department, Mantralaya, Mumbai, with a request to take appropriate action in mater under intimation to the their office 	
10.	20.08.2021	S	<p>The Petitioner No. 1 makes a representation the the Respondent No. 11, 5 and Environment Minister, state of Maharashtra (through Email min.env@maharashtra.gov.in) to stop construction of the cycle track in Powai Lake Wetland in view of the orders of the Hon'ble Supreme Court and Hon'ble High Court in the case of M.K. Balakrishnan & Ors. v/s Union of India & Ors. W.P. (Civil) No. 230/2001 and Vanshakti v/s Union of India (PIL No. 87 of 2013).</p>	
11.	23.08.2021	Q	<p>Respondent No. 11 asks the Maharashtra State Wetland Authority to give comments to my presentations dated on 9th August and 18th August.</p>	
12.	25.08.2021	U	<p>Petitioner 1 files a RTI with the</p>	



			Environment ministry, Government of Maharashtra to seek the information about the Cycle Track Project and the Powai Lake Wetland.
13.	September 2021		Petitioner 1 communicates through email and in person with the Local Representatives Hon MP Poonam Mahajan, Additional Municipal Commissioner Mr. Velarasu, Hon Mayor MCGM, Hon MLA. Dilip Lande and submits a letter expressing the ecological concern over the Cycle Track Project.
14.	21.09.2021	R	Respondent No. 11 issues another letter to the Respondent No. 3, Principal Secretary (Forests), Revenue and Forest Department, Mantralaya, Mumbai, with a request to take appropriate action in mater under intimation to the their office.
15.	29.09.2021	V1, V2	Petitioner No. 1 submits the letter regarding the rich biodiversity of the Powai Lake Wetland to the Hon President and Member Secretary of Maharashtra Biodiversity Board and asks for their intervention.
16.	06.10.2021	T	Petitioner 1 gets support from 4807 people (till the date mentioned)



VII

			through online Signature Campaign at https://chnng.it/DJr46X2czJ . The shared data of the Construction activities is available in Public Domain at https://cutt.ly/KQD3AHc .	
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Acts to be cited:

- 1) Constitution
- 2) Wet Land (Protection & Conservation) Act 2010 & 2017
- 3) Guide lines of Wet Lands 2017

Micrograde

Adv for petitioners




IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

[RULE 4(e) (i) OF THE BOMBAY HIGH COURT

PUBLIC INTEREST LITIGATION RULES, 2010]

PUBLIC INTEREST LITIGATION (PIL) PETITION NO.
_____ OF 2021



IN THE MATTER OF ARTICLE 226 OF THE
CONSTITUTION OF INDIA, 1950;

AND

IN THE MATTER OF ARTICLES 14, 19 & 21 ,
Article 51-A (g) AND 300-A OF THE
CONSTITUTION OF INDIA; 1950;

AND

IN THE MATTER OF GUIDELINES FOR
IMPLEMENTING THE WET LANDS
(CONSERVATIONS AND MANAGEMENT)
RULES, 2017

AND

IN THE MATTER TO STOP CONSTRUCTION IN
POWAI LAKE



2

1. Mr. Omkar Mahadeo Supekar
Aged 27 years, an adult Indian, Inhabitant of India,
Occupation: PhD Researcher at IIT Bombay, Mumbai,
Residing at: IIT Bombay, Mumbai 400076
2. Mr. Abhishek Ram Gopal Tripathi
Aged 28 years, an adult Indian, Inhabitant of India,
Occupation: PhD Researcher at IIT Bombay, Mumbai,
Residing at: IIT Bombay, Mumbai 400076

...Petitioners

V / S.

1. Municipal Corporation of Greater Mumbai,
Through the Municipal Commissioner
having its office at Municipal Corporation Head Office,
Mahapalika Marg, Mumbai – 400001
Email ID: mc@mcgm.gov.in
Contact No: 022-22620251
2. Maharashtra Tourism Development Corporation Ltd.,
Through its Managing Director,
having office at Apeejay House, 4th Floor, 3 Dinsaw
Vaccha Road, Near K.C. College, Churchgate, Mumbai- 400020
Email ID: md@maharashtraturism.gov.in
Contact No: 022-22044040
3. Revenue and Forest Department,
Through the Principle Secretary (Forests) &
having office at Hutama Rajguru Chowk, Madam Cama Marg,
Mantralaya, Mumbai -400032
Email ID: Sec.forest@maharashtra.gov.in



- Contact No: 022-22023363
4. Urban Development Department,
Through its Principal Secretary
Email ID: sec.ud1@maharashtra.gov.in
Contact No: 022-22021444
 5. Maharashtra Pollution Control Board,
Through its Secretary
having office at Kalpataru building Sion East,
Mumbai -400022
Email ID: ms@mpcb.gov.in
Contact No: 022-25505926
 6. Maharashtra State Forest Department,
Through its Additional Principal Chief Conservator of Forests
& Mangrove Cell
having office at Room No. 302, 3rd Floor, Wekfield House,
Near Britannia Restaurant, Bellard Estate,
Mumbai-400001
Email ID: ccfmmumbai@gmail.com
Contact No: 022-26591586
 7. Maharashtra State Forest Department, Wildlife Wing,
Through its Additional Principal Chief Conservator of Forests (Wildlife
West)
having its office at Borivali Mumbai L.T. Road,
Near Old MHB Bus Stop, Forest Qtr.,
Borivali (W) 400091
Email ID: apccfwlmumbai@mahaforest.gov.in
Contact No: 022-28692668
 8. The Maharashtra State, Environment Department,
Through its Principal Secretary



having office at Madam Kama Road,
Mantralaya Mumbai- 400032

Email ID: psec.env@maharashtra.gov.in

Contact No: 022-22873845

9. Maharashtra State Wetland Authority,
Working through or having their office
Borivali Mumbai L.T. Road,
Near Old MHB Bus Stop, Forest Qtr.,
Borivali (W) 400091

10. Central Pollution Control Board,

Through its Chairman

having office at Parivesh Bhawan,

CBD-cum-office Comple, East Arjun Nagar, Delhi- 110032

Email ID: ccb.cpcb@nic.in

Contact No: 011-22307233

11. Union of India,

Through Ministry of Environment,

Forest and Climate Change, Government of India,

having their office at Parayavaran Bhavan, C.G.O Complex,

Lodhi Road, New Delhi- 110003

Email ID: secy-moef@nic.in

Contact No: 011-24695262

12. District Collector, Administrative Building, Near Chetana College,

Government Colony, Bandra (East), Mumbai- 400051

Email ID: collector.mumbaisuburb@maharashtra.gov.in

Contact No: 022-26556799

.....Respondents



TO,

THE HON'BLE CHIEF JUSTICE OF INDIA &

HIS COMPANION JUDGES OF THIS HON'BLE COURT

HUMBLE PUBLIC INTEREST
LITIGATION ON BEHALF OF THE
PETITIONER ABOVE NAMED

The Petitioners named above most respectfully beg to submit as
under:

I. Particulars of the Petitioners & Respondents:

- 1) The petitioner No 1 and 2 are PhD researchers at IITB Mumbai (working on Indian Philosophy, Environmental Ethics and Chemistry respectively) and are law abiding citizens of India. Petitioner 1 is domiciled in the State of Maharashtra and Petitioner 2 is domiciled in the State of Uttar Pradesh. The Petitioner No. 1 and 2 are the Twitter Handler of a page 'Powai Lake Calling' by IIT BForum.
- 2) The Petitioners state that the Respondent No. 1 is the Municipal Corporation of Greater Mumbai (referred as MCGM), responsible for the Protection and Conservation of Powai Lake. The Respondent No. 2 is the Maharashtra Tourism Development Corporation Ltd., which is the body of the Government of Maharashtra responsible for the Tourism in the state. Respondent No 1 & 2 are the authorities, proposing the construction of the cycle and jogging track around the Powai Lake as seen from the media Report at dated 10 August 2021 herewith annexed and marked as **EXHIBIT I Colly**. Respondent No. 3 is the Revenue and Forest Department and through the Principle Secretary (Forests) have received the letter dated 09.08.2021, issued



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by the Respondent No. 11 and had been asked to submit comments/action taken report within 15 days. However, it has not yet happened till date. Respondent No 4 is the Urban Development Department that controls and regulates all the construction/development activities in the State of Maharashtra. Respondent No 5. is the Maharashtra Pollution Control Board (referred as MPCB), which is the State government authority to control and monitor in the fields of the pollution control, waste recycle etc. Respondent No. 6 is the Maharashtra State Forest Department, an authority responsible for the conservation and monitoring of the forests in the state. Respondent No. 7 is the Wildlife Wing of the Maharashtra State Forest Department. Respondent no. 8 is the Environment Department of the Government of Maharashtra, an nodal agency for the planning, promotion and implementing all measures to protect the Environment in the state. Respondent No. 9 is the Maharashtra State Wetland Authority, responsible for the protection and conservation of the Wetlands in the state. The Respondent No. 10 is the Central Pollution Control Board (referred as CPCB), the authority responsible for the protection of water bodies by arresting the pollution. Respondent No. 11 is the Ministry of Environment, Forest and Climate Change (referred as MoEF&CC), is the nodal agency in the administrative structure of the Central Government for the planning, promotion, co-ordination and overseeing the implementation of India's environmental and forestry policies and programmes. Respondent No. 12 is the District Collector of the Mumbai Suburban District, which includes Powai Lake and is the authority responsible for District Administration.



II. Particulars of the cause against which the Petition is made:

The Petitioners herein are constrained to approach this Honourable Court invoking its extraordinary writ jurisdiction of the Hon'ble Court in public interest, as the representations and RTI submitted by the Petitioner No. 1 are not yet answered by the Respondent No. 1,3,5,8,9 respectively even after the stipulated time, as issued by the Respondent No. 11. The Petitioners No. 1 & 2 are earnestly concerned about the Powai Lake Wetland and the hazardous impact caused by the construction activities for a proposed Cycle Track over the Water Body, Catchment Area, Crocodile Habitat of the Powai Lake Wetland, carried by the Respondent No. 1, by uprooting and cutting the trees, digging and dumping boulders and filling the sand crush and stones etc.

III. Ground of it Being:

The grievance of the Petitioners is that the submitted representations to the Respondents were not answered at all even after the long awaiting. Also, the information has been denied by the Respondents. Also, the construction activities carried out in the ecologically fragile wetland of Powai Lake are a serious threat to the Schedule 1 Protected Species and multiple endangered species of flora and fauna. There is no information available of the ongoing construction activities in the public domain at all, hence this application.

IV. Declaration and understanding of the Petitioners

1. That the present Petition is being filed by way of Public Interest Litigation and the Petitioners does not have any personal interest in the matter as the issue concerns with the environmentally irreversible change and the damage that the contested construction activities are causing to the rich Biodiversity of the Powai Lake Wetland and its



rich floras, over 200 innocent avian species, crocodiles, turtles, crabs and many other invertebrate and vertebrate species.

2. That to the best of the Petitioners' knowledge and research, the issues raised in this Petition have not been dealt with or decided by this Hon'ble Court and neither a similar or identical Petition was filed by them earlier.
3. Petitioners have no ulterior motive to file this Public Interest Litigation and therefore are approaching this Hon'ble Court with a genuine cause to protect the lake as referred in this Petitioners
4. Petitioners are the students who have taken up this cause and the court litigation expenses will be managed by the crowd-funding after filing the petition.

V. Facts in brief constituting the cause:

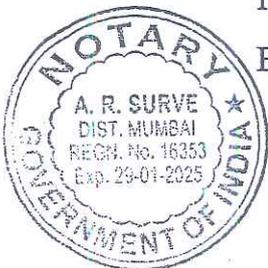
1) About the Powai Lake:

- i. The Powai Lake is located in Powai, an Eastern Suburb of Mumbai. The water spread area of the lake is 210 hectares as per the Central Institute of Fisheries Education, and having a catchment area of 6.61 sq.Kms. The Powai Lake is a notified wetland by National Wetland Atlas 2011 . Google earth image of powai lake wetland; imagery date: 002.06.2021 & powai lake mapped at the wetlands of India portal, accessed at <https://indianwetlands.in/> is herewith annexed and marked as **EXHBIT A Colly**.
- ii. "Wetland" means an area of marsh, fen, peat land or water; whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters, but does not include river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures



specifically constructed for aquaculture, salt production, recreation and irrigation purposes which is herewith annexed and marked is the copy of official gazette dated 26th September, 2017 and copy of guidelines for implementing the wetlands (conversations and management) rules, 2017 as **Exhibit B & C**.

- iii. The lake has been identified to have the worst water quality and wetland health among all major recognized wetlands in Maharashtra by the Sálim Ali Centre for Ornithology and Natural History under the Union environment ministry's direction for priority restoration of wetland areas and developing integrated management plans for them. Copy of the newspaper article dated 24th November 2019 is herewith annexed and marked as **EXHIBIT D**. The lake is being accessed from the constructed promenade besides the Adi Shanakaracharya Marg in Powai. This patch of the lake is the most polluted patch because of the sewage flow, garbage being thrown by the lake visitors. Copy of the photo are herewith annexed and marked as **Exhibit E** which reveals the pollution in the lake.
- iv. The Powai lake has been included in the unified scheme - National Plan for Conservation of Aquatic Eco-systems (NPCA), after merging the National Lake Conservation Plan with National Wetland Conservation Program and the cost of 18.675 Crore has been spent for the restoration purpose till 30th October 2016. Copy of the Lok sabha unstarred question no. 2135 to be answered on 29/11/2016 is herewith annexed and marked as **Exhibit F**.
- v. The Powai Lake boundary has been shared by the Indian Institute of Technology, Bombay and a research conducted by the World Wide Fund for Nature, India discovered the 843 species; 44% of which is flora, 39% is invertebrate fauna and 17% is vertebrate fauna in the IIT Bombay Campus. The mentioned invertebrate & vertebrate fauna



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easily displaces from the lake to the IITB campus as there is no restricting wall between the IITB and Powai Lake. The copy of the October 2009 report of the study of biodiversity of Indian Institute of Bombay Campus is herewith annexed and marked as **EXHIBIT G**.

- 2) The petitioners saw the construction activities carried by the Respondent No. 1 from their residential building at IITB is the copy of news article showing the Petitioners grievance on the same as annexed and marked as **Exhibit I**. Petitioner No. 1 reached out to the Police Helpline No 100, to inform the construction activities. It happened for more than thrice but the Police officials did not give any response and denied the fact about the construction activities. Then the Petitioner NO. 1 along with another IITB student visited the Respondent No. 1's - S Ward Office to know the details about the construction but they also were not aware of the activities. Hence, they redirected the Petitioner No. 1 and accompanying friend to the Hydrology Department, Ghatkopar since the lake has been monitored by them. There, Petitioner No. 1 met the Executive Engineer Mr. Fakira Kshirsagar and Asst. Engineer Mr. Raj Ingole. However, they also didn't provide any information about the construction activities and asked to come through "Proper Channel". After having denied the information by the Respondent No. 1, the Petitioner No. 1 communicates the concern with the Respondent No. 10 and asks for their assistance. Photographs of the construction site is herewith annexed and marked as **Exhibit J** Colly..
- 3) The Petitioner came to know that the Respondent No. 1 had reclaimed the Powai Lake Wetland (A notified Wetland as per the National Wetland Atlas 2011) and are carrying out the construction activities by uprooting the trees, digging the ground and dumping the stones, crushed-sand over the water body, water catchment area, Crocodile



habitat and ecologically sensitive and fragile wetland of Powai Lake (See **Exhibit I**). There are two constructions sites; first being the reclaimed water body adjacent to the Renaissance Hotel Compound Wall inside the Powai Lake riparian area, besides the Pipeline Road, Powai (Here onwards, referred as **SITE No. 1**).

And the second site is known as Deer Park, besides the Ambedkar Udyan, Powai (Here onwards, referred as **SITE No. 2**). The SITE No. 1 has been exploited by the Respondent No. 1 since July 2021 and around 100 Meters of the area has been constructed over a natural water body, which is evidently seen from **Exhibit I**. The wetland area between **SITE No. 1** and **SITE No. 2** has been used by the crocodiles as a basking site for a long time and during night the crocodiles come out of the water and rest there. This has been seen and informed by the local residents and fishermen. Also, a letter was written by an expert to the Forest Chief Conservator on 4th March 2021 to restrict the movements of the people up to 30 Meters from the catchment area to enable crocodiles to nest and lay their eggs in that area. **PETITIONER NO. 1 BLOWS THE WHISTLE AND WRITES AN E-MAIL on 7th AUGUST, 2021 TO THE RESPONDENT, NO. 11 TO SEEK THE INFORMATION ABOUT THE CONSTRUCTION ACTIVITIES.** Petitioner No. 1 had written to the Hon'ble National Green Tribunal Faridkot House, Copernicus Marg, New Delhi (on 7th August 2021) for their intervention against the reclamation and construction of the Powai Lake Wetland, annexed as **Exhibit K Colly**. Petitioner No. 1 also submitted a letter with the Respondent No. 11 seek the information and inform the construction activities Copy of the said e-mail dated 7/8/2021 is herewith annexed and marked as **Exhibit K Colly**. Unfortunately and alarmingly, the same sensitive water catchment area (same as Crocodile Habitat i.e. the Wetland between SITE No. 1 & 2) has been exploited by the Respondent No. 1. This is evident enough to show that the Respondent No. 1



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has ignored the scientific facts and expressed no moral standing towards the innocent species that can't speak for themselves.

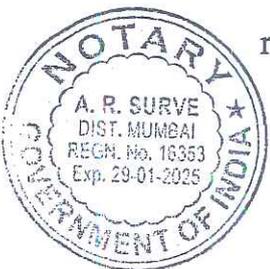
- 4) The area between the SITE NO. 1 & 2 is the "zone of influence" means that part of the catchment area of the wetland or wetland complex, developmental activities in which induce adverse changes in ecosystem structure, and ecosystem services. (See Exhibit C)
- 5) The Powai Wetland is the home to the Indian Marsh Crocodiles which are protected under Schedule I of Wildlife Protection Act, 1972, see recent photographs from year 2021 in Exhibit H. The conservation of the Powai Lake is absolutely ignored by carrying out the present activities and therefore, the actions of the Respondent 1 violate the Environment (Protection) Act, 1986, Environment Protection Rules, 1986, Water (Prevention and Control of Pollution) Act, 1974, Wetland (Conservation and Management) Rules, 2010 and 2017, Orders of the Hon'ble Supreme court and Hon'ble High Court of Bombay passed in furtherance of wetlands conservation.
- 6) The Respondent No. 11 acknowledged the concern raised by the Petitioner No. 1, dated 7th August 2021 and issued the letters multiple times to Respondent No. 3, 5 and 9 to provide the comments and take necessarily action within 15 days and at the earliest and to provide the copy of the same to the Petitioner No. 1. However, the Petitioners have not received any response till date of the letter dated 7/8/2021, letter dated 08.09.2021 and 18.08.2021 from the Respondent No. 3, 5, and 9. The-mails by Dr. Ramesh M(Scientist) (working at Respondent No. 11's office) on the construction work in Powai Lake, the letter dated 8/9/21 and an e-mail by respondent no. 11 to Maharashtra State Wetland Authority were written to seek the information about the Petitioner No. 1's concern and grievance. Copies of the said letters



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and e-mails are herewith annexed and marked as **Exhibit M, N, O, P, Q**. The given time window was not followed by the Respondent No. 3, 5 and 9.

- 7) The Petitioner No. 1 writes an email on 20/8/2021 to the Respondent No, 11 and 8 (min.env@maharashtra.gov.in) regarding the protection of the Wetlands and its rich biodiversity, in view of the orders of the Hon'ble Supreme Court & Hon'ble High Court in the case of M.K. Balkrishnan & Ors. v/s Union of India & Ors. W.P. (Civil) No. 230/2001 and Vanshakti v/s Union of India (PIL No. 87 of 2013). The copy of Petitioners e-mail and Response letter of Respondent No. 11 is herewith annexed and marked as **Exhibit S & R**.
- 8) Petitioner No. 1 signs an online petition at Change.Org (<https://chnng.it/DJr46X2czJ>) to spread the awareness about the ongoing construction activities at **SITE No. 1 & 2**. The Petitioner No. 1 has addressed the Petition to the Hon'ble Chief Minister of Maharashtra and Hon'ble Minister of Environment & Climate Change, Government of Maharashtra. The petition urged the authorities to halt the construction due to its impact on the ecology of the Powai Wetland. The Petitioners have received support from over 4807 people through online platform. The names of the signatories are attached in **Exhibit T**.
- 9) Also, Petitioner No. 1's RTI application on 25/8/2021 which has not been answered even after the 46 days. Copy of the said RTI is herewith annexed and marked as **Exhibit U**.
- 10) The Petitioner No. 1 along with IITB student meets Hon'ble President and Member Secretary of the Maharashtra State Biodiversity Board at Thane District Collector Office and hands over a letter to them. Through the letter dated 29/9/2021, Petitioner No. 1 appeals and requests to protect the rich biodiversity of the Powai Lake Wetland



and intervene to halt the construction. Copy of the said appeal is herewith annexed and marked as **Exhibit V Colly**.

11) **Environmental Importance of Powai Lake:**

- i. Powai lake and its adjoining area is a thriving ecosystem, home to numerous protected species of animals and birds which have been documented in a report by IIT Bombay. The said report lists 174 birds and includes Darter and Black-headed Ibis which are listed as threatened species by the International Union for the Conservation Nature (IUCN Red List) (See **Exhibit M**). The various birds protected under Schedule – 1 of the Wildlife Protection Act, 1972 (WPA, 1972) frequent the lake as a nesting, breeding, feeding and migratory site which inter alia include Peregrine, Falcon, Eurasian Marsh Harrier, Black Kite, Brahminy Kite, Osprey, Eurasian Sparrowhawk, Indian Grey Hornbill and various species of Schedule- 4 family of birds such as Egrets, Sandpipers, Jacanas, Mynas, crakes, Babblers, Bee- Eaters, Warblers, Kingfishers, Flamingos, Cuckoos, Flowerpecker, Flameback, Parakeets, Flycatchers, Sunbirds etc. The copy of the said report "Powai and its birds" by IITB faculties, residents and birdwatchers is annexed at **Exhibit M**.
- ii. Further, Powai lake is a well known to have a population of Marsh crocodiles, which is protected under Schedule- 1 of WPA, 1972 and is listed as "vulnerable" on the IUCN Red List (See **Exhibit H**). Additionally, there is a thriving population of crabs, insects, worms, fish and their eggs, lizards, snakes, frogs and their eggs, birds and their eggs and nestlings, molluscs and rodents, on which the birds and animals are dependent on for food in the Lake ecosystem. Also, the study conducted by the Central Institute of



Fisheries Education, Mumbai titled "Diversity and Distribution of Macrophytes in Powai Lake, Mumbai", mentioned that there were 34 species of aquatic Macrophytes in Powai Lake. That Aquatic Macrophytes are primary producers, and play a significant role in reservoir ecosystems by several mean, such as providing A) Habitat for Aquatic Organism B) Stabilising the Sediment by Reducing Erosion C) Buffering Temperature Fluctuation and Waves, D) Maintaining Dissolved Oxygen E) Utilising Nutrients, and F) Absorbing Heavy Metals.

- iii. Therefore, it is submitted that not only is Powai Lake recorded to be a thriving and unique ecosystem within the water boundaries but the lake further plays an important role in the ecosystems surrounding it which are recorded to be rich biodiversities areas.

12) Importance of the shoreline food-web:

The greenery that currently exists around the lake prevents siltation due to soil erosion. Macrophytes (vegetation) that exist help to stabilize sediments and shorelines, forming breeding grounds for some fish and many invertebrate species, and are a food source for waterfowl and mammals. Macrophytes absorb nutrients and toxins from the water improving its quality. The rich micro habitat and feeding ground that exists along the margins of the lake – leads to a benthic food web- this is best perceptible in the part of the lake bordering the IIT campus – and plays a vital role in preserving the environment and controlling growth of unwanted organisms. Any kind of reclamation followed by construction over water body, water catchment area/ crocodile habitat and Powai Lake Wetland would destroy this pristine and rich shoreline food web, increase siltation and cause loss of native water



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plants that would be a critical turning point in eutrophication¹ and destruction of the lake.

13) Pumping of Sewage causing Hyacinth growth, siltation and fish death:

As we know Powai Lake has a catchment area of 6.61 sq km and is bordered by Hiranandani Complex, IIT Bombay and Sanjay Gandhi National Park. In recent times the lake has been subject to steady pollution and degradation of water quality by pumping of sewage water from neighbouring residential complexes every night, the steady growth of the water hyacinth and blue green algae in the waters is clear proof of the same. The rich biodiversity of the lake comprising of vegetation (phytoplankton, zooplankton) and fauna (fish, crocodiles, and birds) are already under threat from these sources. Field investigation carried out from 24th to 28th March 2021 has revealed dead fish in large quantity belonging to the species *Labeo rohita* (Rohu), *Cirrhinus mrigala* (Mrigal), *Catla catla* (Catla) and *Tilapia mossambica* (Tilapia), The said report dated 04.04.2021 is herewith annexed and marked as , Exhibit X.

14) Powai Lake: A Birders' Paradise under threat (see <https://bit.ly/3yOu9rl>) (See Exhibit M):

Numerous migratory birds too visit the lake and currently Powai Lake (in 6.61sq.km i.e. 2% of SGNP area) *hosts more than two hundred bird species* - 88% of the bird biodiversity seen in Sanjay Gandhi National Park. The part of the Powai Lake bordering the IIT campus is rightfully known as one of the *birder's paradise* locations (well known in Ornithology and natural history circuits) due to its breath-taking tranquility punctuated only by bird sounds. When the water level near the shore goes down, the grass patches also serve as pastures for cattle

¹Eutrophication occurs when the environment becomes enriched with nutrients, increasing the amount of plant and algae growth



grazing –there are over a 100 feral cattle at IIT Bombay presently that depend on the lake-bed vegetation.

15) The Wetlands (Conservation and Management) Rules, 2017, annexed as **Exhibit B** elaborately discusses the challenges faced by the wetlands and their significance for all of us, given as below :

A. G.S.R. 1203 (E) –

- a) Whereas the wetlands, vital parts of the hydrological cycle, are highly productive ecosystems which support rich biodiversity and provide a wide range of ecosystem services such as water storage, water purification, flood mitigation, erosion control, aquifer recharge, microclimate regulation, aesthetic enhancement of landscapes while simultaneously supporting many significant recreational, social and cultural activities, being part of our rich cultural heritage;
- b) And whereas many wetlands are threatened by reclamation and degradation through drainage and landfill, pollution (discharge of domestic and industrial effluents, disposal of solid wastes), hydrological alteration (water withdrawal and changes in inflow and outflow), over-exploitation of their natural resources resulting in loss of biodiversity and disruption in ecosystem services provided by wetlands;
- c) And whereas clause (g) of article 51A of the Constitution stipulates that it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures;
- d) And whereas the Environment (Protection) Act, 1986 is a comprehensive legislation to provide protection and improvement of the environment, including inter-alia,



Rules, 2008; electronic waste covered under the E-Waste (Management) Rules, 2016;

- 3) discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements;
- 4) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules; and

16) The Respondent No. 11 has given guidelines for implementing Wetlands (Conservation and Management) Rules, 2017 annexed as **Exhibit C**, given as below:

- I. The Ministry of Environment, Forest and Climate Change (MoEF&CC) has notified Wetlands (Conservation and Management) Rules, 2017 (hereinafter Wetlands Rules) under the provisions of the Environment (Protection) Act, 1986 as regulatory framework for conservation and management of wetlands in India. These guidelines have been drafted to support the State Governments / Union Territory (UT) Administrations in the implementation of the Rules.
- II. The State / UT Wetlands Authorities are expected to prepare a list of wetlands within the boundaries of their respective States / UTs. This list should be comprehensive, and not just focus on wetlands that qualify for notification under these Rules. Therefore, it is recommended that the list is developed based on wetlands definition of the Ramsar Convention (to which India is a Contracting Party)
- III. For delineating wetlands, it is essential to be aware of the distinguishing characteristics



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of these ecosystems. Wetlands arise when inundation by water produces soil dominated by anaerobic processes, which in turn forces the biota, particularly rooted plants to adapt to flooding. Wetlands, thus, have the following general distinguishing characteristics:

- a) Permanent or periodic inundation or saturated soils throughout the year or during parts of the year
- b) Presence of macrophytes adapted to wet conditions (also known as hydrophytes)
- c) Soil that are saturated or flooded long enough favouring development of anaerobic conditions

- IV. Wetlands boundary can be derived as the outer envelope of the maximum area under inundation, the area covered by hydrophytes, or saturation of soil near the surface during a normal monsoon year. The boundary should be such that during a normal monsoon year, the entire area is inundated for at least 15 days, or the soil is saturated roughly within one foot from the surface. It may be pertinent to exclude areas that are only intermittently inundated in the case of high floods (such as one in 100-year floods) or extreme events (such as storm surges of extreme intensity).
- V. For each wetland to be notified, a zone of influence is to be defined. The zone of influence of a wetland is an area, developmental activities wherein are likely to induce adverse changes in wetland ecosystem structure and (ecological) functioning.
- VI. Wise Use of the Wetland:
Ramsar Convention defines the 'wise use' of wetlands as "the maintenance of their ecological character, achieved through the implementation of ecosystem approaches, within the context of



sustainable development". Ecosystem approach requires consideration of the complex relationship between various ecosystem elements and promotion of integrated management of land, water and living resources. Wise use, through an emphasis on sustainable development, calls for resource use patterns which can ensure that human dependence on wetlands can be maintained not only in the present but also in the future. Seen in totality, wise use is about maintaining and enhancing wetland values and functions to ensure the maintenance of the flow of benefits from wetlands (their ecosystem services) from an inter-generational equity point of view.

VII. A wetland use is not 'wise-use' if:

The intervention leads to adverse changes in ecosystem components and processes, such as:

- i. Reduction in water flowing into the wetlands
- ii. Reduction in the area under inundation, or changes in inundation regime
- iii. Reduction and alteration of natural shoreline
- iv. Fragmentation of wetlands into small patches of water
- v. Reduction in water holding capacity
- vi. Degradation of water quality
- vii. Reduction in diversity of native species
- viii. Introduction or emergence of invasive species
- ix. Decline in wetlands resources, such as fish, aquatic plants, and water
- x. Some examples of wetlands uses that may not be 'wise-use' are as follows:



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Type of wetland	Intervention	Ecosystem services likely to be enhanced	Ecosystem services likely to be diminished
Lagoon	Prawn aquaculture by creating enclosures within the lagoon area	Food provision Livelihoods for wetlands dependent communities	Water regime moderation Flood buffering
Lake	Impounding water by regulating outflows	Increased water availability for human use	Ability to moderate floods
Marsh	Construction of road connecting settlements located on the periphery	Transport	Hydrological regime moderation Flood buffering Aesthetics
Urban Lake	Concretization of shoreline for beautification	Aesthetic value Tourism and recreational benefits	Ability to accommodate monsoon flows Habitat values



VIII. In several cases, the impact on ecosystem structure and functions, or tradeoffs in ecosystem services may not be immediately apparent. It is, therefore, recommended that the 'precautionary approach' is adopted to ensure that wetlands conservation is prioritized in the case of information uncertainty.

IX. **Prohibited activities in a notified wetland :**

The following activities are prohibited within notified wetlands:

- a. Conversion for non-wetland uses including encroachment of any kind;
- b. Discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements;
- c. Any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules;

X. Permission for carrying out any activity included within the list of prohibited activities [as per Rule 4(2) of Wetlands Rules], within a notified wetland can only be given by the MoEF&CC. A specific request needs to be made by the State Government based on the recommendation of Wetlands Authority specifying:

- a) Activity for which permission is sought;
- b) Justification thereof;
- c) The premise on which the activity is not considered detrimental to the wetland's ecological character; &
- d) Supporting evidence-base (such as an expert report, EIA, mitigating measures proposed to be undertaken etc.)



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XI. Account of pre-existing rights and privileges in a notified wetland

Each wetland is likely to be associated with a range of pre-existing rights and privileges, and it must be ensured that such rights and privileges are aligned with the 'wise use' approach. For assessing the consequence of a pre-existing right or privilege on a wetland, it may be important to consider their implication on wetland ecological character.

XII. Notifying wetlands

For each wetland proposed to be notified, a 'Brief Document' containing the following information needs to be prepared:

- a) Demarcation of wetland boundary, supported by accurate digital maps with coordinates and validated by ground truthing;
- b) Demarcation of its zone of influence along with land use and land cover thereof indicated in a digital map;
- c) Ecological character description;
- d) Account of pre-existing rights and privileges;
- e) List of site-specific activities, to be permitted within the wetland and its zone of influence;
- f) List of site-specific activities, to be regulated within the wetland and its zone of influence; and,
- g) Modalities for enforcement of regulation.

While it is recognized that each wetland has its own distinctive ecological and hydrological features and thereby distinctive management needs.

- 17) Hence, the Wetlands (Conservation and Management) Rules, 2017 and the Guidelines for implementing Wetlands (Conservation and Management) Rules, 2017 need to be followed and enforced by the



authorities to prohibit the reclamation and construction over the water body, water catchment area/crocodile habitat and Powai Lake Wetland. Otherwise, the reclamation followed by the construction would invade the shoreline, the most critical part of the eco-system and eventually lead to the degradation and destruction of a precious urban wetland eco-system and its rich biodiversity.

18) Supreme Court and Bombay High Court orders Directing Application of Prohibition under Rule 4 of the wetlands (Conservation and Management) Rules, 2010 to all wetlands covered in the National Wetland Atlas.

A) The Hon'ble Supreme Court in M.K. Balkrishnan & Ors. v/s Union of India & Ors. W.P. (Civil) No. 230/2001, has recognized the need for the conservation of lakes, ponds and wetlands in country. The Hon'ble Supreme Court had vide order dated 26.03.2009 suo moto expanded the scope of the matter to include the issue of water shortage in the country and observed as follows:

“There is acute shortage of water in our country and one of the main reasons for that is that most of the water conservation bodies in our country such as ponds, tanks, small lakes etc. have been filled up in recent times by some greedy persons and such persons have constructed buildings, shops etc. on the same.”

Annexed as **Exhibit Z 1** is a copy of the Hon'ble Supreme Court's order, dated 26.03.2009 in M.K. Balakrishnan & Ors. v/s Union of India & Ors.

B) Similarly, in the case of the Vanshakti v/s Union of India (PIL No. 87/2013) which pertained to illegal constructions in wetland areas, the Hon'ble High Court of Bombay passed an order dated 14.10.2013 directing that, “In respect if the areas which have



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been identified as Wetland Areas in the Wetland Atlas by the Central Government that no reclamation of land and any kind of construction shall be permitted without leave of this court. allowed in Wetlands areas as identified and covered under the Wetland Atlas prepared by the Central Government without the leave of the Court”.

C) Vide order dated 01.10.2017, the Hon’ble Supreme Court had asked the Additional Solicitor General to recheck the timeline with Space Application Center “Since the wetlands are diminishing in our country at a very fat rate” and the Hon’ble Supreme further stated,

“We make it clear and reiterate that in terms of our order dated 8th February, 2017, 2,01,503 wetlands have been mapped by the Union of India should continue to remain protected on the same principles as were formulated in Rule 4 of the Wetlands (Conservation and Management) Rules, 2010.”

Annexed as Exhibit Z Colly.

D) Its come to the knowledge of the Petitioners that there is another Pet ition pending before the Hon’ble High Court being WRIT PETITION NO. 303 OF 2018 wherein multiple orders have been passed in context to de-notifications of the wetlands in Maharashtra . The recent order dated 18/2/2020 reveals that there is some discrepancies in denotifying the wetlands and matter is still pending for further hearings . However there could be a similar possibility of denotification therefore Petitioners suspect that there could be some discrepancies and non-transparency which might have resulted in reclamation and construction on Powai Lake wet land.



Therefore the information was specifically sought by Petitioner under RTI which has been left unanswered till date.

Orders of Hon'ble Supreme Court dated 26.03.2009 (Civil) No. 230/2001 and order dated 01.10.2017 of Writ Petition (Civil) 230/2001, Orders of Hon'ble Bombay High Court dated 14.10.2013 of PIL No. 87/2013) and 18.02.2020 of WRIT PETITION NO. 303 OF 2018 are annexed as **EXHIBIT Z** Colly.

- 19) From all above legal stand points, it is evident that all the wetlands mapped under the National Wetland Atlas are completely protected from any kind of reclamation or construction. Hence, there is apprehension that Respondents together have not complied all the orders passed Hon'ble Court by reclaiming and carrying construction over the water body, water catchment area/crocodile habitat of Powai Lake Wetland.
- 20) The Petitioners have filed this PIL to protect, conserve and restore the extremely vulnerable Powai Lake Wetland from reclamation and ongoing construction activities carried out by the Respondents 1 & 2.
- 21) The Petitioner craves leave to alter/ modify/ amend the aforesaid grounds.
- 22) In the circumstances, the Petitioner submits that, this Hon'ble Court be pleased to issue a writ of mandamus, or a writ in the nature of mandamus, or any other writ, order or direction under Article 226 of the Constitution of India.
- 23) The Petitioner submits that if the aforesaid reliefs are not granted the environment protection and city lakes would left unprotected as **Article 51-A (g) of constitution reads-** It shall be duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creature, Petitioners are duty bound to protect the same for



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which reliefs are sought and article 21 of the constitution needs to be well protected as life would mean to enjoy good environment as well and such wet lands needs to be protected as lakes in our city are rare.

- 24) The Petitioner and the Respondents have their offices in Mumbai. The entire cause of action has arisen within the jurisdiction of this Hon'ble Court. This Hon'ble Court therefore has jurisdiction to entertain and try this Petition.
- 25) The Petitioner has not approached either this Hon'ble Court or the Hon'ble Apex Court for the same reliefs.
- 26) The Petitioner has paid court fees as necessary.
- 27) There has been no response to the Petitioners recent letters and communication with Respondents. As such, the Petition is not barred by the law of limitation or the principles of delay and laches.
- 28) The Petitioner shall rely upon the documents, a list whereof is annexed hereto. The Petitioners crave leave to refer to and rely upon additional documents as and when produced.

PRAYER

In the circumstances the Petitioner therefore prays :-

- a) That this Hon'ble Court be pleased to consider the present issues which are before this Hon'ble Court to gain gesture of utmost sympathy towards ecological cause and the innocent lives that can't speak for themselves, and since the petitioners being students, are deeply concerned with the ways in which all activities are being carried out by the Respondents and, when asked the information was not provided till date.



b) That this Hon'ble Court be pleased to issue a writ of Mandamus and/or any other writ or order or direction in the nature of Mandamus directing Respondents to restore the site in its original form with an immediate effect till the information of the Cycle Track Project is made available in Public Domain in its entirety followed by the all inclusive public hearing and direct these Respondents to provide documents as sought for under RTI by Petitioners.

c) The Hon'ble Court be pleased to direct the Respondents to comply with the court orders dated 26.03.2009 of Hon'ble Supreme Court of India and orders dated 14.10.2013 of Bombay HighCourt, as annexed in **Exhibit Z Colly**.

d) That this Hon'ble Court be pleased to direct Respondents to produce the documents of the de-notification and survey report to substantiate the reclamation and construction over the ecologically sensitive and fragile Powai Wetland with rich biodiversity.

e) That the Hon'ble Court be pleased to order and direct the Respondents to create the online open platform and public forum for dissemination of the information of Wetlands and timely reports, proposed projects with all details. Also, the grievances of the citizens shall be addressed within a time bound window.

f) That the Hon'ble Court be pleased to acknowledge the scientific findings that by proper cleaning and regular physicochemical analysis, potable water may get from Powai Lake to fulfill the requirement of increasing demand of Urban Metropolis of Mumbai², annexed as **Exhibit W**. The lake should be preserved in the best way and no reclamation or construction shall be allowed in the Powai Lake



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Wetland. Hence, Hon'ble court shall direct the Respondents to ensure that the water quality of the Powai Lake be improved by implementing strict measures.

g) That the Hon'ble Court be pleased to acknowledge the challenges faced by the Urban Wetlands through the various media reports annexed as Exhibit Y and shall ~~ask~~ ^{direct} Respondents to monitor and protect the threatened wetlands.

i) That the Hon'ble Court be pleased to grant ad-interim relief in prayer clause b)&e)

j) Any other relief as this Hon'ble Court may deem fit.

k) Cost

AND FOR THIS ACT OF KINDNESS AND JUSTICE THE PETITIONERS SHALL AS IN DUTY BOUND TO EVER PRAY.

RAJMANI VARMA B.Sc. LL.M.
Advocate & Solicitor
Office No. 32, 2nd Flr; Bldg. No. 105,
Mumbai Samachar Marg,
Fort, Mumbai - 400 001.

PETITION DRAWN BY
Mr. Rajmani Varma

ADVOCATE & SOLICITOR OF THE PETITIONER NO. 1
& PETITIONER NO. 2



VERIFICATION

I, Mr.Omkar Mahadeo Supekar and Abhishek Ram Gopal Tripathi, a Petitioner of the above named, do hereby solemnly declare that whatever stated in Para 1 to 20 is true to my own knowledge and whatever stated in the remaining paragraph 21 to 28 of the petition is so stated on solemn affirmation and belief and I believe the same to be true.

Solemnly declare at Bombay)

On this ... day of October, 2021)

13 OCT 2021

[Handwritten signatures]

PETITIONERS

BEFORE ME

AS
A. R. SURVE
ADVOCATE & NOTARY
GOVT. OF INDIA
REG. No. 16353

Seen Original
PAN / Aadhar / Election
Card / Driving License / I-
Card - Passport / POA
Bearing No. _____

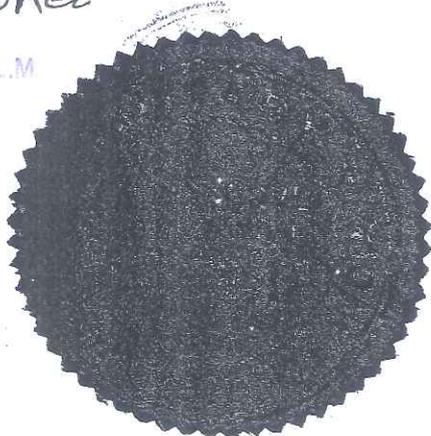
Dated: 13 OCT 2021
For Verification: 11

NOTED & REGISTERED

Page No. 102/7297
Date: 13 OCT 2021

[Handwritten signature]
Adv to petitioner

RAJMANI VARMA B.Sc. LL.M
Advocate & Solicitor
Office No. 15, 1st Flr Bldg, No. 105,
1, Upper Swargdar Marg,
Mumbai - 400 001.



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION (L) NO.23928 OF 2021

Omkar Mahadeo Supekear and Anr. ... Petitioners

Versus

Municipal Corporation of Gr. Mumbai and Ors. ... Respondents

Mr. Rajmani Varma with Mr. Aditya Marwal, for Petitioners.

Mr. Aspi Chinoy, Senior Advocate with Mrs. Oorja Dhond, for MCGM.

Mrs. Jyoti Chavan, AGP, for State.

Mr. D.P.Singh, for Union of India.

**CORAM: S.J. KATHAWALLA &
SURENDRA P. TAVADE, JJ.**

**DATE: 1st NOVEMBER, 2021
(VACATION COURT)**

P.C.:

1. By the above Public Interest Litigation, the Petitioners have impugned the action of the Respondents of commencing construction for cycling and jogging tracks around Powai Lake.

2. The Learned Advocate appearing for the Petitioners has submitted that Powai Lake is located in Powai having water spread area of 210 hectares as per the Central Institute of Fisheries Education and having a catchment area of 6.61 sq. kms. It is submitted that in the year 2011 as part of the project on National Wetland Inventory Assessment ('NWIA'), National Wetlands Atlas was prepared by Space Applications Center, Indian Space Research Organization, and the same was

sponsored by the Ministry of Environment and Forest, Government of India. It is submitted that Powai Lake was thus notified as a wetland in the map of National Wetland Atlas. The Learned Advocate appearing for the Petitioners has further submitted that the Government of Maharashtra through its Urban Development Department ('UDD') in consultation with the Director, Town Planning Department, under the provisions of the Maharashtra Regional & Town Planning Act, 1966, notified DC Regulations for Greater Mumbai, 2034 ('DCR'). Part VII of DCR provides for Land Use Classification and Uses Permitted. Under Part VII of Sub Regulation 3.3 of Regulation 34, a specific regulation for Powai and Vihar Lake has been made which reads as follows :

“(VII) Periphery of Vihar and Powai Lake :

In order to prevent erosion of soil and silting in lakes, an exclusive green belt of 100 m shall be provided around the periphery of Vihar and Powai Lake, in which no construction whatsoever shall be allowed. If within 100 m from the periphery of Vihar and Powai Lake there exists Municipal / Public Road, then buffer of green belt beyond Municipal / Public Road may not be insisted.”

It is submitted that the said work of putting up the proposed cycling and jogging tracks is interalia in violation of the above Clause. It is submitted that the Petitioner No. 1 has filed an RTI Application seeking all the necessary information / documents from the concerned authorities. However, he has not received any response to the same. It

is submitted that if the Respondents are allowed to continue with the aforesaid construction activities, the same will cause immense environmental damage. It is submitted that Article 51A (g) of the Constitution of India provides that, “ *It shall be duty of every citizen of India – to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.*” It is submitted that in Article – 21 of the Constitution of India, the word “ *life*” includes right to enjoy a good environment.

3. The Learned Advocate appearing for the State informs the Court that he has no instructions in the matter and that instructions will have to be obtained from the concerned officers.

4. The Learned Senior Advocate appearing for Municipal Corporation of Greater Mumbai (‘MCGM’) refutes the allegations made by the Learned Advocate appearing for the Petitioners. However, the MCGM is unable to explain as to why an Affidavit in Reply is not filed in the matter despite the above Public Interest Litigation having been served on the MCGM as far back as on 22nd October, 2021 and despite the matter having appeared before the Regular Court on 28th and 29th October, 2021.

5. The matter being serious and involving public interest, we pass the following Order :

(i) The Respondents shall file their respective Affidavits in Reply within a period of one week from today.

- (ii) The Affidavit in Rejoinder, if any, be filed by the Petitioners within a period of three days thereafter.
- (iii) Stand over to 16th November, 2021, first on board, before the regular Court.
- (iv) In the meantime, the activity being carried out at present of putting up the proposed cycling and jogging tracks, shall not proceed.

(SURENDRA P. TAVADE, J.)

(S.J.KATHAWALLA, J.)

PMB

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION (L) NO.23928 OF 2021**

Omkar Mahadeo Supekar and anr. .. Petitioners
Vs.

Municipal Corporation of Greater Mumbai
and ors. .. Respondents

Mr. Pradeep Rajagopal a/w Mr. Aditya Marwal, Ms. Unnati Bane and Ms. Drishti Shah i/b. Mr. Rajmani Varma for petitioners.

Mr. Joel Carlos a/w Ms. K.H. Mastakar for respondent No.1-MCGM.

Mr. Anish Khandekar for respondent No.2.

Mr. Abhay Patki, Additional Government Pleader for State-respondent Nos.3, 4, 6, 7, 8, 9, and 12.

Mr. Irfan A. Shaikh i/b. Mr. Sachindra B. Shetye for respondent No.5.

Mr. Aditya Thakkar a/w Mr. D.P. Singh for respondent No.11-UOI.

**CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE: NOVEMBER 16, 2021

P.C. :

1. Prayers have been made on behalf of the State, Municipal Corporation of Greater Mumbai and Union of India for extension of time to file reply affidavit. Granting such prayers, we direct that reply affidavits may be filed by

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November 30, 2021; rejoinder thereto, if any, may be filed by December 8, 2021.

2. This PIL petition shall be listed on **December 13, 2021.**

3. The interim order passed on November 1, 2021 shall continue to operate till January 31, 2022 or until further orders, whichever is earlier.

(M.S. KARNIK, J.)

(CHIEF JUSTICE)

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signed by
PRADNYA
MAKARAND
BHOGALE
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