

BEFORE THE NATIONAL GREEN TRIBUNAL

WESTERN ZONAL BENCH AT PUNE

ORIGINAL APPLICATION NO. 101 OF 2020

(Under Section 14, 15 and 20 of the National Green Tribunal
Act, 2010)

IN THE MATTER OF:

Madhukar Dahule

....**APPLICANT**

//VERSUS//

State of Maharashtra and others **RESPONDENTS**

ADDITIONAL SUBMISSIONS ON BEHALF OF

RESPONDENT NO.3

Respondent no.3 hereinabove most respectfully begs
to submit as under:

1. The applicant in the present Original Application no. 101/2020 (WZ) has approached this Hon'ble Tribunal seeking a direction to the Respondent No. 1 to enquire into the issue of illegal diversion of Koradi River, by the Respondent No. 2 and seeking a direction to Respondent No. 3 herein to compensate the present applicant to the tune of Rs. 39,60,273/- with interest at the rate of 12% per

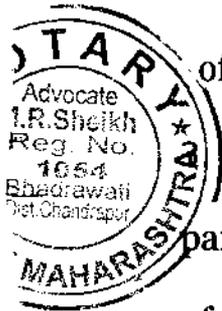


annum and further seeking direction to the Tahsildar, Collector and Chief Managing Director, Western Coalfields Limited to take steps, so that no further loss is caused to the present applicant and the field of the present applicant in future. So also, seeking a direction to restore the original position of the agricultural land of the applicant, restore the original flow of the river and take steps to make the agricultural field of the applicant cultivable as it was before the aforesaid diversion of river.

2. That this Hon'ble Tribunal vide Order dated 02.06.2021 was pleased to direct the Western Coalfields Ltd. (hereinafter referred to as WCL, for the sake of brevity), to take appropriate measures for restoration of environment and compensating the applicant, after holding that "it is clear that there is diversion of the river and also damage to the fields of the applicant". It was further noted by this Hon'ble Tribunal that "Diversion of the course of river is a serious matter which cannot be undertaken merely on the basis of permission for mining." A seven-member joint committee comprising of representatives of the MoEF&CC, Ministry of Jal Shakti, CPCB, State PCB, Irrigation and Agricultural Departments, Government of Maharashtra



and District Magistrate, Chandrapur was appointed by the Hon'ble Tribunal. The CPCB and State PCB was directed to act as nodal agency for coordination and compliance. In pursuance of the aforesaid seven-member joint committee was constituted. The committee visited the site, along with the applicant and officials of WCL on 28.07.2021. The said committee has filed a report and uploaded the same on the official website of the National Green Tribunal.



It is submitted that in the said report particularly in paragraph no. 5.5.2, the committee states "There is no matter of pollution and damage thereof in this matter but the flooding of the agriculture lands near the banks of shirna nala due to rise in water level / back water during rains in monsoon, which resulted in crop damage". That the committee in its report has also observed in paragraph 5.3.5 about the crop compensation given to the Applicant by Tehsildar Bhadravati. It is further stated in the report that there can be no way of ascertaining that the flooding is caused by the alleged diversion of nalla. That the committee has also observed that there are regular instances of the water level crossing the flood level even before the diversion of the Nalla.

The committee in its report has observed that the flooding in adjacent areas along the Shirna nalla during the monsoon period is a natural occurrence, due to heavy inflow from the catchment area...". It is submitted that no visual impact is observed during the site visit due to diversion on Environment" and the committee is of the opinion that compensation, as claimed by the applicant in the petition / application, is not appropriate".

4. That the water level in Koradi & Shirna nalla is monitored regularly by WCL in compliance of DGMS directives for ensuring mines safety from flooding & inundation. The data log is recorded scientifically and reported to the authorities. The same data set is used internally by WCL to mitigate the danger arising out of rise in water levels. Thus the argument of the petitioner regarding the reliability of the data is absolutely baseless and is devoid of any merit. That the District Collector along with SDO Warora, tehsildar Bhadravati, Dy Engineer Irrigation Department & other officials visited the site of the petitioner on 07.12.2017 and based on the inspection, directives for deepening the shirna nalla were issued. The inspection note



nowhere mentions the alleged fact that the flooding is caused by diversion of Nalla. The report clearly shows that the flooding in the agricultural land of the petitioner is a natural occurrence and there are frequent occurrences of Shirna nalla crossing 186m RL (I.e. the RL of applicants field) even before the diversion of the nalla. The observations of the committee are self-explanatory. The claim made by the petitioner on the stated ground is without any merit. Further, there are no visible or scientific evidences of Environmental Impact & event of flooding of the petitioner's land that has been caused due to the diversion of nalla.



5. It is submitted that Respondent no.3 has already dealt with all the issues pertaining to the compensation to the Applicant in the earlier written submission filed by Respondent No.2 and therefore they are not repeated in the present reply. It is submitted that Applicant has failed to make a case for compensation and the committee has also observed that the Applicant is not entitled for any compensation.

Hence, this reply.

NAGPUR

DATE: 20/11/23

Carfik Shukul
COUNSEL FOR RESPONDENT

NO.3

SOLEMN AFFIRMATION



I ELYAS HUSEN SHEIKH Working as

AREA GENERAL MANAGER, MAJRI

AREA, KUCHANA Resident of KUCHANA, Tahsil-

BHADRAWATI, Dist.- CHANDRAPUR authorized to

swear the present affidavit do hereby take oath and state on

solemn affirmation that

That the present reply has been drafted by my counsel as per my instructions and after having perused the same, I say that the contents of the paragraph Nos. 1 to 5 are true and correct to the best of my personal knowledge, belief and information received.

Hence, verified and signed at BHADRAWATI on this
20th day of November, 2023.

I KNOW & IDENTIFY THE DEPONENT.



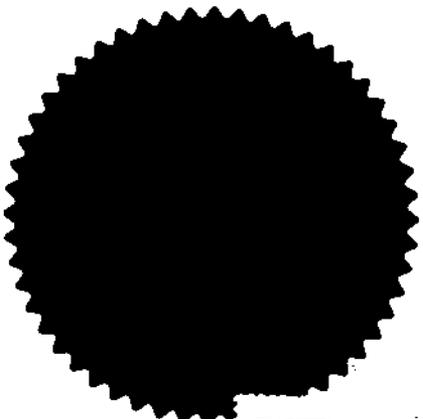
ADVOCATE

DEPONENT

क्षेत्रीय महाप्रबंधक
Area General Manager
माजरी क्षेत्र / Majri Area

NOTARIAL REGISTER
ENTRY NO. 1275/23
DATE 20-11-2023

sworn before me on this 20th day of Nov.
2023 by shri. Eiyad Husen Sheikh,
r/o. A. C. M. N. A. K. I. C. H., KUCHORGA,
Who is Personally known to me / who he
been identified by shri _____
whose signature is appended hereto



M. R. SHEIKH 20/23
NOTARY, BHADRAWAT.
DIST - CHANDRAPUR (M.S.)

