

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

ORIGINAL APPLICATION NO. 34/2020

IN THE MATTER OF:

MR. TANAJI BALASAHEB GAMBHIRE ...APPLICANT

VERSUS

UNION OF INDIA THROUGH

SECRETARY-MoEF & CC & ORS. ...RESPONDENTS

FILE-A

[VOLUME-_____]

AFFIDAVIT CUM OBJECTIONS ON JOINT COMMITTEE

REPORT AND REJOINDER AFFIDAVIT A/W ANNEXURES

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

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MR. TANAJI BALASAHEB GAMBHIRE ... APPLICANT

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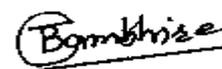
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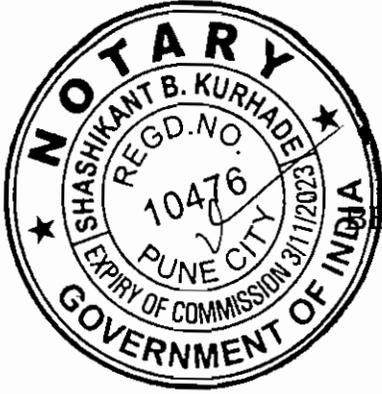
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Date: 11.10.2021



APPLICANT



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
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AFFIDAVIT CUM OBJECTIONS TO THE JOINT COMMITTEE
REPORT DATED 20.08.2020 AND REJOINDER TO THE
REPLY AFFIDAVIT OF RESPONDENT NO. 13-PP (I.E. M/S.
PADMAVATI ASSOCIATES) DATED 12.11.2020 &
03.03.2021

I, Tanaji Gambhire S/o Balasaheb Gambhire Aged:
38, Occupation: Service, R/o: CTS No.: 296, Shukrawar
Peth, Laxmi Apartment, Near Shivaji Maratha High School,
White House Lane, Pune-41 1002, do hereby solemnly affirm
and state on oath as follows:

PART-A: FACTS OF THE CASE

1. At the outset, I state that this is the perfect case of admitted violation in totality by Respondent No.13-PP and Respondent Government Authorities. And

therefore, this Hon'ble Tribunal may kindly allow the Original Application in totality by granting all prayers therein OA.

2. PRINCIPAL CONTENTION OF ORIGINAL APPLICANT:

- 2.1** I state that, this Applicant has filed Original Applicant on 02.07.2020 with the principal contention that; "PP have not obtained the prior Environment Clearance, prior Consent to Establish, prior Consent to Operate and carried out the substantial construction of total BUA of 65401 M² comprising 9 residential buildings with 405 flats in building construction project floated by Respondent No. 13-PP in the name & style "Pristine Privilege, Pristine Prism & Pristine Royale" situated at Survey No. 6/2, 6/3, 6/5 & 7 of Village-Aundh, Taluka- Pune City, District-Pune and the allegations of Original Applicant are definite and Applicant have not approached to this Hon'ble Tribunal with question of requirement of EC for illegal construction for consideration. Therefore, the Original Application is filed under Section-15, 18 and 20 of NGT Act, 2010



for restitution & restoration of public property, public health and environmental compensation on account of damage caused by PP due to his illegal construction.

- 2.2** Further I state that, apart from the above principal contentions, Original Applicant have also raised ancillary grounds in support of principal contentions; "Illegal construction in blue flood line of Mula River, violations of non-obtaining of CGWA permission, Non-installation of pollution control devices, Non-plantation of tree, Non-installation of STP, Non-installation of Solid Waste Treatment unit, illegal ground water extraction, illegal operation of DG Sets at site, 10% recreational space of is not developed as per norms, No soil preservation, No soil & ground water test, illegal construction of basement and no use of eco-friendly building material for construction etc."

- 3.** I state that, the OA No. 34/2020 was listed for admission on 09.07.2020 before Hon'ble NGT through Video Conferencing and Hon'ble NGT pleased to pass



an Order appointing Joint Committee comprising of Members from SEIAA, MPCB & PMC for site inspection to verify the factual aspects and to submit a report.

4. I state that, the Joint Committee filed their cursory & casual report without scientific data vide dated 20.08.2020 in compliance of the above Order of this Hon'ble Tribunal.

5. PRINCIPAL CONTENTION OF RESPONDENT NO. 13-PP AND IT IS FAIRLY ADMITTED CASE OF VIOLATION BY PP:

- 5.1 I state that, the Respondent No. 13-PP has admitted his violations by way of Reply affidavit dated 12.11.2020 and therefore, in this support Para-27 of the reply affidavit is reproduced here;

"27. With reference to the para 32 of the application about prior clauses, since the construction has already been completed and completion certificate have been issued, on the basis of which, conveyance deeds executed with the societies and the societies are in possession



of the premises as owners. Hence no order for demolition can be passed for the construction done as per Commencement Certificates. The respondent no. 13 fairly admitted that unintentionally on account of no conditions for prior Environment Clearance was imposed, the construction with environmental infrastructure of STP, Solid Waste Management, Solar Systems, Green Belt, etc. have been completed and to the extent possible, environment compliance done. Even then, as per notice, application for Environment Clearance is made and the respondent no. 13 is ready to follow the directions about C to E and C to O provided the societies are ready to apply for the same. The respondent no. 13 is ready to comply with whatever order are issued by SEIAA & therefore the matter may kindly be decided to be assessed by SEIAA as per the prescribed norms. The respondent no. 13 is duty bound to comply with order passed by this Hon'ble Tribunal."



I state that the Para-32 of the OA are the prayers and therefore Respondent No. 13-PP seems to be dealing with word "Prior" above to the "prayers clause" and Respondent No. 13-PP needs to clarify same.

5.2 I state that, subsequently after filing of the above reply affidavit dated 12.11.2020 clearly admitting the violations and surrendering before the Hon'ble NGT with intentions to create nuisance in the ongoing smooth proceedings the Respondent No. 13-PP has raised issue of limitation in the hearing conducted on 17.11.2020 and thereafter filed additional affidavit dated 03.03.2021 on preliminary objection of limitation with the following contentions:

"6) Therefore, the Respondent no. 13 re-iterate that the present application is time-barred by the limitation provided under section 14 and 15 of the National Green Tribunal Act, 2010 and liable to be dismissed on the face of record itself."

5.3 However, Respondent No. 13-PP has failed to point out the specific date or incident when cause of action that first arose and PP has made just made bald &



uncertain stands on limitation in his additional affidavit dated 03.03.2021.

- 5.4 Therefore, Respondent No. 13-PP has taken two contradictory stands, one is admitting the violations alleged by this Applicant and another stand that OA is time-barred.

6. **CONSTRUCTION BEING CARRIED OUT WITHOUT ANY ENVIRONMENTAL CLEARANCE AND CONSENT TO ESTABLISH AND FURTHER ENJOYMENT OF PREMISES WITHOUT CONSENT TO OPERATE IN BLATANT VIOLATION OF THE ENVIRONMENTAL LAWS, POLLUTION CONTROL ACT AND EIA NOTIFICATION-2006.**

- a) I state that, as per the EIA notification 2006 dated 14.09.2006, it is mandatory to obtain the prior environment clearance from SEIAA and consent to establish from MPCB on part of PP at appropriate time. But admittedly the PP has started and completed most of the construction activity vide occupancy certificate dated 13.07.2015.



- b) I state that, the Application dated 06.09.2019 for EC filed before SEIAA clearly shows that PP has carried out the construction of total BUA of **66335.99** M² of project comprising of Pristine Privilege, Pristine Prism, & Pristine Royale.
- c) I state that, after filling of the Joint Committee Report the following details of the project are classified for ready reference in brief;

Table No.1: Actual Construction carried out at site without Environmental Clearance and Consent to Establish. (Put this table in rejoinder)

Description	Actual Total BUA
Covered BUA of Pristine Prism & Pristine Royale	55862.25 M ²
Parking BUA of Pristine Prism & Pristine Royale	5500.00 M ²
BUA of Pristine Privilege	4973.74 M ²
Total BUA	66335.99 M ²
No. of Buildings in Pristine Prism & Pristine Royale	7
No. of Buildings in Pristine Privilege	2
Total Buildings	9



No. of Flats in Pristine Prism & Pristine Royale	309
No. of Flats in Pristine Privilege	96
Total Flats	405

- d) Therefore, it is necessary to impose the exemplary & deterrent environmental compensation on Respondent No. 13-PP.

7. ABSOLUTELY FALSE STATEMENT OF THE RESPONDENT NO. 13-PP MADE IN HEARING DATED 17.08.2021:

- A) I state that, the Respondent No. 13-PP has made absolutely false statement in hearing conducted on 17.08.2021 with support of his reply affidavit dated 12.11.2020 and Hon'ble Tribunal has recorded this statement in Para-3 of the Order:

"3. The Learned Counsel appearing for Respondent No.6 has drawn the attention of this Tribunal to the reply affidavit with supporting documents and would submit that each project is a distinct and different one and since the area



under construction/constructed is for below the required norms, EC has not been obtained. However, by way of abundant caution, *post-facto* clearance has also been sought and it is pending consideration before Respondent No.1.”

- B)** In respect of the above statement, I state that the Respondent No. 13-PP has misled the Hon'ble Tribunal. It is important to refer the Sanction Plan vide dated 03.01.2018 annexed at Page No. 110 of compilation, which shows “Pristine Prism & Pristine Royale” are together and it is the single project. Further the language of Joint Committee Report dated 28.07.2020 very clearly states that the “Pristine Royale & Pristine Prism are two different projects by name but are constructed on the same piece of land bearing Survey No. 6/2, 7 of Village Aundh, Pune, whereas Pristine Privilege is a different Project developed on Survey No. 6/5, CTS No. 2560 (pt) of Village Aundh, Pune as per letter by Building Permission Department, PMC, Pune dated 20.08.2020. As such, Pristine Prism & Pristine Royale together and Pristine Privilege are two separate and



distinct projects constructed on different lands pieces [they have different 7/12 extracts] situated adjacent to each Other.”

- C)** Therefore, the two phases in the name of “Pristine Royale & Pristine Prism” are together having TBA of 55862.25 M² (excluding parking of 5500 M²) and Phase Pristine Privilege is having TBA of 4973.74 M² and these phases are adjacent to each other and therefore all three phases are comprising a single project having total BUA **66335.99 M²**.
- D)** I state that, the Respondent has filed application dated 06.09.2020 for ex-post facto Environment Clearance before SEIAA only after the complaint dated 06.08.2019 by this Applicant to the Respondent Authorities. It is not the abundant caution by Respondent No. 13-PP and the projects is not less than BUA of 20000 M². And same fact is admitted in the Reply affidavit dated 12.11.2020 of PP itself. Therefore, Respondent No: 13-PP has made false & misleading statement on the face of this Hon'ble Tribunal.



**8. IMPORTANT DATES & EVENTS IN SUPPORT OF
CAUSE OF ACTION AND LIMITATION:**

- i) Following events and dates are important to understand the jugglery of cause of action and limitation issue raised by Respondent No. 11-PP to delay the proceedings;

Sr.	Event	Date
1.	First Sanction issued by PMC	18.03.2006
2.	First Occupancy Certificate	17.12.2009
3.	Revised Sanction issued by PMC	08.04.2015
4.	Last Occupancy Certificate	13.07.2015
5.	Last Revised Sanction issued by PMC	03.01.2018
6.	Legal Notice / Complaint	06.08.2019
7.	Show cause notice by SEIAA/PS-DoE	29.08.2019
8.	Final Directions by SEIAA/PS-DoE	16.11.2019
9.	Directions by PMC	13.12.2019
10.	Proposed Directions by MPCB	03.03.2020
11.	Lockdown Period Exempted from Limitation Hon'ble Supreme Court	13.03.2020 To 15.06.2020
12.	Filing of Original Application (OA)	29.06.2020
13.	First Order of Hon'ble NGT	09.07.2020
14.	Architect Certificate prepared on	17.08.2020
15.	PMC Report submitted to Joint Committee	20.08.2020
16.	Joint Committee Report	20.08.2020
17.	Directions by MPCB	25.08.2020



18.	Respondent No. 13-PP Reply Affidavit Sworn on	12.11.2020
19.	Second Order of Hon'ble NGT	17.11.2020
20.	Respondent No. 11-PP additional Affidavit	03.03.2021

- ii) I state that, it is admitted position that the Respondent No. 13-PP has carried out construction step by step manner from 18.03.2006 to up till 13.07.2015 with TBA from **0 M²** to **66335.99 M²** and further PP states that there is no construction carried out after 13.07.2015 and only splitting of flat No. 502 into 502 & 502A from C1 building is done under the last revised sanction vide dated 03.01.2018.
- iii) I state that, the construction activity is carried out in three phases a) Permission Phase b) Construction Phase & c) Operation Phase and PMC has imposed condition No. 19 in sanction dated 03.01.2018 considering the overburden on environmental parameters. Therefore, Respondent No. 13-PP put under obligation of obtaining Environment Clearance.
- iv) I state that, the Respondent No. 13-PP has not specifically dealt with the any date or event for cause



of action that arose for first time in his opinion and just bald & tentative allegations are raised. However, considering the PP stand that the construction is carried out up till 13.07.2015 i.e. obtaining final occupancy certificate.

- v) I state that, the OA is filed on 29.06.2020 and even considering the time limitation from 13.07.2015 plus five years, it is 12.07.2020. It is necessary to exclude the lockdown period from 15.03.2020 to 14.03.2021. It means OA is filed well within the time limit of 5 (five) years under section 15 of NGT Act, 2010.

9. ADMITTED POSITION AND ADMITTED FACTS BY RESPONDENTS:

- a) I state that, the elevation plan dated 08.04.2015 issued PMC clearly shows the underground construction at level -3.00 Mtrs. for basement. A copy of elevation plan dated 08.04.2015 is attached herewith and marked as **ANNEXURE-A-1**.
- b) I state that, the Respondent No. 13-PP has obtained the final occupancy on 13.07.2015 for C1 & C2 building and PP admits that, there is no construction



carried out thereafter. A true copy of the OCC dated 13.07.2015 is annexed herewith and marked as **ANNEXURE-A-2.**

- c) I state that, after the complaint dated 06.08.2019 of this applicant to the Respondent Authorities, the Respondent No. 13-PP has applied for the Ex-post facto Environment Clearance and made application vide dated 06.09.2019 under EIA (Regularisation of violation) Notification dated 14.03.2017 after the lapse of amenity period provided under this notification as well as Hon'ble Madras High Court. And by this Application PP has admitted his violation in totality.
- d) I state that, the Respondent No. 3-PS-DOE issued final directions vide dated 16.11.2019 after providing personal hearing to the PP on 11.11.2019 without providing opportunity to this Applicant and directed Respondent No. 9-PMC & Respondent No. 6-MS-MPCB to take action against Respondent No. 13-PP under provisions of the Environment (Protection) Act, 1986. A true copy of the final directions by PS-DOE dated 16.11.2019 is annexed herewith and marked as **ANNEXURE-A-3.**



- e) I state that, in receipt of directions from the Respondent No. 3-PS-DOE, the Executive Engineer of Respondent No. 9-PMC woke up all of sudden and issued direction vide dated 13.12.2019 to the Respondent No. 13-PP wherein it is specifically mentioned that the PP has misled PMC on account of Environment Clearance and therefore PMC is taking action under section 258 of the Maharashtra Regional & Town Planning Act, 1966. A true copy of the PMC directions dated 13.12.2019 is annexes herewith and marked as **ANNEXURE-A-4**.
- f) I state that, the Respondent No. 7-RO-MPCB issued proposed directions vide dated 03.03.2020 to the Respondent No. 13-PP and pointed out that, PP has not obtained C to E, C to O, NOC from CGWA, not provided full-fledged STP & its poor operation, not recycling treated effluent and discharge to PMC sewer line, poor operations of OWC etc. A true copy of the proposed direction issued by MPCB dated 03.03.2020 is annexed herewith and marked as **ANNEXURE-A-5**.
- g) I state that, the Hon'ble Supreme Court vide its Order dated 23.03.2020 condoned delay in filing of cases in

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any court/tribunal etc. from 15.03.2020 passed in Suo motu Writ (Civil) Petition No. 3/2020. A true copy of Order dated 23.03.2020 is annexed herewith and marked as **ANNEXURE-A-6**.

- h) I state that, the Respondent No. 7-RO-MPCB issued final directions vide dated 25.08.2020 to the Respondent No. 13-PP after visit of Joint Committee and pointed out that, PP has carried out construction of TBA 55862.25 M² at Pristine Prism, Pristine Royale, at sr. no. 6/2, 7 village Aundh, Pune without obtaining EC, C to E, C to O, installed OWC at Pristine Royal but not in operations, installed STP of 160CMD capacity at Pristine Prism but same is not in operation, & same is not in operation since long back, untreated domestic effluent is discharged to PMC sewer line, not provided STP at Pristine Royal and discharging untreated effluent PMC sewer line, etc. A true copy of the final direction issued by MPCB dated 25.08.2020 is annexed herewith and marked as **ANNEXURE-A-7**.
- i) I state that, the Hon'ble Supreme Court vide its Order dated 08.03.2021 condoned delay in filing of cases in



any court/tribunal etc. from 15.03.2020 to 14.03.2021 passed in Suo motu Writ (Civil) Petition No. 3/2020. A true copy of Order dated 08.03.2021 is annexed herewith and marked as **ANNEXURE-A-8**.

- j) Therefore, it is clear cut admitted violations by Respondent No.13-PP and it is accepted without remorse. Therefore, Respondent No. 13-PP is under obligation to pay for the same in exemplary manner and also for imposition of remedial measures.

10. COMMENCEMENT CERTIFICATES OBTAINED BY RESPONDENT NO. 13-PP FROM RESPONDENT NO. 9-PMC:

I state that, admittedly the Respondent No. 13-PP has obtained the Commencement certificates in the following manner;

Sr.	Commencement Certificate No.	Date
	Pristine Prism & Pristine Royale	
1.	4407/05	18.03.2006
2.	2951/06	15.11.2006
3.	1991/07	04.10.2007
4.	1471/09	04.08.2009
5.	2449/09	04.11.2009



6.	3099/10	13.12.2010
7.	1006/12	25.06.2012
8.	0046/15	08.04.2015
9.	2554/17	03.01.2018
10.	PP has suppressed Commencement Certificates for Pristine Privilege	

I state that, the Respondent No. 13-PP has suppressed the Commencement Certificates as well as sanction plans of dated 15.11.2006, 04.10.2007, 04.08.2009, 04.11.2009, 13.12.2010, 26.06.2012 & 08.04.2015.

11. PLINTH CHECK CERTIFICATES OBTAINED BY RESPONDENT NO. 13-PP FROM RESPONDENT NO. 9-PMC:

I state that, the Respondent No. 13-PP as well as PMC have suppressed the details of Plinth Check Certificates.

12. OCCUPANCY CERTIFICATES OBTAINED BY RESPONDENT NO. 13-PP FROM RESPONDENT NO. 9-PMC:



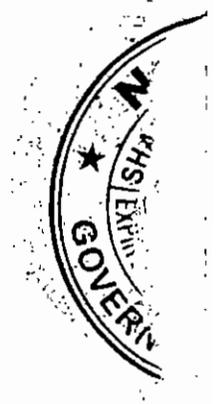
I state that, the Respondent No. 13-PP has admittedly obtained the Occupancy certificates in the following manner;

Sr.	Occupancy Certificate No.	Building	Date
Pristine Prism & Pristine Royale			
1.	B80/135	A1, B1, B3	17.12.2009
2.	BDPP/ZONE1/152	A2	16.01.2010
3.	OCC/0784/10	B2	05.01.2011
4.	OCC/0435/15	C1, C2	13.07.2015
Pristine Privilege			
5.	OCC/0193/14	A1, B1	17.05.2014

13. PART-B: COMMENTS CUM OBJECTION TO JOINT COMMITTEE REPORT VIDE DATED: 20.08.2020

I have read the Joint Committee Report dated 20.08.2020 in reply thereto, I state as under:

13.1 At the outset, I state that the contents of Joint Committee Report dated 20.08.2020 are partly true, partly false and partly misleading on certain points and this Applicant brought on record the admitted facts and objects the false and misleading contents and would like to bring true facts to the notice of this Hon'ble Tribunal as below:



13.2 Joint Committee Report dated 20.08.2020 has been prepared based on the letter dated 20.08.2020 of Building Permission Department of PMC, which is further prepared based on the letter dated 17.08.2020 of Architect of Respondent No. 13-PP, it means this Joint Committee Report is prepared on behalf of Respondent No. 13-PP creating jugglery of words.

13.3 Joint Committee in Para-1 of Report has admitted that, the Pristine Royal & Pristine Prism are two different projects by name but are constructed on the same piece of land bearing Survey No. 6/2, 7 of Village Aundh, Pune, whereas Pristine Privilage is different project developed on Survey No. 6/5, CTS No. 2560 (pt) of Village Aundh, Pune as per letter by Building Permission Department, PMC Pune dated 20.08.2020. In this regards, I state that the Pristine Royal & Pristine Prism are two phases of same projects and Pristine Privilage is the third adjoining phase of the this project and unisolated part of the project having same project proponent and same beneficiary. Therefore, the load of entire project shall be considered for environmental degradation as the



concept of different sanction, different occupancy, different revenue records are alien to the environment jurisprudence i.e. EIA Notification, 2006, E(P) Act, 1986, Water (P&CP) Act, 1974, Air (P&CP), 1981 and Handling of Municipal Waste Rules etc. regulating this building construction activity.

13.4 Joint Committee has suppressed the commencement certificates and sanction plans obtained since 18.03.2006 to 03.01.2018, while submitting their report, but they have relied the same.

13.5 Joint Committee has admitted that, the Respondent No. 13-PP has not obtained the any Environment Clearance, Consent to Establish and Consent to Operate.

13.6 Joint Committee has admitted that, the Respondent No. 2-DoE has issued show cause notice dated 29.08.2019 to the Respondent No. 13-PP.

13.7 Joint Committee has admitted that, the Respondent No. 2-DoE vide its letter dated 29.08.2019 has issued directions under section-5 of the Environment (P) Act, 1986 r.w. EIA Notification-2006 dated 14.09.2006 to the Respondent No. 13-PP.

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13.8 Joint Committee has admitted that, the Respondent No. 13-PP is seeking post facto environment clearance vide its application dated 06.09.2019 and Consent to Establish & Consent to Operate are not obtained in the absence of EC.

13.9 Joint Committee has admitted that, the Respondent No. 9-PMC has issued directions dated 13.12.2019 to the Respondent No. 13-PP.

13.10 Joint Committee has admitted that, the Respondent No. 5-MPCB has issued proposed directions dated 03.03.2020 under section 33A of Water (P&CP) Act, 1974 & section 31A of Air (P&CP) Act, 1981 to the Respondent No. 13-PP.

13.11 Joint Committee has admitted that, the land area of Pristine Royale & Pristine Prism is 24250 Sq. Mtrs. and TBA of Pristine Privilage is 3800 Sq. Mtrs and therefore, the land area of entire project is **28050 M²**.

13.12 Joint Committee has admitted that, the TBA of Pristine Royale & Pristine Prism is 55862.25 Sq. Mtrs. and TBA of Pristine Privilage is 4973.74 Sq. Mtrs and therefore, the TBA of entire project is **66335.99 M²**.



13.13 Joint Committee as well as PMC have suppressed the construction of one basement constructed, while submitting their report, but Respondent No. 13-PP has admitted the construction of One basement in his Reply Affidavit dated 12.11.2020 at Para-12 at Page: 249 of compilation. Actual Construction of floors is in the form of "Basement + Podium/ stilt + above floors" for Pristine Prism and same can be seen from the elevation plan dated 08.04.2015.

13.14 Joint Committee has admitted that, there are 5 buildings in Pistine Prism, 2 buildings in Pristine Royal and 2 Buildings in Pristine Privilage. Therefore, total number of buildings as to the tune of 9 in project.

13.15 Joint Committee as well as PMC have suppressed the total number of flats and Respondent No. 13-PP vide their occupancy certificate admitted that the total number of flats to the tune of 309 in Pristine Prism & Pristine Royal and the total number of flats to the tune of 96 in Pristine Privilage. Therefore, total number of flats in the projects are to the tune of 405.

13.16 Joint Committee & PMC has suppressed that the Irrigation Department has submitted their flood line



maps to the PMC prior to 2009 and sanction to the buildings A & B from Pristine Privilage and C1 & C2 from Pristine Royale are received the sanctions of PMC onwards 2012. Therefore, the stand taken by Joint Committee and PMC that the project is completed in 2015 when there was no practice of depicting the river flood zone on the building proposal drawings.

13.17 Joint Committee & PMC has suppressed three bore wells. It is specifically pointed out that the MPCB has visited the premises on 23.10.2019 and issued proposed directions dated 03.03.2020, wherein MPCB has pointed out in item No. 2, "2. You have not yet obtained NOC from Central Ground water Department". Therefore, this report seems to be cursory and no scientific.

13.18 Joint Committee has further stated that, the PP has installed OWC of 130 KG/D in Pristine Prism & 75 KG/D in Pristine Royal and not disclosed any this about Pristine Privilage. However, OWC of Pristine Royal is not in operation. But this statement is not supported with any photographs by Joint Committee, PMC or PP. On the contrary, PMC vide its letter dated



16.10.2009 Annexed at Annexure-L on Page No. 357 of PP Reply affidavit is clearly shows the OWC of only 25 Kg is installed in Pristine Prism, As per the EC application 06.09.2019 at Page No. 160 item no. 21 & 23 PP has admitted the quantity of wet waste generated is 463.5 Kg/day and solid waste generated is 309 kg/day from the project site and for this composting or disposal OWC of 500 capacity is required.

13.19 Joint Committee in their report at **Sr. No. 5** has recorded false observation and misled on account of "In both the projects solar heater system is provided to all buildings." In fact, Joint Committee intentionally did not provided details of buildings, photographs of solar panels, capacity of solar panels, details on account of water heating solar or energy generation for common lighting, location in sanction plan etc. Further I state that, the there is no installation of solar panels for energy generation for common lighting.

13.20 Joint Committee in their report at **Sr. No. 6** has recorded false observation and misled on account of "The Committee cannot corroborate the claim of the



provision of the rain water harvesting system as the said chambers could not be operated” and it is nothing but callous attitude and casual, cursory reply. In fact, Joint Committee intentionally did not provided details of rain water harvesting (RWH) system & location of pits, number of RWH Pits & its depth, ground water level, photographs of RWH, total capacity of rain water harvested every year, details on account of rain water catchment area of slabs etc. Further I state that, the there is no installation of Rain Water Harvesting System.

13.21 Joint Committee in their report at **Sr. No. 7** has recorded false observation and misled on account of 10% Open Spaces on virgin land. In fact, Respondent No. 13-PP has not provided 10% Open Spaces on virgin land as per standards. It is mandatory to provide 10% open space on virgin land for tree plantation & recreational purposes as these open spaces are the remedial measures for environmental impact to recover the jerk and Hon'ble Supreme Court has already settled this issue and strictly prohibited the construction on open spaces



and providing of open spaces on podium parking complex. Therefore, Joint Committee cannot play with the right to decent life of residents and 10% Open Spaces on virgin land needs to be demolished. Moreover, so called PMC circular promoting illegal construction on 10% open spaces is not placed on record and such circulars cannot replace the statutory provisions mandated in law.

13.22 Joint Committee in their report at **Sr. No. 8** has recorded false observation and misled on account of inability to make comments on preservation of top layer of fertile soil as the buildings are completed. In fact, there is no soil preservation of soil and PP has disposed of the huge quantity to the tune of 28000 Cu. Mtrs. of fertile soil in unscientific manner. Respondent No. 13-PP has not preserved top layer of fertile soil as no construction activity without fencing is permitted under EIA Notification, 2006 prior to EC. Fertile soil is formed after process of more than 1000 years and moreover PP has not provided recreation open space on virgin land for tree plantation, so this soil is obviously thrown or disposed in unscientific manner.



13.23 Joint Committee in their report at **Sr. No. 9** has recorded false observation and misled on account of tree plantation and this joint committee instead of recoding actual quantity of tree planted, has just relied upon the 5 year old letter dated 18.03.2015 issued by PMC which say 285 number of trees are planted. In fact, there is no tree plantation at site in real and scientific manner as there is no open space on virgin land and entire podium is constructed cut to cut with boundary line of plot.

13.24 Joint Committee in their report at **Sr. No. 10** has recorded false observation and misled on account of swimming pool is constructed as per NOC dated 03.07.2018 issued by PMC. In fact, the issue raised here is the water requirement for swimming pool and water is utilised from ground abstraction and PMC is not the competent authority to permit the ground water abstraction to utilise the same for swimming pool. Same are giving burden on environmental parameter and ground water is used in swimming pool and its consumption has direct impact on ground water table. PMC has not given specific permission for



construction of swimming pool and therefore, swimming Pool is having additional burden on the ground water consumption.

13.25 Joint Committee in their report at **Sr. No. 10** has recorded false observation and misled on account of installation of two DG sets; one at Pristine Prism of capacity 160 KVA and second at Pristine Royal of capacity 125 KVA. In fact, there are 6 DG sets at the project, but Joint Committee has suppressed this information and not produced any photographs, scientific data for total operation of DG sets, total electricity generated till date, total consumption of fuel etc. or not emission parameters.

13.26 Joint Committee in their report at **Sr. No. 12** has admitted that there is only STP of 160 CMD at Pristine Prism, which is not in operation & untreated domestic effluent is directly discharged to PMC sewer line and there is no STP at Pristine Royal. However, the MPCB being the joint committee member did not collected the outlet water samples and did not examined its parameters like pH, COD, BOD, turbidity, nitrogen total, phosphorus total, fecal coliform etc. therefore,



PP has installed just scrap skeleton in the name of STP and outlet and inlet have same parameters.

13.27 Joint Committee in their report at **Sr. No. 13** has recorded false observation and misled on account of fire NOC and fire tender movement. In fact, Respondent No. 13-PP has not provided adequate right to access to the minimum width of 7.5 Mtrs. as per standards and maneuvers in the premises to carry out rescue operation cannot be done. NOC granted by the PMC vide dated 17.06.2009 & 13.07.2015 are seems to be issued without application of mind by Chief Fire Officer. Therefore, Joint Committee cannot play with the life of residents on account of fire tender movement and all illegal constructions of podium in marginal spaces needs to be demolished.

13.28 Joint Committee in their report at **Sr. No. 14** has recorded false observation and misled on account of Ramp Slope in the ration 1:10. In fact, Respondent No. 13-PP has not provided Ramp Slope in the ration 1:10 as there is construction of ramp. Therefore, Joint Committee cannot play with the right to decent life of



residents and all illegal constructions of Ramp Slope in the ration 1:10.

13.29 Joint Committee in their report at **Sr. No. 15** has recorded false observation and misled on account of not providing of 15% Amenity Space, not providing of 10% of Open Spaces on virgin land, Development of Green Belt as per the DC rules and in contraventions of remedial measures.

13.30 Therefore, Joint Committee has misled on account of above important points in protecting environments, human life and giving them right to decent life and failed to make sustainable development and with these objections I can state that, Joint Committee has misled on account of two different projects against single project, ground water abstraction from four bore wells, illegal construction of basements, ground water test, top layer of fertile soil preservation, solid & dry waste treatment, energy conservation by installing solar panels & solar water heaters, rain water harvesting systems, tree plantation, swimming pool construction giving burden on ground water, non-operation & installation of scientific STP, fire tender



movement, Ramp Slope in the ration 1:10, Marginal Spaces around buildings, 10% Open Spaces on virgin land and fire hydrant system etc.

**14. PART-C: PARA WISE REJOINDER TO MAIN REPLY
AFFIDAVIT OF RESPONDENT NO. 13-PP VIDE
DATED: 12.11.2020**

I have read the reply affidavit filed on behalf of Respondent No. 13-PP (M/s. Padmavati Associates) dated 12.11.2020 in reply thereto, I state as under:

14.1 At the outset, I state that, the contents of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are admitting their violations in totality and there are some misleading, misconceived, untrue facts and this Applicant is replying the same here below.

14.2 I state that, the contents of Para-1 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are in reply to the Para-1 & 2 of OA wherein true addressed of Applicant & Respondents are provided and deserve no comments.



14.3 I state that, the contents of Para-2 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly true and partly misleading and in reply to the Para-3 of OA. Respondent No. 13-PP is under obligation to obtain the prior Environment Clearance by the enforcement of EIA Notification, 2006 issued under Environment (Protection) Act, 1986 and Consent to Establish & Consent to Operate under the Water (P& CP) Act, 1974 & Air (P&CP) Act, 1981. Therefore, stand taken by PP on account of non-obtaining of EC, CTE & CTO is not done due to non-imposition of condition by PMC in their Commencement certificate is totally false & misleading and Respondent No. 13-PP cannot get escape from his liability by just blaming PMC. Moreover, illegality is committed by the Respondent No. 13-PP and for his illegality Societies should not be suffer and Respondent No. 13-PP will pay for any loses occurred to societies due to any adverse Order passed in the proceedings as per the president set by Hon'ble Supreme Court. Therefore, Respondent No. 13-PP has committed and admitted the entire violations of EIA



Notification, 2006 read with Environment (Protection) Act, 1986, Water (P& CP) Act, 1974, Air (P&CP) Act, 1981 Solid Waste Management Rules & Hazardous Waste Management Rules in carrying out Construction activities of Pristine Privilege, Prism & Pristine Royal at survey No. 6/2, 6/3, 6/5, and 7 Near Spicer College, Village- Aundh, Taluka-Pune City, Pune-411007 and the contents of the Para-3 of the Original Application are true and correct.

14.4 I state that, the contents of Para-3 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are misleading and in reply to the Para-4 of OA. I state that, the illegal acts of the Respondent No.13-PP are in violation to its brim with the active aid of the officers of various government authorities more particularly PMC appointed for the protection of environment & interest of public at large. These violations needs to be dealt with sternly hands so that a clear and unambiguous message to be delivered to the entire community of PP having unapologetic, maneuvered, mighty & resourceful conduct and the issue of one such gross violation by the PP and turning deaf ears



to such violations despite bringing it to the notice of authorities responsible for upholding the law is the reason and basis of this application and the contents of the Para-4 of the Original Application are true and correct.

14.5 I state that, the contents of Para-4 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are misleading and in reply to the Para-5 of OA. I state that, the Notice/complaint dated 06.08.2019 is issued to the Respondent Government Authorities for appropriate action within their domain and Respondent No. 13-PP is informed for his illegality and it is nothing but the intimation to the respondents before filing the present proceedings. However, Respondent No. 13-PP has admitted the formation of societies on 28.12.2013 for Pristine Prism, on 08.11.2016 for Pristine Privilege and on 14.06.2018 for Pristine Royal, but failed to disclose the conveyance of land to the respective societies, and thus societies cannot be held responsible. Despite the notice/ complaint 06.08.2019 no substantial action is taken and only paper horses are made run. Therefore,



government machinery in various offices are trying its level best to help and facilitate developer to violate laws left, right and center for reasons best known to these authorities and the contents of the Para-5 of the Original Application are true and correct.

14.6 I state that, the contents of Para-5 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading and in reply to the Para-6 of OA. I state that, the Application is filed under section 15 of NGT At, 2010 having limitation of 5 years and filed on 29.06.2020 from the triggered cause of action dated 03.01.2018 and also within the occupancy dated 13.07.2018 at this time PP was carrying out his construction by enlarging the scope of the project and therefore, being aggrieved the OA is filed well within time and the contents of the Para-6 of the Original Application are true and correct.

14.7 I state that, the contents of Para-6 (a) to (e) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are admitted facts by Respondent No. 13-PP and in reply to the Para-7 (a) to (e) of OA. I state that, the Respondent No. 13-PP has admitted that the



Pristine Prism & Pristine Royal have TBA of 55862.25 M² (excluding parking area of 5500 M²) constructed on survey no. 6/2 & 7 are two phase with single layout and Pristine Privilege has TBA of 4973.74 M² constructed on Survey No. 6/7 CTS No. 2560 is third phase adjoining to the first two phases. Therefore, potential of entire development by single Respondent No. 13-PP in all three phases shall be considered for environmental degradation and these contentions are supported by Joint Committee in their Report dated 28.07.2020 and Architect Certificates dated 25.10.2019 & 17.08.2020 relied by the PP are prepared after thought for his own convenience and cannot be referred.

- 14.8** Further I state that, the single Respondent No. 13-PP M/s. Padmavati Associates has undertaken this entire development of residential building construction project in three phases "**Pristine Privilege, Pristine Prism & Pristine Royale**", on total land area admeasuring of 24250 M² situated at the No. 6/2, 6/3, 6/5 & 7 of Village-Aundh, Taluka-Pune City, District-Pune adjoining to each other within the limit



and jurisdiction of PMC as local authority and PMC is the sanctioning authority. I state that, the PP is responsible for all illegal activity committed during the construction phase as well as operation phase for the damage caused to environment and ecology due to this project activities and PP is the profit making enterprises & beneficiary from the project. That the formation of three different phase, separate 7/12 extract, separate sanctions/ occupancy are the alien concepts having no connection with EIA Notification, 2006. Also such sub-division is made to get benefits on accounts of TDR & Blue flood line area and the contents of the Para-7 (a) to (e) of the Original Application are true and correct.

14.9 I state that, the contents of Para-7 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly admitted & partly misleading facts by Respondent No. 13-PP and in reply to the Para-8 of OA. Further I state that, the Respondent No. 13-PP has admitted that the project is expanded from 18.03.2006 to 08.04.2015 followed by occupancy certificate dated 13.07.2015 and thereafter internal



modifications are carried out vide last revision dated 03.01.2018. I state that the contentions of Para-7 of reply affidavit are not commenting the Para-8 of OA in actual. Para-8 of OA state that there are 9 buildings/wings comprising 405 flats with TBA of 65401 M².

14.10 Further I state that, details of commencement certificates and occupancy certificates are provided in above Paras. Whereas PP suppressed the plinth check certificates. EIA Notification 2006 is published in gazette notification vide dated 14.09.2006 having widely published and circulated and same has been acknowledged by the Respondent No. 9-PMC, Respondent No. 10-CE PMC and imposing a conditions or not imposing of conditions in commencement certificates is not right stand to get escape from the obligations or duties casted upon Respondent No. 11-PP. EIA (Amendment) Notification dated 04.04.2011 is nothing but the clarification on the definition of built-up area mentioned in EIA Notification, 2006 and Said issue is already settled by Hon'ble Supreme Court vide its final Order and



judgment dated 10.08.2018 passed in C. A. No. 10854/2016. That as stated above all three phases are part and parcel of single development by single Respondent No. 13-PP and in altogether its TBA is more than 20000 M² and Pristine Privilege is adjoining to Pristine Prism & Pristine Royale and sharing their common boundaries as already observed by Joint Committee in their report dated 28.07.2020, therefore, there is no room of ambiguity for the PP to get escape from his admitted violations and the contents of the Para-8 of the Original Application are true and correct.

14.11 I state that, the contents of Para-8 (a) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are fairly admitted facts by Respondent No. 13-PP and in reply to the Para-9 (a) of OA. Further I state that, stand taken by the Respondent No. 13-PP is that he has not obtained EC due to non-imposition of condition in commencement certificate issued by PMC and same is totally misleading. Basically entire project having three phases in single layout and adjoining to each other with total BUA potential of **66335.99** M²



which is more than 20000 M2 and thus Respondent No. 13-PP is duty bound to obtain EC under EIA Notification, 2006 and it has no relevance of conditions in Commencement Certificate of PMC. Moreover, PP has admitted the violation by applying for ex-post facto EC and the contents of the Para-9 (a) of the Original Application are true and correct.

14.12 I state that, the contents of Para-8 (b) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are misleading facts by Respondent No. 13-PP and in reply to the Para-9 (b) of OA. Further I state that, Respondent No. 13-PP have given different names to all three phases viz. Pristine Prism, Pristine Royale, Pristine Privilege for his own convenience, but these all three phases are from single projects. Further I state that, the Respondent No. 13-PP is creating wrong picture of three different projects and by stating that these project has TBA of less than 20000 M². In fact total TBA of **66335.99** M² of entire project needs be considered for mitigation measures of environment potential. Further I state that, the Joint Committee report clearly speaks on adjoining nature of these



phases. It is important to note that, as admitted by Respondent No. 13-PP the construction of these phases is carried out from 18.03.2006 to 13.07.2015 and project capacity is increased to **66335.99** M² comprising 9 residential building, 405 flats without scientific installation & operation of pollution control devices and infrastructure as noted by Joint Committee in their report and the contents of the Para-9 (b) of the Original Application are true and correct.

14.13 I state that, the contents of Para-8 (c) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are fairly admitted facts by Respondent No. 13-PP and in reply to the Para-9 (c) of OA. Further I state that, stand taken by the Respondent No. 13-PP on account of non-obtaining of EC due to non-imposition of condition is not legal in the eyes of law and Respondent No. 13-PP is careless, reckless towards his duties towards environment & ecology and the contents of the Para-9 (c) of the Original Application are true and correct.



14.14 I state that, the contents of Para-8 (d) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are misleading facts by Respondent No. 13-PP and in reply to the Para-9 (d), (e) & (i) of OA. Further I state that, stand taken by the Respondent No. 13-PP on account of non-obtaining of CTE & CTO is not legal in the eyes of law and Respondent No. 13-PP is careless, reckless towards his duties towards environment & ecology and intentionally failed to obtain CTE & CTO and the contents of the Para-9 (d), (e) & (i) of the Original Application are true and correct.

14.15 I state that, the contents of Para-8 (e) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly admitted and partly misleading facts by Respondent No. 13-PP and in reply to the Para-9 (f), (g) & (j) of OA. Further I state that, admittedly the Respondent No. 13-PP has applied for ex-post fact EC after the lapse of amnesty period of six month and said application for EC not legal in the eyes of law. Moreover, Respondent No. 13-PP remain absent in the 96th SEAC-III meeting held on 15th to 19th October, 2019 and case is deferred and Therefore, Respondent



No. 13-PP is not serious about his own proposal and PP is careless & reckless towards his duties towards environment & ecology and intentionally failed to obtain CTE & CTO and the contents of the Para-9 (f), (g) & (j) of the Original Application are true and correct.

14.16 I state that, the contents of Para-8 (f) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (h) of OA. Further I state that, the Irrigation Department has issued flood line maps to PMC in the year of 2009 and the building A, B, C1 & C2 are proposed, constructed and completed thereafter. Respondent No. 9-PMC & Respondent No. 10-CE-PMC was duty bound to make such demarcation of the building & layout plans of Respondent No. 13-PP while granting such sanction, However, these respondents failed to demarcate the flood line on sanction plan and allowed PP to carry out illegal construction in prohibited zone of Mula River. Moreover, PP has developed thee land in the flood line with illegal structures showing the recreation purpose



wherein barbeque Counters, Circular Pergola Roof etc. without any sanction form PMC and the contents of the Para-9 (h) of the Original Application are true and correct.

14.17 I state that, the contents of Para-8 (g) & (l) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (k), (l) & (m) of OA. Further I state that, Respondent No. 13-PP has extracted huge quantity of ground water use for construction from three bore wells and also presently it's going on for domestic purpose. MPCB has specifically issued proposed direction dated 03.03.2020 for not obtaining NOC from CGWA for ground water extraction to Respondent No. 13-PP at point no. (2). Moreover, Respondent No. 13-PP has not carried out any ground water test for contamination and mere replying the MPCB direction will not washout illegality of PP and it is important to note that the application for ex-post facto EC is also not filed with supporting ground water test, soil test etc. and



the contents of the Para-9 (k), (l) & (m) of the Original Application are true and correct.

14.18 I state that, the contents of Para-8 (i) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (n) of OA. Further I state that, Respondent No. 13-PP has been exposed for his waste treatment system installation by the Joint Committee in their table Point No. 4 that the OWC are not in operation. However, the question remain alive for what is quantity of Solid waste generated from project and the capacity of OWC provided at site & its scientific operations and the contents of the Para-9 (n) of the Original Application are true and correct.

14.19 I state that, the contents of Para-8 (j) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (o) of OA. Further I state that, Respondent No. 13-PP has given cursory reply and PP has not provided details of building wise installation of Solar Water Heater & Solar Lighting for



common area. Total hot water requirement, total energy requirement for common lighting and total energy saving are given and the contents of the Para-9 (o) of the Original Application are true and correct.

14.20 I state that, the contents of Para-8 (k) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (p) of OA. Further I state that, Respondent No. 13-PP has given cursory information of rain water harvesting system installation. Respondent No. 13-PP has failed to disclose the installation of total RWH pits & system, total run off area, total quantity if water collected, RWH tank installation. Moreover Joint Committee has made comment that they are not able to make any comments as the chambers for RWH are not opened and the contents of the Para-9 (p) of the Original Application are true and correct.

14.21 I state that, the contents of Para-8 (l) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (q) of OA. Further I



state that, it is mandatory on part of Respondent No. 13-PP to provide the 10% recreational open space on virgin land, however recreational open space is provided on podium and tree cannot be planted on podium and no open space is left in the project area and entire site margin is also concretized. Further I state that, the Open Space is used for tree plantation and it is important remedial measure for the environment degradation and PMC circular promoting recreational open space on podium is not the law and it is the collusion between the Respondent No. 9 & 10 and Project proponents to overcome their illegality and the contents of the Para-9 (q) of the Original Application are true and correct.

14.22 I state that, the contents of Para-8 (m) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (r) of OA. Further I state that, Respondent No. 13-PP has not preserved the top layer of fertile soil which is formed after process of more than 1000 years and moreover PP has not provided recreation open space



on virgin land so this soil is obviously thrown or disposed in unscientific manner and the contents of the Para-9 (r) of the Original Application are true and correct.

14.23 I state that, the contents of Para-8 (n) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (s) of OA. Further I state that, Respondent No. 13-PP has not made tree plantation as per the standard norms as there is no virgin land available in the project and moreover PP has not provided recreation open space on virgin land which is required for tree plantation. Joint Committee has made wrong observation in respect of tree plantation and letter dated 18.03.2015 issued by the PMC is nothing but bogus & misleading and same cannot be relied upon and the contents of the Para-9 (s) of the Original Application are true and correct.

14.24 I state that, the contents of Para-8 (o) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (t) of OA. Further I



state that, Respondent No. 9-PMC & Respondent No. 7-CE-PMC has no right to approve the swimming tank infrastructure which are giving burden on environmental parameter and ground water is used in swimming pool and its consumption has direct impact on ground water table. Moreover, Annexure-I to the reply affidavit is the NOC issued by the Health Department of PMC and it is not the permission for construction of swimming pool and therefore, swimming Pool is having additional burden on the ground water consumption and the contents of the Para-9 (t) of the Original Application are true and correct.

14.25 I state that, the contents of Para-8 (p) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (u) of OA. Further I state that, Respondent No.13-PP has suppressed the number of DG sets installed at site and also joint committee has disclosed only two DG sets of 160 KVA installed at Pristine Prism and 125 KVA installed at Pristine Royale out of six DG sets. That the DG Set



installation and its operations are not consented by the MPCB as it has direct connection with the air pollution, therefore such installation for the alleged purpose of load shading is not tenable in the eyes of law and MPCB has not verified pollution emission of these DG set to their standard and the contents of the Para-9 (u) of the Original Application are true and correct.

14.26 I state that, the contents of Para-8 (q) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (u) of OA. Further I state that, Respondent No.13-PP has totally misled on account of installation of STP by stating that the capacity of STP is adequate but as usual shut his mouth on its scientific operations. As per Joint Committee, STP having capacity of 160 CMD is installed at Pristine Prism & same is not in operation. However, there is no STP at Pristine Royale and untreated domestic waste water is directly drained to the PMC sewer line. Moreover PP has not produced any document of handing over of STP to the societies.



It is important to note that, the population of the project is = (405 flats X 5 persons per flat 135 liter per day per person X 90% waste water generation) = 246.04 CMD of waste water generation from the project and STP is of 160 CMD Capacity. Therefore, STP installed is not adequate and it is not in operation and this is serious operation to the environment and ecology and also burden on common STP of PMC. As per the EC application 06.09.2019 at Page No. 160 item no. 20, PP has admitted the quantity of sewage waste generated is 187.22 KLD from the project site and STP of 200 KLD capacity is required for this treatment of sewage and the contents of the Para-9 (v) of the Original Application are true and correct.

14.27 I state that, the contents of Para-8 (r) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (w) of OA. Further I state that, Respondent No.13-PP has not made any arrangement for the waste disposal that is generated from the project. As per the environmental standards waste generated from the project must be disposed off



at project site in scientific manner by composting, waste converter & recycling with segregation. But there is no such facility provided by the PP at project site. It is important note here, the NOC dated 16.10.2009 attached by PP at Annexure-L on Page No. 357 of his affidavit is clearly shows the OWC of only 25 Kg is installed in Pristine Prism, As per the EC application 06.09.2019 at Page No. 160 item no. 21 & 23 PP has admitted the quantity of wet waste generated is 463.5 Kg/day and solid waste generated is 309 kg/day from the project site and for this composting or disposal OWC of 500 capacity is required and the contents of the Para-9 (w) of the Original Application are true and correct.

14.28 I state that, the contents of Para-8 (s) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly true, partly false and partly misleading facts by Respondent No. 13-PP and in reply to the Para-9 (x) of OA. Further I state that, Respondent No.13-PP has admitted that no EC & Consents are obtained and PMC has issued completion certificate after installation of infrastructure as stipulated in

Commencement of certificate is done successfully. Basically PMC & PP has collusion and without application of mind, such certificates are issued without taken into long term repercussions on environment & ecology of the area cause due to these illegal construction of PP and the contents of the Para-9 (x) of the Original Application are true and correct.

14.29 I state that, the contents of Para-8 (t) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly true, partly false and partly misleading facts by Respondent No. 13-PP and in reply to the Para-9 (y) of OA. Further I state that, Respondent No.13-PP is misleading on account of environmental infrastructure at site as per commencement certificate and only thereafter completion certificates are issued. Basically, mute spectator PMC is not the authority to assess & apprise the environmental issues and there is no compliance to the environmental norms as per law. PP cannot support his contentions with certification of PMC. Ex-post facto EC application made by PP is not tenable in the eyes of law and PP is not liable for any sympathy from this Hon'ble



Tribunal. PP is duty bound to obtain necessary permissions from competent authority & to provide these compliance to the societies. However, PP is just finding escape routes on account of formation of societies, conveyance & transfer of premises, but these duties cannot provide any lenience on part of PP in the law and the contents of the Para-9 (y) of the Original Application are true and correct.

14.30 I state that, the contents of Para-8 (u) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (z) of OA. Further I state that, the Joint Committee Report 28.07.2020 and Ex-post facto application dated 06.09.2019 for EC filed by Respondent No.13-PP clearly shows non-compliances. Due to these non-compliance, there is substantial damage to the environment & ecology and the contents of the Para-9 (z) of the Original Application are true and correct.

14.31 I state that, the contents of Para-8 (v) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No.



13-PP and in reply to the Para-9 (aa) of OA. Further I state that, the number of trees are illegally cur by Respondent No. 13-PP. PMC as well as PP has suppressed the documents in this respect from garden department and the contents of the Para-9 (aa) of the Original Application are true and correct.

14.32 I state that, the contents of Para-8 (w) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (bb) of OA. Further I state that, the entire plot is covered with podium and there is no site margin left for free fire tender movement. Fire NOC issued by PMC are compromised statement and these fire NOC are issued without application of mind. As per the environment standard minimum turning radius of 7.5 Mtrs for fire tender movement is required and the contents of the Para-9 (bb) of the Original Application are true and correct.

14.33 I state that, the Para 8 (x) & 8(y) are missing from number sequence.

14.34 I state that, the contents of Para-8 (z) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are



totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (cc), (dd) & (ee) of OA. Further I state that, the Respondent No. 13-PP has not provided ramp slope to podium in the ration of 1:10 & it has direct connection with slipover of vehicles, residents causing physical damage. Also no marginal space of minimum width 7.5 is available at ground level due to podium construction upto plot boundary line. Also PP has not provided 15% amenity space for social infrastructure as mandated in DCR. Also admittedly PP has provided open space on podium which should be provided on virgin land and the contents of the Para-9 (cc), (dd) & (ee) of the Original Application are true and correct.

14.35 I state that, the contents of Para-8 (aa) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly true, partly false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (ff) & (gg) of OA. Further I state that, the PMC sanctioned plan vide dated 03.01.2018 shows DP road area admeasuring to the tune of 1270 M² need to hand over to PMC by Respondent No. 13-



PP on account of TDR claimed in the same project. But no document is produced by PP in this support. Further I state that, the green belt of 3000 M² is shown in the sanctioned plan and this green belt area is demarcated in prohibited zone of blue flood line of the Mula River. Therefore, there should not be any construction, However PP has constructed covered structure in the said green area contrary to provisions of rules and it is illegal and the contents of the Para-9 (ff) & (gg) of the Original Application are true and correct.

14.36 I state that, the contents of Para-8 (bb) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (hh) & (ii) of OA. Further I state that, the Respondent No. 13-PP in connivance with PMC officer has violated the provisions of Environment enactment and therefore PMC officers are also equally responsible. Further I state that, Respondent No. 13-PP has violated the principle of sustainable development by not installing pollution control devices, which can be seen from the



joint committee report and the contents of the Para-9 (hh) & (ii) of the Original Application are true and correct.

14.37 I state that, the contents of Para-8 (cc) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (jj) of OA. Further I state that, the Respondent No. 9 & 10-PMC has intentionally suppressed the sanction plans showing total number of vehicles from the project and also Respondent No. 13-PP is also mute on the number of cars, two wheelers etc. from the project. Also PMC and PP have suppressed the basement from Pristine Prism & Pristine Royale Phases. It is important to note that, the approach road to the project is having width of only 12 Mtrs. on which number of other huge building construction projects are situated and the contents of the Para-9 (jj) of the Original Application are true and correct.

14.38 I state that, the contents of Para-8 (dd) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by



Respondent No. 13-PP and in reply to the Para-9 (kk) of OA. Further I state that, the Respondent No. 13-PP have not obtained prior EC & Consents from the competent authority and there is no environmental assessment & appraisal of the project for impact. Therefore, there is installation of environment infrastructure accommodating the project parameters and thus Respondent No. 13-PP is failed to implement the environment management plan and the contents of the Para-9 (kk) of the Original Application are true and correct.

14.39 I state that, the contents of Para-8 (cc-repeated on page: 242) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (ll) & (mm) of OA. Further I state that, there is clear cut involvement of bureaucratic nexus in the illegal act to help Respondent No. 13-PP and there is misuse of position by Respondent Government officers culminating the non-compliance of provisions of EIA Notification-2006 r/w Environment Acts-1986, Water (P & CP) Act-1974 and



Air (P & CP) Act-1981 by Respondent No. 13-PP. Therefore, Respondent No. 13-PP has committed scam on account of loading of FSI of internal road, not providing of amenity spaces and not providing the open spaces on virgin land and 10% recreational open space is provided on podium etc. and the contents of the Para-9 (ll) & (mm) of the Original Application are true and correct.

14.40 I state that, the contents of Para-8 (dd-repeated on page: 242) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (nn) of OA. Further I state that, the Respondent No. 13-PP have not as carried out construction of project increasing capacity to **66335.99** M² comprising 9 residential building, 405 flats without scientific installation & operation of pollution control devices and infrastructure and without prior EC & Consents. This is irreparable damage caused to the environment and ecology which cannot be seen by open eyes as there is exploitation of huge quantity of natural resources in construction &



day to day operation of the project. In catena of judgment, Hon'ble Tribunal as well as Hon'ble Supreme Court has laid down the parameters of exemplary and deterrent for environment compensation and present case of violation is the worst case of violation. Therefore, PP has caused substantial damage to environment and ecology for more than Rs. 350 Crores, which shall be recovered from PP and the contents of the Para-9 (nn) of the Original Application are true and correct.

14.41 I state that, the contents of Para-8 (ee) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (oo) of OA. Further I state that, the Respondent No. 13-PP have not performed his duty casted upon him for obtaining mandatory EC & Consents and compliance of environmental norms. Therefore, Respondent No. 13-PP is unapologetic and adopted careless & reckless practices towards the environmental protection and the contents of the Para-9 (oo) of the Original Application are true and correct.



14.42 I state that, the contents of Para-8 (ff) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-9 (pp) of OA. Further I state that, the Respondent No. 13-PP have carried out substantial construction and no further construction should be allowed on adjoining vacant plots and also any further loading of TDR on existing phases. And also it is mandatory to demolish the project construction for restitution and restoration of the environment and ecology in the area. Further I state that, the Respondent No. 13-PP has to bear the loss occurred to any other party from the Orders of this tribunal as held by Hon'ble Apex court. Respondent No. 13-PP is taking stand of completion of project, formation of societies, transfer of land to societies etc. just to cover-up his own illegality and it is usual practices adopted by the builder lobby, which does not deserve any lenience and the contents of the Para-9 (pp) of the Original Application are true and correct.

14.43 I state that, the contents of Para-8 (repeated number) of reply affidavit filed by Respondent No.13-PP dated



12.11.2020 are totally false and misleading facts by Respondent No. 13-PP and in reply to the Para-10 of OA. Further I state that, the Respondent No. 13-PP failed to obtain the mandatory EC under EIA Notification, 2006 issued on 14.09.2006 and increased scope of the project from 0 M² to **66335.99** M² comprising 9 residential building, 405 flats without scientific installation & operation of pollution control devices and infrastructure and carried out construction and operation of premises without permission and unscientific disposal of wastes. Further it is important to note that, the subsequent increase in the FSI is the look out of PP and dispute related to addition of non-FSI by amendment in EIA i.e. Notification dated 04.04.2011 has already settled by Hon'ble Supreme Court in CA No. 10854/2016 vide its judgment dated 10.08.2018. Further I state that, the tactics of market conditions, development in area, division of plots are put forward by Respondent No. 13-PP only for profit making and it is not allowed to give go by to the obligations casted upon PP by Law. Further I state that, the Respondent No. 13-PP is



misleading on part of three different project, in fact all these are three adjoining phases of single project and Pristine Prism & Pristine Royale having total BUA of 55682.25 M² Plus parking area of 5500 M² and Pristine Privilege have total BUA of 4973.74 M² and all these three phases are constructed by single PP on adjoining plots from Sr. No. 6 (P) & 7 of village Aundh sharing common infrastructure and only PP is the beneficiary from the same project. Total BUA of the project is more than 20000 M² attracting mandatory obligations under EIA notification, 2006, which is not complied by PP with impunity and Therefore, TBA of project is **66335.99** M² and thus PP has committed violation of EIA Notification-2006 and the contents of the Para-10 of the Original Application are true and correct.

14.44 I state that, the contents of Para-9 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly admitted and partly misleading facts by Respondent No. 13-PP and in reply to the Para-11 of OA. Further I state that, the Respondent No. 13-PP failed to obtain the mandatory prior Consent to



Establish (CTE) under section 25 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and prior Consent to Operate (CTO) under section 26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981. That this project consumes the fresh water, extraction of ground water for construction & domestic use, consumption of energy and resulting in generation of solid waste, generation of sewage water and also discharging polluted water to the sewer line of PMC, installation of 6 DG sets which are emitting polluted gases causing pollution of the air etc. therefore, it is necessary to assess the impact on air and water and there should be remedial measure to this account and thus CTE & CTO are important. Therefore the construction activity undertaken by the PP is in total violation of the Pollution Control laws. It is duty of PP to obtain CTE & CTO and ownership of society, handing over of possession, conveyance to societies, inadequate & non-operational infrastructure cannot



be reason for non-obtaining CTE & CTO and the contents of the Para-11 of the Original Application are true and correct.

14.45 I state that, the contents of Para-10 (a) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly admitted and partly misleading facts by Respondent No. 13-PP and in reply to the Para-12 (a) & (b) of OA. Further I state that, the Respondent No. 13-PP has obtained building sanctions from PMC with proposal case numbers ADH/0357/05 and ADH/0046/11 as recorded in the PMC. Further I state that, the PP has obtained original sanction vide No. ADH/0357/06 on 13.03.2006 for Plot-1 (i.e. Pristine Prism & Pristine Royale) followed with 11 revisions and for Plot-2 (Pristine Privilege) original sanction is obtained vide proposal No. ADH/0046/11 dated 25.11.2011 and Plot-1 has last revision on 02.01.2018 & Plot-2 has last revision on 25.06.2012. Thus, the scope of the project is increased by Plot-2 in addition to Plot-1 with loading of TDR & C1 & C2 building on plot-1 for which occupancy is obtained on 13.07.2015. I state that the

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reference to these sanctions & proposal is important to understand the practices adopted by PP in collusion with PMC and the contents of the Para-12 (a) & (b) of the Original Application are true and correct.

14.46 I state that, the contents of Para-10 (b) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly admitted and partly misleading facts by Respondent No. 13-PP and in reply to the Para-12 (c), (d) & (e) of OA. Further I state that, the Respondent No. 13-PP has carried out the construction of entire project on adjoin plots sharing common infrastructure and boundaries and developed this project in three phases considering the market conditions for own benefits at the cost of mother nature. All these three phases are un-isolated part of single project having total BUA of more than **66335.99 M²** comprising 9 residential building & 405 flats, but these divide & escape policy is adopted to avoid the mandates of EC requirement. However, PP himself admitting that, "Only the projects covered under M/s. Pristine Prism and M/s. Pristine Royal being undertaken together were having more than



20000 sq. mtrs. and therefore require to obtain prior Environment Clearance and Consents. The project of M/s. Pristine Privilege was less than 20000 Sq. Mtrs. and does not require to obtain prior Environment Clearance and Consents." In regards to the statement made with respect to the Pristine Privilege, it is already held by Joint Committee that the said project is adjoining to the M/s. Pristine Prism and M/s. Pristine Royal and therefore, the protection of entire development by single project proponent has to be considered for the environmental aspects and EIA Notification, 2006 is completely alien to the concepts of separate sanctions, separate commencement, separate occupancy, separate societies, separate revenue 7/12 extracts laid down under DCR & MRTP Act, 1966 and these concepts has no bearing on the environment jurisprudence in India and only statistical data needs to be referred from these sanction and the contents of the Para-12 (c), (d) & (e) of the Original Application are true and correct.

14.47 I state that, the contents of Para-10 (c) & (d) of reply affidavit filed by Respondent No.13-PP dated



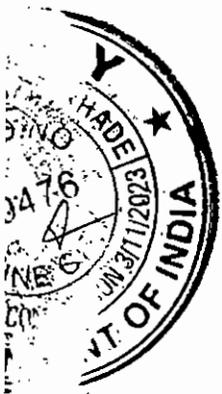
12.11.2020 are partly admitted and partly misleading facts by Respondent No. 13-PP and in reply to the Para-12 (e), (f), (g), (h), (i), (j) & (k) of OA. Further I state that, the Respondent No. 13-PP put under mandatory obligation to obtain prior EC and consent as soon as enforcement of EIA Notification 14.09.2006 because the construction of buildings project is the recurring activity enlarging its scope from land preparation to the full potential construction of Built up area and further operations by occupancy giving burden on natural resources. Further I state that, considering the exploitation of environment, PMC has imposed the condition for obtaining environmental clearance time to time in its commencement certificates granted to the project with *"As stated as per order 12th December 2012 of Hon'ble Environment Department for planning proposal of total construction area of more than 20000 Sq. Meter it is mandatory to obtain no objection certificate of Environment Department of Central Government. Wherever necessary it is mandatory to file no objection certificate of Maharashtra Pollution Control Board at the time of construction permission."* Further



I state that, the construction is recurring activity as it increases the scope of the project from excavation to the full potential construction and its operations and despite there being clear cut condition to obtain the EC, PP failed to obtain the EC and consents intentionally. Therefore, the any further construction of the project is to be stopped and not to issue any further occupancy and completion certificate to the project. Whereas, the stand taken by Respondent No. 13-PP on account of changing market conditions, change of circumstances, non-imposition of conditions for obtaining environment clearance & consents by PMC till completion, different project and TBA area less than 20000 M² for Pristine Privilege etc. are vague and irrelevant for mandates under environmental law and admittedly, Respondent No. 13-PP failed to comply with the environmental norms just due to blindness & business inn making money at the cost of mother nature and the contents of the Para-12 (e), (f), (g), (h), (i), (j) & (k) of the Original Application are true and correct.



14.48 I state that, the contents of Para-11 (a) to (g) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly false and partly misleading facts by Respondent No. 13-PP and in reply to the Para-13 (a) to (k) of OA. Further I state that, the total BUA is increased due to additional building C1 & C2 construction proposed on remaining plot of survey No. 7 from its original sanction vide sanction No. CC/0046/15 dated 08.04.2015 granted by PMC and the area statement shown in subsequent revised sanction No. CC/2554/17 dated 03.01.2018 and claim of PP on account of permissible FSI to the tune of 27414.2 M² is totally false and baseless. Further I state that, the PP has not provided mandatory 15% amenity space and also not provided 10% Open space on virgin land as per DC Rules of PMC with no development of Green Belt Area of 3000 M² as shown in the Development Plan of PMC. Further I state that, the PP has intentionally shown two separate development to get escape from the violation of EIA Notification-2006 and mandatory obtaining of prior Environment clearance and consent from MPCB.



Further I state that, the Entire project have total BUA of **66335.99** M² comprising of 405 flats in 9 residential building, which is more than 20000 M² independently and therefore it was mandatory to obtain the prior EC from concern authority, but PP intentionally and deliberately has made the jugglery and farce of two separate sanctions and two separate project. In fact, it is single project comprising three phases viz. Pristine Prism, Pristine Royal & Pristine Privilege. Therefore, PP has committed the violation of EIA Notification-2006 r/w Environment (Protection) Act-1986 and also PP has made violation of Water (Prevention and Pollution Control) Act-1974 and Air (Prevention and Pollution Control) Act-1981 and the contents of the Para-13 (a) to (k) of the Original Application are true and correct.

14.49 I state that, the contents of Para-12 (a) to (g) of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly admitted, partly false and partly misleading facts by Respondent No. 13-PP and in reply to the Para-14 (a) to (f) of OA. Further I state that, the Respondent No. 13-PP has admitted the



construction of basement; "..., it is submitted that, the basements are constructed as per the sanction plans".

Further I state that, the PP has to obtain the prior permission for construction of basements, as its damages the ground water level and causes depletion in the ground water table. But there is also no permission for basements and PP has constructed one (1) basements for all wings instead of none basement permitted by CWGA & PMC. PP has drilled three (3) bore wells from which PP is extracting water for construction and daily without any permission from the authority. Further I state that, it was obligatory on part of PP to check ground water level & its quality alongwith permission to draw ground water & also permission for construction of basement. PP has not obtained any such permission for extraction of ground water and also not conducted any ground water test, and constructed basements without permission and PP is continuously extracting water from three bore wells without any environment assessment for use of fresh water consumption and without its treatment. PP is using 337500 Liters of fresh water per day and



failed to make scientific treatment of waste water generated and thus PP has committed serious violation and the contents of the Para-14 (a) to (f) of the Original Application are true and correct.

14.50 I state that, the contents of Para-13 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly false and partly misleading facts by Respondent No. 13-PP and in reply to the Para-15 (a) to (e) of OA. Further I state that, the Respondent No. 13-PP has not provided any rain water harvesting system. Further I state that, the damage to the ground water level should be recovered by rain water harvesting at the project site and rain water from the project site is directly connected to the storm water line of PMC and precious rain water is not conserved as there is no remedial measure due to non-assessment of environmental impact. Further I state that, the PP was supposed to made provision of minimum 12 rain water harvesting pits, but PP has not made any provision of the rain water harvesting pit and entire plot is concretized and there is no space for rain water percolation into the ground to recover the ground



water level. Therefore, the rain water harvesting is one of the major environment infrastructure and caused the damage to the environment and committed the violations of environmental laws and the contents of the Para-15 (a) to (e) of the Original Application are true and correct.

14.51 I state that, the contents of Para-14 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly false and partly misleading facts by Respondent No. 13 and in reply to the Para-16 (a) to (j) of OA. Further I state that, the Respondent No. 13-PP has not preserved top layer of fertile soil as no construction activity without fencing is permitted under EIA Notification, 2006 prior to EC, but PP without obtaining prior EC and CTE, started the excavation of the project land by doing illegal cutting of trees, even the total allowed BUA potential was more than 20,000 M² as per prevailing DC Rules. PP has made deep excavation of an area admeasuring more than 7000 M² against the prosed ground coverage of 3520.40 M² up to 12 Mtrs. That, the earth structure at the project site is 4 Mtrs soil, 5 Mtrs



Murum and 3 Mtrs basalt and PP has made exaction of soil to the tune of $7000 \text{ M}^2 \times 4 \text{ Mtrs} = 28000 \text{ Cu. Mtrs.}$, excavation of Murum to the tune of $7000 \text{ M}^2 \times 5 \text{ Mtrs} = 35000 \text{ M}^3$ and excavation of basalt to the tune of $7000 \text{ M}^2 \times 3 \text{ Mtrs} = 21000 \text{ M}^3$. Therefore, the total quantity of the excavated material is $(28000+35000+21000) = 84000 \text{ M}^3$. That, the PP has not preserved the soil for development of recreational open space as the Open space is provided on the stilt and that the PP has not used top soil excavated for development of recreational space and for plantation of the trees and PP has to make soil test for various analysis, but PP has not made any soil test. Further I state that, the topsoil excavated during construction activity should be stored for use in horticulture/land scape development within the project site, but PP has not stored and not used top soil for said purposes. Therefore, the PP has not conducted the soil & ground water test to find threat to water quality due to leaching of heavy metals & toxic contamination. Therefore, this is violation of environment protection



norms and the contents of the Para-16 (a) to (j) of the Original Application are true and correct.

14.52 I state that, the contents of Para-15 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly false and partly misleading facts by Respondent No. 13 and in reply to the Para-17 (a) to (m) of OA. Further I state that, the population of the project is $(309+96) = 405 \times 5 = 2025$ persons plus 15 staff persons plus 260 visitors. Therefore total population is 2500 persons and as per DC rules average water requirement per person is 135 litres per day, therefore total water consumption is $(2500 \times 135) = 337500$ litres. Further I state that, the waste water generated is the 80% of the total fresh water consumption, therefore the total waste water generated is $(337500 \times 80\%) = 270000$ litres per day and as per standard rule of waste management rules average solid waste generated per person is 0.45 Kg per day, therefore total solid waste generated is $= 0.45 \text{ Kg per day per person} \times 2500 \text{ persons} = 1125 \text{ Kg per day}$. Therefore, there is Fresh water consumption of 337500 liters per day, Waste water generated is 270000 liters per day

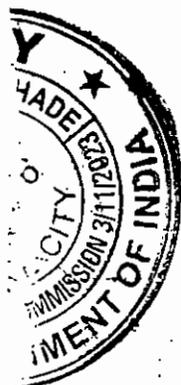


and Solid waste generated is 1125 Kg per day. Further I state that, the as per the mandatory conditions of environmental norms, there shall be provision for waste water and sewage water treatment at the project site as it reduces the demand of fresh water and treated water can be used for the flushing and gardening purpose within the project site, but PP failed to provide WTP and STP at project site and generating 270000 Liters of sewage and waste water from project and damaged the natural resources of water by extracting ground water on daily basis and Also as per the mandatory conditions of environmental norms, there shall be provision for solid waste management by providing compost pits or organic composter at site to avoid the load on the local infrastructure of the PMC, but PP failed to provide any such waste management system at site and generating 1125 Kg of solid waste at site and sending it to PMC without any scientific segregation and treatment and thus PP has committed serious violation. Further I state that, the PP is generating 270000 Liters of waste and sewage water from the



project operation and there is no treatment and this is the serious damage to the environment and ecology and discharging the sewage water directly to the PMC sewage line and increasing load on the local infrastructure for public. Therefore, PP is causing serious water pollution and infringed the provisions of Water Act and liable for Actions under the EPA and Pollution control Act and causing damage to the environment and ecology on recurring basis as the waste generated are per day without any treatment. This is violation of pollution control & prevention norms and the contents of the Para-17 (a) to (m) of the Original Application are true and correct.

14.53 I state that, the contents of Para-16 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly false and partly misleading facts by Respondent No. 13 and in reply to the Para-18 (a) to (f) of OA. Further I state that, the Respondent No.13-PP has installed Six (6) DG sets having cumulative capacity of 1800 KVA for electric supply and there is no permission obtained for installation and operations of these DG Sets. DG Sets operation is releasing NOx,



Sox, CO etc. and causing air pollution with release rate of 200 mg/Nm³. DG Sets are making noise more than 60 dB (A) and there is no proper acoustic enclosures to control noise of the DG Sets and causing noise pollution in the surrounding area due to its operation. Therefore, PP is causing serious Air pollution and infringed the provisions of Air Act and liable for actions under the EPA and Pollution control Act and it is violation of environment protection norms. Electrical Inspector is not the competent Authority under Air Act and the contents of the Para-18 (a) to (f) of the Original Application are true and correct.

14.54 I state that, the contents of Para-17 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly false and partly misleading facts by Respondent No. 13 and in reply to the Para-19 (a) to (f) of OA. Further I state that, the Respondent No. 13-PP has not given details of building wise solar water heater installation and Solar energy generation for common area lighting. However, the project have 405 of residential units and average energy consumption per



month per unit is 200 units. So total energy consumed by residents is 81000 Kw. Also the projects have three bore wells with three pumps of 7.5 having 800 units per month energy consumption and 9 water pumps for 9 wings of 3 HP each for water lifting from underground tank to terrace tank and average energy consumption of each pump per month is 600 units. So total energy consumption for water supply is $(800 \times 3) + (600 \times 9) = 7800$ Kw. Also project have common area lighting, street lighting & lifts etc. and average consumption of same is 1500 Kw per month. Therefore, the average Consumption of project per month is more than 90300 KW. The energy generation in Maharashtra is from Coal based power plants and these plants emits huge CO & other greenhouse gases in air and it releases tremendous heat in the air causing air pollution and also these power plants consumes huge water for power generation. Therefore, impact assessment for energy consumption and its saving is important and it should have alternative remedy of solar energy panels for common lighting and solar water heaters, but PP have not done any



assessment and have not taken any measures and it is causing substantial irreparable damage to the environment & ecology. Further I state that, the Respondent No. 13-PP in his application dated 06.09.2019 for ex-post facto EC have disclosed total demand load to the tune of 1320 KW only for Pristine Prism and Pristine Royal, which is totally false and baseless and the contents of the Para-19 (a) to (f) of the Original Application are true and correct.

14.55 I state that, the contents of Para-18 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly false and partly misleading facts by Respondent No. 13 and in reply to the Para-20 (a) to (g) of OA. Further I state that, it is mandatory on part of the PP to develop the 10% open space for the recreational purpose with tree plantation on virgin land as per the environmental norms and DC Rules of PMC and this mandates are imposed under MRTP Act, 1966 which cannot be replace by any office circular of PMC Commissioner or City Engineer. However, as per sanction plan vide dated 03.01.2018, total recreational open space needs to be provided by the



PP is 1998 M², but PP has not provided this recreational open space on virgin land and it is provided on podium or stilt, which is purposeless. Any open space provided on podium or stilt will not fulfill its vary purpose of recreational space and on contrary it is mandatory to provide the RG area on ground, but PP has not provided such open space on ground and committed violation on part of RG area. Further I state that, as the trees are absorbing the CO, CO₂ & other GHG from the atmosphere and giving us oxygen and it is one of the remedial measures for compensating the damage caused to the environment on account of present development and it is necessary to plant 3 trees for each 80 M². for the building development projects and 5 trees for each feeling of tree as per the Hon'ble High Court directions. I state that, the total land area 24250 M². Therefore, total number of trees to be planted is comes to $24250/80 = 304$ trees, but PP has planted near about 30 trees and these trees are also not well grown due to negligence of the PP. Therefore, the present development is not the sustainable development and has caused substantial



damage to the environment and ecology. It is also important to note that, the entire plot is covered with podium till its boundary and there is virgin land available then the stand of PP on account of plantation of 285 trees and noted by Joint Committee will not survive and plantation carried out on podium or stilt is not connected to the mother earth and it is not considered as tree plantation in scientific language and the contents of the Para-20 (a) to (g) of the Original Application are true and correct.

14.56 I state that, the contents of Para-19 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are nothing but admission of facts by Respondent No. 13 without specific refutation and in reply to the Para-21 (a) to (m) of OA. Further I state that, it is admitted position that PP has carried out the construction of total BUA more than **66335.99** M² comprising 9 buildings plus one club house by consuming huge quantity of the building material prepared from natural resources like Cement, metal/ aggregates, steel, timber, water, fuel, bricks, sand, aluminium, copper for wirings, marble, stainless steel, PCV etc. for

the construction of the project without any impact assessment and caused irreparable damage to the environment and ecology in substantial nature. Further I state that, the GHG emission especially carbon from the material process and its use during the construction and operation phase is huge and it has adverse impact on the environment and therefore the prior impact assessment is required for the better protection and improvement of the environment due to the activity of the PP. But PP intentionally failed to prepare such Impact Assessment and further neglected to implement such assessment in his project and caused huge damage to environment. It is admitted position that, the PP has made excavation of one basements and this is one of the major damage to the environment and extracting the ground water from three (3) number of bore wells. Further PP has not provided 10% open space on virgin land and not doing any treatment on the solid waste and it is directly dumped to the PMC dumping location by overburdening the PMC infrastructure. PP has used traditional clay bricks and PP has not used any



scientific construction method. Further I state that, the environmental issues are very complex and its restoration is more difficult than complexity. But PP has callous attitude for environmental protection and adopted careless, reckless, attitude with unapologetic behaviour and manipulated the government authorities, therefore exemplary damages having deterrent effect must be imposed on this PP to teach lesson. Therefore, considering the serious violations of non-obtaining of Environment Clearance, Consent to Establish, Consent to Operate, CGWA permission, Non-installation of pollution control devices, Non-plantation of tree, Non-installation of STP, Non-installation of Solid waste treatment unit, illegal ground water extraction, illegal operation of DG Sets, construction of one illegal basement damaging ground water level etc., the amount of environmental damage required to be imposed on PP for restoration of this area should be more Rs. 350 Crores and above unapologetic conduct of the PP shows intentional non-compliance towards environmental and PP have adopted careless and reckless practices in

environment protection and PP has not obtained any EC & any consent to Establish and also not availed benefits of EIA 14.03.2017 and kept expanding & operating project without obtaining EC & CTE and operated project without consent to operate. Therefore, PP is liable for imposition of heavy, exemplary & deterrent environment compensation and the contents of the Para-21 (a) to (k) of the Original Application are true and correct.



14.57 I state that, the contents of Para-20 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly false and partly misleading facts by Respondent No. 13 and in reply to the Para-22 (a) to (m) of OA. Further I state that, the Respondent No.13-PP has deep unholy nexus with the City Engineers of PMC Mr. Prashant M. Waghmare and therefore, PP has committed blatant violations in connivance with him and his subordinates. As the MoEF issued EIA notification-2006 mandating prior EC for the building construction having total BUA of 20000 M² and same is acknowledged by city engineer, but PMC officers has not insisted PP to obtain prior EC and neglected

to perform their statutory duties to protect environment and ecology. Moreover, PP has not provided the marginal space as per the DC rule i.e. more 7.5 Mtrs. as the building heights are more than 36 Mtrs., even though the PMC officers has neglect to insist PP to provide the marginal space and allowed to proceed for illegal construction having no access for fire engine around the buildings, not provided the 15% amenity space as stipulated in DC Rules of PMC and also not developed the 10% open space as per the DC Rules, also no adequate plantations at site, also illegal tree cutting without any permission from the concern department. Also the fire engine cannot be reached to the project site as there is no free means of access to the project, also provided false information in Area Statement, it was mandatory to correct area statement but PMC officers have neglected to perform duties as per the norms. Further I state that, as per the modified DC rules of PMC it is mandatory for the project having 150 units and more should install the STP at site, but there is no installation of STP at site. That the PP has not handed over the area of 12 Mtrs

DP road wining, 9 Mtrs. DP Road winding and 15% amenity space to the PMC, but PMC officers have neglected towards this act and caused huge financial loss. Therefore, the PMC officers have committed may illegal acts to provide undue support to the PP and therefore PMC officers including City Engineer of PMC- Mr. Prashant Waghmare are directly responsible for such violations being the head of Building Permission Department and City Engineer of PMC and the contents of the Para-22 (a) to (m) of the Original Application are true and correct.



14.58 I state that, the contents of Para-21 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are admitted facts by Respondent No. 13 and in reply to the Para-23 (a) to (e) of OA. Further I state that, this Original Applicant has sent notice to Respondent No. 13-PP and filed complaint to Respondent Government Authorities vide dated 06.08.2019 inviting their attention to the illegality of Respondent No. 13-PP and for further legal recourse that is to be adopted in case of failure. However, Respondent Authorities have not taken actions as per laws and therefore this Original

Application has been filed after due process of law in very fair manner to protect the environment and ecology and to brought the defaulter before court of law. And it is important to note that, the Respondent No. 13-PP has admitted his violations in fair manner and the contents of the Para-23 (a) to (e) of the Original Application are true and correct.

14.59 I state that, the contents of Para-22 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly admitted and partly misleading facts by Respondent No. 13 and in reply to the Para-24 (a) to (d) of OA. Further I state that, the Respondent No. 13-PP has admitted the violation in fair manner and applied for ex-post facto EC vide its application dated 06.09.2019 under EIA (Violation) Notificaiton-2017 dated 14.03.2017 and only after the notice dated 06.08.2019 by this Original Applicant and after show cause notice vide dated 29.08.2019 by SEIAA and the contents of the Para-24 (a) to (d) of the Original Application are true and correct. It is important to note that the SEAC-III considered the said proposal in 96th meeting, wherein PP remain absent. Further I



state that, the PP himself has admitted the following parameters by suppressing the construction of Royal Privilege phase and disclosed only Prism & Pristine Royal as below;

BRIEF SUMMARY OF PROJECT		
Proposed Residential Project "Prism and Pristine Royal"		
1	Net Plot Area	19980
2	Type of Project	Residential
3	Details of Previous EC	N.A.
4	Location of Project	Survey No. 6/2(Part)+7, Near Spicer college Aundh
5	District	Pune
6	Note on initiated work	Work initiated and completed as per sanction plan vide number CC No. 3099/10 dated 13/12/2010
7	Constructed FSI Area as per sanction plan vide number CC No. 3099/10 dated 13/12/2010 (sqm)	27341.01
8	Constructed Non- FSI Area as per sanction plan vide number CC No. 3099/10 dated 13/12/2010 (sqm)	28521.24
9	Constructed Total Built-up Area as per latest sanction (sqm)	55862.25
10	Proposed FSI Area (sqm)	27341.01
11	Proposed Non-FSI Area (sqm)	28521.24
12	Proposed Total Built-Up Area Area (sqm)	55862.25



13	Total No. of Tenements (Nos.)	309
14	Total No. of Shops (Nos.)	0
15	Total No. of Commercial units (Nos.)	0
16	Total No. of Commercial Users (Nos.)	0
17	Total No. of Residential Users (Nos.)	1545
18	Total Water Requirement (KLD)	242.55
19	Total Sewage Generation (KLD)	187.72
20	Total Proposed STP Capacity (KLD)	200
21	Total Wet Waste Generation (kg/day)	463.5
22	Total Dry Waste Generation (kg/day)	309
23	Total Proposed OWC Capacity (kg/day)	500
24	Estimated E-Waste Generation (kg/day)	2.1
25	Proposed No. of Tree Plantation (Nos.)	250
26	Proposed No. of RWH Pits (Nos.)	10 Nos.
27	Total Demand Load (KW)	1320 KW
28	Total Connected Load (KW)	2400 KW
29	Transformers	630 kVA X 3 Nos
30	DG Sets	160 kVA X 1 No and 125 kVA X 1 No
31	Total Energy Saving Percentage (%)	15%

{Reference ANNEXURE-A-9, Page-151 to 189}

{Reference ANNEXURE-A-10, Page-190}

14.60 Further I state that, the Application for ex-post facto EC is filed after lapse of amnesty period under EIA (Regularisation of Violation Cases) Notification dated 14.03.2017 and therefore, the letter dated 11.11.2019 and 17.10.2020 sent by Respondent No. 13-PP are nothing but meaningless communications of throwing responsibilities upon Respondent Government Authorities and these are very old tactics played by mighty & resourceful entrepreneur in this nation.

14.61 I state that, the contents of Para-23 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are partly false and partly misleading facts by Respondent No. 13 and in reply to the Para-25, 26 & 27 of OA. Further I state that, this Original Applicant is compelled to approach this Hon'ble Tribunal only due to inherent lack of coordination between the local authority/ sanctioning authority, SEAC, SEIAA, DoE and MPCB and this act cannot be neglected for betterment of environment and also this applicant have no any personal interest in the project and also there is no any enmity against the PP or other



respondents in this application and Further this applicant crave leaves of this Hon'ble NGT to amend, add, delete the pleading as and when required. These are mandatory discloser in legal proceeding and following principles of natural justice and the contents of the Para-25, 26 & 27 of the Original Application are true and correct.

**REJOINDER TO THE REPLY OF PP ON THE ISSUE
OF LOCUS STANDI:**

14.62 I state that, the contents of Para-24 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13 and in reply to the Para-28 of OA. Further I state that, there is no boundary to the environment as per the definition of environment provided in Section-2(a) of the Environment (Protection) Act, 1986 and in Section-2(c) of the National Green Tribunal Act, 2010 which includes Water, Air and land as under:

"2(a)/2(c) "Environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and



human beings, other living creatures, plants, microorganism and property;”

14.63 Further I state that, there are no boundaries to the environment, and the interrelationship which exists among and between water, air, and human beings, other living creatures, plants, microorganism and properties matters when we have to interpret any legal right relating to the environment.

14.64 Further I state that, the Applicant is the resident of the Pune city and project under violation is also the within the jurisdiction of the Pune City and both are sharing common environment and social infrastructure and PMC governs a total area of 331.26 Sq. Km.

14.65 However, I state that, the Respondent-11-PP being mighty and resourceful, but acting as an illiterate entity by filing such false, baseless, misleading and misinterpreting reply affidavit, it has become necessary to explain locus of this original applicant.

14.66 Hon'ble Apex court have also observed that, Environmental is best protected by the peoples



themselves in **(1996) 5 SCC 281, Indian Council for
Enviro-Legal Action Vs Union of India & Ors;**

“(47) WITH increasing threat to the environmental degradation taking place in different parts of the country, it may not be possible for any single authority to effectively control the same. Environmental degradation is best protected by the people themselves. In this connection, some of the non- governmental organisations (NGOs) and other environmentalists are doing singular service. Time has perhaps come when the government can usefully draw upon the resources of such NGOs to help and assist in the implementation of the laws relating to protection of the environment.”



14.67 I state that, the Hon'ble Tribunal (PB) in Original Application No. 12 of 2014 (PB) in the matter of **M. C. Mehta Vs UGC & Others** decided on 17.07.2014 on the issue of locus has opined that,

12. This Tribunal is vested with three different jurisdictions. Firstly, it has the original jurisdiction in terms of Section 14 of the NGT Act to deal with all civil cases raising a substantial question relating to environment and where

such questions arise out of the implementation of the enactments specified in Schedule I of the NGT Act. Secondly, it is vested with appellate jurisdiction against the various orders/directions/decisions as stated in Section 16 (a) to (j) of the NGT Act. Thirdly it has a special jurisdiction in terms of Section 15 to grant relief of compensation and restitution as per the scheme contemplated under that provision. Admittedly, the present application has been filed under Section 14 of the NGT Act. Thus, it must plead and raise the following:

- a) It should be a civil case.*
- b) Where a substantial question relating to environment or enforcement of any legal right relating to environment is involved.*
- c) Such question arises out of implementation of enactment specified in Schedule I of the NGT Act.*

13. Once these three ingredients are satisfied, then Section 14 does not appear to place any restriction on the locus or character of the Applicant who wishes to move an application under Section 14 of the Act. Similarly, Section 15 also does not describe the description of an Applicant who can move the Tribunal for seeking reliefs like compensation, restitution of the property and the environment. In



contradistinction thereto, Section 16 restricts the Applicant entitled to file an Appeal to be 'any person aggrieved'. In other words, it is only a person aggrieved who can invoke the jurisdiction of the Tribunal under Section 16 and not any Applicant. Section 18 deals with the procedure which has to be followed by an applicant or appellant, who prefers to file an application or appeal before the Tribunal. It deals with all the three jurisdictions specified under Section 14, 15 and 16 of the NGT Act. However, Section 18 (2) of the NGT Act provides the details in regard to locus and character of an Applicant who is entitled to move the Tribunal by filing an Application for grant of relief or compensation or settlement of dispute. Section 18(2) has been worded by the legislature with wide amplitude besides covering any person aggrieved and the legal representatives of the various categories. In terms of Section 16, it includes various other persons as described under clauses (a) to (d) and (f) of sub-Section 2 of Section 18. The locus and character of an applicant specified under these provisions has to receive liberal construction and would cover variety of applicants. As far as Section 14 (1) of the NGT Act is concerned, the only restriction that



appears to be imposed is that it must satisfy the prerequisites stated in that Section.

14. *It is a settled position of law that the Tribunal must keep in its mind and be guided by the statutory provisions of the Act and it may not be appropriate for the Tribunal to take up the subjects which do not squarely fall within the ambit and scope of its jurisdictional provisions. We may refer to a judgment of the Tribunal in the case of Goa Foundation v. Union of India 2013(1) All India NGT Reporter, New Delhi, 234, where the Court while dealing with some facets of Tribunal's jurisdiction and the manner in which they should be construed, explained the expression 'substantial question relating to environment', 'any person aggrieved' and 'dispute.' The following paragraphs can be usefully reproduced at this stage:*

"23. Similarly, 'substantial question relating to environment' also is an inclusive definition and besides what it means, it also includes what has been specified under Section 2(m) of the NGT Act. Inclusive definitions are not exhaustive. One has to, therefore, give them a very wide meaning to make them as comprehensive as the statute permits on the principle of liberal interpretation. This is the very basis of an inclusive definition.



Substantial, in terms of the Oxford Dictionary of English, is of considerable importance, strongly built or made, large, real and tangible, rather than imaginary. Substantial is actual or real as opposed to trivial, not serious, unimportant, imaginary or something. Substantial is not the same as unsubstantial i.e. just enough to avoid the de minimis principle. In In re Net Books Agreement [1962] 1 WLR 1347, it was explained that, the term 'substantial' is not a term that demands a strictly quantitative or proportional assessment. Substantial can also mean more than reasonable. To put it aptly, a substantial question relating to environment must, therefore, be a question which is debatable, not previously settled and must have a material bearing on the case and its issues relating to environment.

24. Section 2(m) of the NGT Act classifies 'substantial question relating to environment' under different heads and states it to include the cases where there is a direct violation of a specific statutory environmental obligation as a result of which the community at large, other than an individual or group of individuals, is affected or is likely to be affected by the environmental consequences;

or the gravity of damage to the environment or property is substantial; or the damage to public health is broadly measurable. The other kind of cases are where the environmental consequences relate to a specific activity or a point source of pollution. In other words, where there is a direct violation of a statutory duty or obligation which is likely to affect the community, it will be a substantial question relating to environment covered under Section 14(1) providing jurisdiction to the Tribunal. When we talk about the jurisdiction being inclusive, that would mean that a question which is substantial, debatable and relates to environment, would itself be a class of cases that would squarely fall under Section 14(1) of the NGT Act. Thus, disputes must relate to implementation of the enactments specified in Schedule I to the NGT Act.

25. The very significant expression that has been used by the legislature in Section 18 is 'any person aggrieved'. Such a person has a right to appeal to the Tribunal against any order, decision or direction issued by the authority concerned. 'Aggrieved person' in common parlance would be a person who has a legal right or a legal cause of action and is affected by such order, decision or direction.



The word 'aggrieved person' thus cannot be confined within the bounds of a rigid formula. Its scope and meaning depends upon diverse facts and circumstances of each case, nature and extent of the applicant's interest and the nature and extent of prejudice or injury suffered by him. P. Ramanatha Aiyar's The Law Lexicon supra describes this expression as 'when a person is given a right to raise a contest in a certain manner and his contention is negative, he is a person aggrieved' [Ebrahim Aboodbakar v. Custodian General of Evacue Property, AIR 1952 SC 319]. It also explains this expression as 'a person who has got a legal grievance i.e. a person wrongfully deprived of anything to which he is legally entitled to and not merely a person who has suffered some sort of disappointment'.

26. Aggrieved is a person who has suffered a legal grievance, against whom a decision has been pronounced or who has been refused something. This expression is very generic in its meaning and has to be construed with reference to the provisions of a statute and facts of a given case. It is not possible to give a meaning or define this expression with exactitude and precision. The Supreme Court,



in the case of Bar Council of Maharashtra v. M.V. Dabholkar and Others AIR 1976 SC 242 held as under:-

"27. Where a right of appeal to Courts against an administrative or judicial decision is created by statute the right is invariably confined to a person aggrieved or a person who claims to be aggrieved. The meaning of the words "a person aggrieved" may vary according to the context of the statute. One of the meanings is that a person will be held to be aggrieved by a decision if that decision is materially adverse to him. Normally, one is required to establish that one has been denied or deprived of something to which one is legally entitled in order to make one "a person aggrieved." Again a person is aggrieved if a legal burden is imposed on him. The meaning of the words "a person aggrieved" is sometimes given a restricted meaning in certain statutes which provide remedies for the protection of 15 private legal rights. The restricted meaning requires denial or deprivation of legal rights. A more liberal approach is required in the back ground of statutes which do not deal with property rights but deal with professional conduct and morality. The role of the Bar Council under the



Advocates Act is comparable to the role of a guardian in professional ethics. The words "persons aggrieved" in Sections 37 and 38 of the Act are of wide import and should not be subjected to a restricted interpretation of possession or denial of legal rights or burdens or financial interests. The test is whether the words "person aggrieved" include "a person who has a genuine grievance because an order has been made which pre-judicially affects his interests." It has, therefore, to be found out whether the Bar Council has a grievance in respect of an order or decision affecting the professional conduct and etiquette.

28. The pre-eminent question is: what are the interests of the Bar Council? The interests of the Bar Council are the maintenance of standards of professional conduct and etiquette. The Bar Council has no personal or pecuniary interest. The Bar Council has the statutory duty and interest to see that the rules laid down by the Bar Council of India in relation to professional conduct and etiquette are upheld and not violated. The Bar Council acts as the sentinel of professional code of conduct and is vitally interested in the rights



and privileges of the advocates as well as the purity and dignity of the profession.

40. *The point of view stated above rests upon the distinction between the two different capacities of the State Bar Council: an executive capacity, in which it acts as the prosecutor through its Executive Committee, and a quasi-judicial function, which it performs through its Disciplinary Committee. If we can make this distinction, as I think we can, there is no merger between the prosecutor and the Judge here. If one may illustrate from another sphere, when the State itself acts through its executive agencies to prosecute and then through its judicial wing to decide a case, there is no breach of a rule of natural justice. The prosecutor and the Judge could not be said to have the same personality or approach just because both of them represent different aspects or functions of the same State.*

44. *The short question is as to whether the State Bar Council is a 'person aggrieved' within the meaning of Section 38 so that it has locus standi to appeal to this Court against a decision of the Disciplinary Tribunal of the Bar Council of India which, it claims, is*



embarrassingly erroneous and. if left unchallenged, may frustrate the high obligation of maintaining standards of probity and purity and canons of correct professional conduct among the members of the Bar on its rolls.

47. Even in England, so well-known a Parliamentary draftsman as Francis Bennion has recently pleaded in the Manchester Guardian against incomprehensible law forgetting 'that it is fundamentally important in a free society that the law should be readily ascertainable and reasonably clear, and that otherwise it is oppressive and deprives the citizen of one of his basic rights'. It is also needlessly expensive and wasteful. Reed Dickerson, the famous American Draftsman, said: It cost the Government and the public many millions of dollars annually'. The Renton Committee in England, has reported on drafting reform but it is unfortunate that India is unaware of this problem and in a post-Independence statute like the Advocates Act legislators should still get entangled in these drafting mystiques and judges forced to play a linguistic game when the country has an illiterate laity as



consumers of law and the rule of law is basic to our Constitutional order."

27. *In the case of Maharaj Singh v. State of Uttar Pradesh (1977)1 SCC 155, the Supreme Court observed that a legal injury creates a remedial right in the injured person. But the right to a remedy apart, a larger circle of persons can move the court for the protection or defence or enforcement of a civil right or to ward off or claim compensation for a civil wrong, even if they are not proprietarily or personally linked with the cause of action. The nexus between the lis and the plaintiff need not necessarily be personal, although it has to be more than a wayfarer's allergy to an unpalatable episode. Further in the case of Dr. Duryodhan Sahu and Others v. Jitendra Kumar Mishra and Others (1998) 7 SCC 270, the Supreme Court, held that although the meaning of the expression 'person aggrieved' may vary according to the context of the statute and the facts of the case, nevertheless normally, a person aggrieved must be a man who has suffered a legal grievance, a man against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something or wrongfully affected his title to something. In Jasbhai Motibhai Desai v. Roshan Kumar, AIR 1976 SC 578 the Court held that the*



expression 17 'aggrieved person' denotes an elastic, and to an extent, an elusive concept. It stated as follows:

"It cannot be confined within the bounds of a rigid, exact, and comprehensive definition. At best, its features can be described in a broad tentative manner. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of the petitioner's interest, and the nature and extent of the prejudice or injury suffered by him."

14.68 I state that, the Hon'ble Tribunal in **M.A. No. 108/2014 in Appeal No. 9/2014 (WZ)** in the matter of **Anil Tharthare Vs. Secretary DoE & Others** decided on 04.05.2016 on the issue of locus has opined that,

"29. It is now well settled that meaning of word 'aggrieved person' or 'person aggrieved' shall receive very liberal interpretation and shall not be hyper technical to exclude bonafide individual to seek redressal at the hands of



Tribunal to protect environment in the large interest of the society”.

“30. In our opinion, it shall not be interpreted applying acid test or straight formula jacket. The interpretation must be tailor made keeping in mind liberality of legal remedies provided under the provisions of the NGT Act for which enactment has been legislated.”

14.69 I state that, the Original Application is filed for the questions of public importance and significance of environmental jurisprudence, in relation to environmental damage and pollution caused by the PP and consequences of such environmental damage and liabilities of the PP.

14.70 I state that, the person aggrieved and person injured are the different concept and this applicant is not injured but aggrieved due to violation of his legal rights of clean and decent environment as PP is damaging common sharing's like Air, Water, Energy, Building Materials etc.

14.71 I state that, despite there being compliant of applicant to Respondents authorities, but there is no action by



these authorities to protect environment, even after knowledge of violation.

14.72 Further I state that, there is no boundary to the environment and ecology, therefore the boundaries of residences of applicant cannot restrict him from filling the present application as there is blatant violation of the environmental enactments and PP causing irreparable damage to the environment & ecology for his ulterior motive to get financial benefits on account of "Mother Nature" and Respondent authorities have connivance with the PP.

14.73 I state that, the locus standi is not the acid test to be apply strictly and it is well settled principle that the meaning of word 'aggrieved person' or 'person aggrieved' shall receive very liberal interpretation and shall not be hyper technical to exclude bonafide individual to seek redressal at the hands of Tribunal to protect environment in the large interest of the society and this applicant being informer to the court of law have locus to file present application.

14.74 I state that, the locus shall not be interpreted applying acid litmus test or straight jacket formula. The

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interpretation must be tailor made keeping in mind liberality of legal remedies provided under the provisions of the NGT Act for which enactment has been legislated.

14.75 I state that, Applicant is performing his constitutional duties under article 48A, 51A(g) to protect environment and Applicant have shown dare to bring this violation before Hon'ble Tribunal, as the conduct of authorities appointed for protection of environment is against their statutory duties and helping PP to cause pollution.



14.76 I state that, the NGT, Act 2010 specifically states that, "any person aggrieved, including any representative body or organization" and the term any person aggrieved is having the broad implication and definitely not limited its range

14.77 I state that, the Applicant has filed bona fide application and is filed after studying the relevant documents obtained under online search & RTI. Applicant is a Common man and got hurts from this blatant violation of environmental law and

degradation of ecology and non-action of government authorities.

14.78 Further I state that, the Respondent No. 13-PP has admitted his violation and also ready to pay the compensation and made below statement in Para-24 of his Reply Affidavit dated 12.11.2020 at Page-256;

“24.Even them, if SEIAA with the approval of MoEF and CC, GoI, is reafy to deposit whatever cost is imposed for not obtaining prior Environment Clearance. Similarly as per as grant of Consent to Establish and Operate, after necessary legal orders as to whether it can be retrospectively obtained, the respondent no. 13 is ready to comply with it. The respondent no. 13 is ready to comply with whatever additional environmental conditions imposed subject to specific conditions of the societies to whom completed premises are handed over or to deposit the amount of expenditure to be incurred on such compliance of conditions with those societies, which can be directed to comply with.”

14.79 Therefore, I state that, the Applicant is vigilant citizen performing his constitutional duties promptly & diligently to protect environment & having legal right

to enforce the environmental enactments to protect the common sharing of natural resources and therefore applicant is an aggrieved person and applicant have locus to file present application and the contents of the Para-28 of the Original Application are true and correct.

**REJOINDER TO THE REPLY OF PP ON THE ISSUE
OF JURISDICTION OF THIS HON'BLE TRIBUNAL**

14.80 I state that, the contents of Para-25 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false, baseless and partly misleading facts by Respondent No. 13 and in reply to the Para-29 of OA. Further I state that, the the present application is filed under section 15, 18 and 20 of the NGT Act-2010 challenging violations of environment enactments r/w the EIA Notification-2006 issued under the Environment Protection Act-1986 and other Schedule-I Acts and from plain reading of the application and it self clears that the, original application is filed for the non-compliance of not obtaining EC, Consent to establish and consent to



operate and further it is submitted that, as these mandatory permissions to be obtained under the Environment (Protection) Act-1986, Air (P&CP) Act-1981, Water (P&CP) Act-1974. Further I state that, the applicant resides and the respondents have their area of operations within the jurisdiction of this Hon'ble Tribunal and the project under challenge is located within the jurisdiction of this Hon'ble Tribunal and therefore this Hon'ble Tribunal has jurisdiction to try and entertain present application.

14.81 I state that, the Application is filed under Section-15, 18 and 20 with principal prayer in this application is for restitution, restoration and environment compensation. It is to be noted that, the Applications under Section-15 and 20 having larger scope than Section-14 and such application under section-15 & 20 are inequitable to the PIL. Further it is submitted that, the misrepresentation of PP on account of narrowing the scope of Section-15 & 20 is baseless. Legislature have given wide connotation to the protection of the common environment than personal disputes and for that purposes legislature have



empowered Hon'ble NGT with special jurisdiction under the section 15 & 20 under the NGT Act.

14.82 I state that, the despite the clear & interchangeable interpretation of Section-14, 15, 18 and 20, PP is creating jugglery of words and trying to take away the cause of effective and expeditious environmental justice. In fact, Joint Committee have exposed the PP and confirming the violations, PP is going for lame attempts of these preliminary objections of limitation, cause of action, plural remedies, Locus, Jurisdiction etc.

14.83 I state that, the Section-15 reads as;

"(1) The Tribunal may, by an order, provide, -

(a).....

(b) for restitution of the property damaged

(c) for restitution of the environment for such area or areas, as the tribunal may think fit."

14.84 I state that, there is no environment clearance, no consents and no other permissions have obtained by PP, therefore the threshold limit to emit any pollutant from this project is zero, but PP have carried out the construction of project by increasing capacity from 0 M² to **66335.99** M² comprising 9 residential building,



405 flats without scientific installation & operation of pollution control devices and infrastructure as noted by Joint Committee in their report and cause damage to the Air, Water and natural sources and further in operations generation of sewage water, solid waste, electricity consumption and these adverse impact are not required to disclose, however PP is mighty and resourceful entity and knowledgeable experts at service. Even though such replies by PP are filed to circumvent the admitted position by creating nuisance in view to prolong the proceeding by knocking the doors of politicians having access to power corridors.

14.85 I state that, the every clause (a), (b) and (c) of subsection (1) of Section-15 have separate interpretation and provide relief in isolation, but PP intentionally misleading on collective reading of clauses in subsection. Further I state that, the prayers and reliefs sought in the original application are to provide the restitution of environment and ecology damaged at the hands of PP and Original Applicant have made out the good case and also PP has been exposed to his

maneuvered activity. It is important to note that, the Section 15 (1) (b) & (c) clearly provide the larger jurisdiction to the individuals or organizations fighting for the public cause having larger interest of society to protect the public property, Public health and Common environment.

14.86 I state that, the entire pleadings of the application must be considered for reaching the conclusion and pleadings should not read in isolations. Therefore, the issued and allegations raised in the application will not affect by the narrow view of PP to connect the application under Section-14. Application have brought the question of public importance and affecting the society at large. Moreover the PP has committed the illegal activities increasing lawless society, therefore the contentions of PP on account of narrowing application scope under Section-14 are null and void

14.87 I state that, the in present case the damage to the common environment shared by the Applicant and other citizens of Pune City is getting damaged day to day due to raise in illegal constructions and social



infrastructure, supply of Natural resource like fresh water is at shortage due to drastic increased in demand from the illegal construction having no accountability of natural resources at the appraisal and assessment. Therefore it cannot be said that the decent life of applicant & other citizens having right to good environment is not victimized from this project. I state that, the application have given importance to the common environment than individuals as the entire Pune city is facing the problem of fresh water cut down, Electricity cut down, Garbage disposals, sewage disposal, huge traffic congestions and this project have added its negative impact to all these parameters leading to environmental degradation, which cannot be denied. Therefore very wide range of provisions of Section-15 and Section-20 of the Application cannot be made put in circumference of PPs narrow mind set.

14.88 Further I state that, the PP is acting as detector to the Hon'ble Tribunal and to the legislature and alleging that the present application for restitution, restoration and compensation of environmental

damage is to be filed under Section 14, which is beyond the limitation period and application is made under Section 15 is not maintainable. Basically such false and misleading reply is filed by the PP due to frustration of getting exposed for his intentional blatant violation and such types of replies are filed by only unapologetic polluters.

14.89 I state that, the applicant have no any vested interest in the project and this application is inequitable of social importance litigation and this applicant being the informer to the court of law and have right to inform all the possible true facts related to the project to the Court in view to deliver the final verdict. This applicant cannot suppress anything from the court of law like PP and PMC.

14.90 Therefore, the Hon'ble NGT have clear cut jurisdiction to entertain the application with respect to grant of prayers made under the NGT Act and pointing out the violation of Schedule-I Acts and the contents of the Para-25, 26 & 27 of the Original Application are true and correct.



**REJOINDER TO THE REPLY OF PP ON THE ISSUE
OF CAUSE OF ACTION AND LIMITATION:**

14.91 I state that, the Respondent No.13-PP have not specifically rebutted the contents of Para-30 & 31 of OA by way of his reply affidavit dated 12.11.2020. Further I state that, the contents of the Para-30 & 31 of the Original Application are true and correct.

14.92 I state that, the contents of Para-26 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false and misleading facts by Respondent No. 13 and in reply to the Para-31 of OA. Further I state that, the the Respondent No. 13-PP have claimed the benefits of EIA Notification dated 14.03.2017 issued by MoEF & CC for regularisation of violations cases. Actually, this notification was only for six month window and thereafter One month time was extended by Hon'ble Madras High Court and thereafter it has become ineffective in the month of April, 2018 and this Respondent No. 13-PP has applied on 06.09.2019 after 16 months of lapse of amnesty period of this Notification. Moreover, this Hon'ble Tribunal has no powers to issue directions to consider the proposal

under this ineffective or dead notification. Further I state that, the procedures laid down in this notification dated 14.03.2017 cannot be implemented to nullify the effect of NGT Act, 2010. I state that, the central government has enacted the NGT Act, 2010 as special & beneficial statute and its provisions cannot be replaced with dead notification going beyond the powers.

14.93 I state that, the Respondent No. 13-PP have claimed the dismissal of this Original Application on account on account of filing of Original application after the expiry of limitation period of 6 months. It is important to note here that, the Respondent No. 13-PP has not specifically disclosed any date from which this 6 month period has to be considered for limitation. Further I state that, the on the basis of vague pleadings of the Respondent No. 13-PP, no heads shall be provided to such issues. Therefore, Original Application is filed under section-15 of the NGT Act, 2010 and same is well within the time limit of 5 years from the date of cause of action arose for first time on



03.01.2018 as specifically pleaded in Para-30 & 31 of the Original Application.

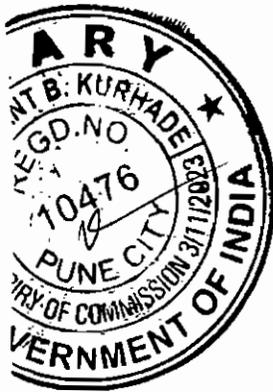
14.94 Further I state that, the cause of action is bundle of actions, therefore entire pleadings of the original application shall be considered and the PP has made the changes in the capacity or modification in the project layout by carrying out subsequent amendments in sanction plans of PMC till 03.01.2018 and these sanction given rise to the cause of action, as there is change in the previous sanction, in fact there is increase in capacity of the project and all these sanctions become the first cause of action by making the previous sanction ineffective, null & void and PP have not obtained EC, despite there was clear cut condition no. 19 imposed in sanction vide its commencement certificate No. CC/2554/2017 dated 03.01.2018, mandating prior environment clearance and consent from MPCB.

14.95 Further I state that PP has increased the project capacity by 0 M² to **66335.99** M² from 18.03.2006 to 03.01.2018 comprising 9 residential building, 405 flats without scientific installation & operation of

pollution control devices and infrastructure as noted by Joint Committee in their report, civil construction activity is the recurring process and it is nothing but recurring cause of action for building construction activity and this applicant has obtained the information through online search and under RTI Act on 05.08.2019 and thereafter sent the legal notice through Adv. Nitin Lonkar on 06.08.2019 to respondents inviting their attention towards the violations committed by PP.

14.96 Further I state that, the cause of action first arose to file this application is on 03.01.2018 when PMC imposed condition No. 19 on Respondent No. 13-PP mandating to obtain the EC and Consent from MPCB, but PP did not obtained EC and Consents and proceeded in construction crossing BUA limit of 20,000 M².

14.97 Further I state that, the the present application is filed under section 15, 18 and 20 of the NGT Act, 2010 and there is limitation 5 years from the cause of action first arose and Principal prayer of the applicant is for restoration and restitution of the site to its original



position and the present applicant has raised substantial questions relating to environment and this application is filed within five years from cause of action first arose on 03.01.2018, when PP exhausted its BUA threshold limit of 20,000 Sq. Mtrs. and pointed out by PMC and its triggered cause of action.

14.98 Further I state that, the respondents have not rebutted the factum of Non-obtaining prior EC despite the construction was going to cross limit of 20,000 M² as per the condition No. 20 of sanctioned plan CC/2554/2017 dated 03.01.2018 and this is the date on which PMC imposed condition due to their observations of heavy burden on environment & ecology. Therefore, the present application is filed within 5 years from 03.01.2018 and thus the application filed is within the prescribed period of limitation. However, there is additional affidavit dated 03.03.2021 filed by the Respondent No. 13-PP challenging the issue of limitation which is replied in details in below paragraphs and therefore, the contents of the Para-31 of the Original Application are true and correct.

14.99 I state that, the contents of Para-27 of reply affidavit filed by Respondent No.13-PP dated 12.11.2020 are admitted facts by Respondent No. 13 and in reply to the Para-32 of OA. Further I state that, the Respondent No. 13-PP has admitted his violation and also ready to pay the environmental compensation and directions given by this Tribunal. Therefore, without any delay OA shall be allowed with directions as prayed in OA and therefore, the contents of the Para-32 of the Original Application are true and correct.

15. PART-D: PARA WISE REJOINDER TO ADDITIONAL REPLY AFFIDAVIT OF RESPONDENT NO. 13-PP VIDE DATED: 03.03.2020

I have read the reply affidavit filed on behalf of Respondent No. 13-PP (M/s. Padmavati Associates) dated 03.03.2020 in reply thereto, I state as under:

15.1 At the outset, I state that, the contents of additional affidavit filed by Respondent No.13-PP dated 12.11.2020 are totally false, baseless, misleading, misconceived, frivolous, vexatious, neither bonafide



nor true and same are denied by this Applicant in totality.

15.2 Further I state that, the Respondent No. 13-PP has objected the limitation for filing of OA on account of project is completed prior to 5 years of filing of this OA and sought dismissal of OA. This Applicant has already provided detailed analysis in Para-8 of this Rejoinder for "important dates and events" dealing with limitation issue and Applicant is relying on the same para to answer this additional reply affidavit.

15.3 I state that, the contents of Para-1 of reply affidavit filed by Respondent No.13-PP dated 03.03.2021 are partly false and misleading facts by Respondent No. 13 and in reply to the issue of limitation pleaded in OA. Further I state that, the Respondent No. 13-PP is misleading and Hon'ble Tribunal has not considered the issue of the preliminary objection raised by him on account of OA barred by the limitation provided under section 14 and 15 of the NGT Act, 2010. I state that, the Original Application is filed on 29.06.2020 under section 15 of the NGT Act, 2010 within the stipulated time limit of 5 years from 03.01.2018 as per

the condition No. 19 imposed by the PMC in their commencement certificate on that date and application is not filed under section 14 of the NGT Act, 2010 and therefore limitation of 6 (Six) month will not attract.

15.4 I state that, the contents of Para-2 & 3 of reply affidavit filed by Respondent No.13-PP dated 03.03.2021 are partly false and misleading facts by Respondent No. 13 and in reply to the issue of limitation pleaded in OA. Further I state that, the Respondent No. 13-PP has himself admitted that the construction has been carried out in stage wise and also various buildings has received completion in stage wise manner as issued by the PMC time to time. It means, Respondent No. 13-PP has not carried out the entire construction within one day on the vary same day of grant of commencement certificate and sanctions from PMC and therefore, the limitation will not be counted from the day of grant of sanction or commencement of occupancy or completion and it shall be considered from the full load operations exploding the environment. On the other hand,



permission phase, construction phase and operational phase of the project needs to be taken into consideration. Further I state that, the completion certificates are not issued 5 year prior to filing of this application on 29.06.2020 and project is not completed prior to five year of filing of this original application. Further I state that, the Architect Certificates of PP vide dated 05.05.2015 and 26.11.2020 are not disclosing the stage wise completion of project and it only states that, 100% construction was completed on 13.07.2015 at the time of obtaining occupancy certificate. Further I state that, the Respondent No. 13-PP has stated that the 80% project is completed in 2011 and remaining 20% project is completed on 13.07.2015. In fact, Respondent No. 13-PP is diligently calculated of percentage completion of project and putting his efforts to get escape, but very negligent & careless to obtain the EC & Consents on time. However, I state that the Respondent No. 13-PP has admitted that the project construction is carried out in stage wise manner expanding & increasing the capacity to

66335.99 M² and it is not completed in one day to count down the running of limitation from 9 years back occupancy. Therefore, PMC has imposed the condition in their Commencement Certificate for obtaining EC, when they noticed or observed the exploitation of environment and burden on natural resources by PP due to non-assessment and non-appraisal and mandated to obtain EC & Consents from competent authority.



15.5 I state that, the contents of Para-4 & 5 of reply affidavit filed by Respondent No.13-PP dated 03.03.2021 are partly false and misleading facts by Respondent No. 13 and in reply to the issue of limitation pleaded in OA. Further I state that, the Respondent No. 13-PP has himself admitting that the vide proposal dated 07.10.2017 obtained the commencement certificate dated 03.01.2018 for splitting of Flat No. 502 (3617 Sq. Fts) into 502 (1772 Sq. Fts) & 502A (1845 Sq. Fts.) from C1 buildings without any change into TBA of project for which occupancy is obtained on 13.07.2015 for entire project and also it is clear that, the PP has increased

occupancy load on project gradually after 13.07.2015 to up till 03.01.2018 by increase in consumption of water, energy, generation of solid waste & waste water and PP has not provided full load occupancy on 13.07.2015 itself. It means PP is relying on the date 13.07.2015 for counting of the limitation and cause of action.

15.6 I state that, the contents of Para-6 of reply affidavit filed by Respondent No.13-PP dated 03.03.2021 are totally false and misleading facts by Respondent No. 13 and in reply to the issue of limitation pleaded in OA. Further I state that, the Original Application is filed under section 15 of NGT Act, 2010 and Application is well within the limitation of 5 years from the date of cause of action first arose on 03.01.2018. However, Respondent No. 13-PP is relying on 13.07.2015 on the dated of 100% completions of project construction. In this respect, I state that the Respondent No. 13-PP is admitted that the construction of project has commenced with grant of commencement certificate vide dated 18.03.2006 and project work is finally completed on 13.07.2015 after

11 number of revision followed by last revision on 08.04.2015 for expansion of building C1 & C2 with splitting of Flat No. 502 in C1 building vide sanction dated 03.01.2018.

15.7 I state that, the Hon'ble Supreme Court of India has exempted the period of limitation vide its Order dated 23.03.2020 passed in Suo Motu Writ Petition (Civil) No. 3/2020 w. e. f. 15.03.2020 to 14.03.2021 on account of Covid Pandemic and



15.8 I state that, the Respondent No. 13-PP has relied on 100% completion of project date 13.07.2015 for the cause of action and five years from this date is 12.07.2020 and Original Application is filed on 29.06.2020. Therefore, the Original Application is filed well within time of 5 years.

15.9 I state that, the worst case of Respondent No. 13-PP is that the expansion of project for C1 & C2 building for remaining 20% construction is commenced by Commencement Certificate vide dated 08.04.2015 for the cause of action and five years from this date are coming on 07.04.2020 during the exempted period of limitation from 15.03.2020 to 14.03.2021 by Hon'ble

Supreme Court vide above order and Original Application is filed on 29.06.2020. Therefore, the Original Application is filed well within time of 5 years.

15.10 However, the Respondent No. 9-PMC has imposed the condition in its commencement certificates vide dated 03.01.2018 will be the triggered cause of action as the Respondent No. 9 will be able to explain the reason behind imposition of this condition. Moreover, the question of limitation does not arise in the case of projects having no environment clearance and no consents. Also, the gradually increase in load & exploitation of natural resources due to such operations cannot be overlooked and day of full potential operations also need to be considered. Which is also between the period of 13.07.2015 to 03.01.2018 till splitting of flats.

15.11 Further I state that, the Original Applicant has filed complaint on 06.08.2019 and thereafter Respondent No. 2 & 3 have issued show cause notice dated 29.08.2019 and final direction vide dated 16.11.2019. Thereafter, Respondent No. 9 & 10-PMC have also issued directions dated 13.12.2019 and Respondent

No. 7-RO-MPCB has issued proposed directions vide dated 03.03.2020 before filing of the Original Application and these actions are the cause of action that cannot be overlooked.

15.12 Therefore, I state that the preliminary objections raised by the Respondent No. 13-PP on accounts of Locus, Limitation and maintainability of Original Applications are false, baseless and misleading with jugglery of words to get escape from the liability of compliance of environmental norms on part of Respondent No. 13-PP. And Original Application is well within the limitation, maintainable and Original Applicant have locus to file the same.



15.13 I state that, the Original Applicant submits that in case of "cause of action first arose" has completely a distinct and different role while computing the period of limitation. Whenever subsequent act or subsequent breach is complete cause in itself and its consequences are different, then such cause of action would enable an applicant to bring action before this Hon`ble Tribunal on strength of subsequent cause of action. Therefore, violation claimed by the original

applicant in this application relates to exploitation of natural resources due to illegal consumptions without any appraisal and assessment of environment parameters due to absence of prior environment clearance and consents, which is without taking prior environmental permissions or for that matter any permission from any Government authorities is an independent cause of action, therefore, limitation would have to be counted from each illegal act, moreover question of limitation does not arises, if no requisite permissions are obtained to undertake the compliance of measures to be taken and it is therefore further submitted that, the contentions raised by applicant essentially an environmental dispute which related to one of the scheduled acts of National Green Tribunal Act, 2010 and therefore, application is not barred by time and its perfectly within the limitation particularly when this Hon`ble Tribunal has now been reported by the authorities about said violations. That further, as per Section 20 of the Act this Hon`ble Tribunal has vide power and jurisdiction to deal with the issue in hand. The principles of sustainable



development, precautionary principle and polluter pays, propounded by this Hon`ble Tribunal by way of multiple judicial pronouncements, have now been embedded as a bedrock of environmental jurisprudence under the NGT Act. Therefore, wherever the environment and ecology are being compromised and jeopardized, this Hon`ble Tribunal can apply Section 20 for taking restorative measures in the interest of the environment. That this Hon`ble Tribunal in the matter of "Forward Foundation, A Charitable Trust and Ors. Vs. State of Karnataka and Ors. (OA No. 222/2014) Judgement dated 7th May, 2015", reported in 2015 SCC Online NGT 5 in dealing with the issue of limitation and cause of action has specifically held as follows-



"24. The expression 'cause of action' as normally understood in civil jurisprudence has to be examined with some distinction, while construing it in relation to the provisions of the NGT Act. Such 'cause of action' should essentially have nexus with the matters relating to environment. It should raise a substantial question of environment relating to the implementation of the statutes specified in Schedule I of the NGT Act. A 'cause of

action' might arise during the chain of events, in establishment of a project but would not be construed as a 'cause of action' under the provisions of the Section 14 of the NGT Act, 2010 unless it has a direct nexus to environment or it gives rise to a substantial environmental dispute. For example, acquisition of land simplicitor or issuance of notification under the provisions of the land acquisition laws, would not be an event that would trigger the period of limitation under the provisions of the NGT Act, 'being cause of action first arose'. A dispute giving rise to a 'cause of action' must essentially be an environmental dispute and should relate to either one or more of the Acts stated in Schedule I to the NGT Act, 2010. If such dispute leading to 'cause of action' is alien to the question of environment or does not raise substantial question relating of environment, it would be incapable of triggering prescribed period of limitation under the NGT Act, 2010. [Ref: *Liverpool and London S.P. and I Asson. Ltd. v. M.V. Sea Success I and Anr.*, (2004) 9 SCC 512, *J. Mehta v. Union of India*, 2013 ALL (I) NGT REPORTER (2) Delhi, 106, *Kehar Singh v. State of Haryana*, 2013 ALL (I) NGT REPORTER (DELHI) 556, *Goa Foundation v. Union of India*, 2013 ALL (I) NGT REPORTER DELHI 234].

25. In contradistinction to 'cause of action first arose', there could be 'continuing cause of action',

'recurring cause of action' or 'successive cause of action'. These diverse connotations with reference to cause of action are not synonymous. They certainly have a distinct and different meaning in law, 'Cause of action first arose' would refer to a definite point of time when requisite ingredients constituting that 'cause of action' were complete, providing applicant right to invoke the jurisdiction of the Court or the Tribunal. The 'Right to Sue' or 'right to take action' would be subsequent to an accrual of such right. The concept of continuing wrong which would be the foundation of continuous cause of action has been accepted by the Hon'ble Supreme Court in the case of *Bal Krishna Savalram Pujari & Ors. v. Sh. Dayaneshwar Maharaj Sansthan & Ors.*, AIR 1959 SC 798.



15.14 Further I state that, the **Forward Foundation** judgement was challenged before the Hon'ble Supreme Court in the matter of **Mantri Technoze Pvt. Ltd. Vs. Forward Foundation, Civil Appeal No. 5016/2016 reported in (2019) 18 SCC 494** has specifically held vide judgement dated 5th March, 2019 and has confirmed the said judgement of Forward Foundation and even the Review petition of

the same has been dismissed vide order dated 06/08/2019 and has thus become final and binding.

“In fact, in the original application before the Tribunal there was no mention of the provision under which it was being filed. It is well settled principal of law that non-mention of or erroneous mention of the provision of law would not be of any relevance, if the Court had the requisite jurisdiction to pass an order. It would be mere irregularity and would not vitiate the application or the judicial order of the Tribunal”

“The NGT Act being a beneficial legislation, the power bestowed upon the Tribunal would not be read narrowly. An interpretation which furthers the interests of environment must be given a broader reading. (See Kishore Lal v. Chairman, Employees' State Insurance Corpn. (2007) 4 SCC 579, para 17). The existence of the Tribunal without its broad restorative powers under Section 15(1)(c) read with Section 20 of the Act, would render it ineffective and toothless, and shall betray the legislative intent in setting up a specialized Tribunal specifically to address environmental concerns. The Tribunal, specially constituted with Judicial Members as well as with Experts in the field of environment, has a legal obligation to provide for preventive and restorative measures in the interest of the environment”



“The Tribunal has also jurisdiction under Section 15(1)(a) of the Act to provide relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule I. Further, under Section 15(1)(b) and 15(1)(c) the Tribunal can provide for restitution of property damaged and for restitution of the environment for such area or areas as the Tribunal may think fit. It is noteworthy that Section 15(1)(b) & (c) have not been made relatable to Schedule I enactments of the Act. Rightly so, this grants a glimpse into the wide range of powers that the Tribunal has been cloaked with respect to restoration of the environment.”

“Section 15(1)(c) of the Act is an entire island of power and jurisdiction read with Section 20 of the Act. The principles of sustainable development, precautionary principle and polluter pays, propounded by this Court by way of multiple judicial pronouncements, have now been embedded as a bedrock of environmental jurisprudence under the NGT Act. Therefore, wherever the environment and ecology are being compromised and jeopardized, the Tribunal can apply Section 20 for taking restorative measures in the interest of the environment.”



15.15 I state that, it is necessary to consider the fact situation in the present case as found pleaded in the application and as revealed from the record. In the instant case it is not violations of law alone which have given rise to the present *lis* but the fallout of those acts as stated in the application in terms of damage to the environment that constitutes the cause of action. Needless to state that the cause of action is a bundle of facts and not a single fact alone. For a person to be aggrieved in real sense, it is necessary that there exist circumstances manifesting the adverse impacts of the acts detrimental to the environment i.e. damage to the environment. Furthermore, the "cause of action" has to be complete in case of an application for restitution of the environment under Section 15 of the National Green Tribunal Act, 2010. The composite set of facts necessary to culminate into the cause of action must so combine as to present all the ingredients necessary for invoking the said provision. The restitution of environment presupposes environmental damage and as observed hereinbefore environmental damage is what prompts the present action alone. For a person



to be aggrieved in real sense, it is necessary that there exist circumstances manifesting the adverse impacts of the acts detrimental to the environment i.e. damage to the environment.

15.16 Furthermore, the “cause of action” has to be complete in case of an application for restitution of the environment under Section 15 of the National Green Tribunal Act, 2010. The composite set of facts necessary to culminate into the cause of action must so combine as to present all the ingredients necessary for invoking the said provision. The restitution of environment presupposes environmental damage and as observed hereinbefore environmental damage is what prompts the present action.

15.17 There can be cases wherein the environmental damage may not be perceptible due to assimilative and regenerative character of the nature but when it comes to light due to either increase in anthropogenic pressure of development exceeding the nature’s potential or exhaustion of nature’s potential to assimilate and regenerate herself any person aggrieved thereby is furnished with the cause of action



for taking action against such wrong or injury to his legal right to clean environment. It is in this context the "Discovery Rule" evolved by the Courts in United States in case of Morgan Vs Grace Hospital Inc. 149 W.VA.783, 144 S.E. 2d 156 and adopted by Hon'ble Apex Court in Dr. V.N. Shrikhande case [AIR 2011 SC 212; Dr. V.N. Shrikhande Vs. Mrs. Anita Sena Fernandes] become relevant. The Hon'ble Apex Court while dealing with the issue of limitation in a case of medical negligence held:

"In case of Medical Negligence "Cause of action" does not accrue until the patient learns of injury/harm or in the exercise of reasonable care and diligence could have discovered the act constituting negligence."

15.18 A person/patient may suffer legal injury due to the medical negligence when actually the negligence occurs. However, the cause of action, the Hon'ble Apex Court held does not accrue until the patient learns of harm/injury caused by such negligence in order to discover the act constituting negligence. Occurrence of harm caused to the environment is analogous to the harm caused on account of a medical negligence in a

sense that it is a species for Tort like medical negligence and it could become perceptible only upon unfolding of future events. In the instant case, the cumulative effect of various illegalities or infractions of law including those of the enactments specified in Schedule-1 of the National Green Tribunal Act, 2010 became evident when the condition in PMC commencement certificate dated 03.01.2018 is imposed, SEIAA & PS-DOE issued show cause notice dated 29.08.2019 and directions issued vide dated 16.11.2019, PMC issued directions dated 13.12.2019, MPCB issued direction dated 03.03.2020, Joint Committee Report dated 20.08.2020 and MPCB final direction dated 25.08.2020 and Para-10 to 13 of Original Application are facts leading to the project under challenge and Para-14 to 21 of Original Application are leading for filing of this Application pointing out specific damage to the environment and ecology. The Applicant with the facts and figures collated by him has also specifically pleaded the case of undue burden on the resources and eco-system due to generation of waste water and solid waste beyond



the limit stipulated in Consent to Establish at paragraph No.14 to 21 of the application.

15.19 I state that, the preliminary objections raised by Respondent No. 13-PP vide its additional affidavit dated 03.03.2021 are afterthought and are raised just to create the nuisance and hurdles for smooth proceedings and further create delay. Basically, Respondent No. 13-PP himself admitted the entire violations in totality by filing post-facto environment clearance application dated 06.09.2019.

15.20 I state that, the Respondent No. 13-PP as well as joint Committee have admitted that the project does not holds any Environment Clearance and Consents. Therefore, illegal is always illegal and question of limitation does not arise at all.

15.21 I state that, the practices adopted and stand by the Respondent No. 13-PP are contrary to each other and such recourse should not be allowed in admitted cases of violations.

15.22 I state that, the Respondent No. 13-PP failed to disclose the exact date of cause of action that first arose and PP has just made bald & uncertain stands

on limitation in his additional affidavit dated 03.03.2021. Therefore, Respondent No. 13-PP failed to make out his case on the issue of limitation without specific date or incident pointing out the cause of action that first arose showing the OA is barred by limitation and tentatively relating the cause of action with dates 08.04.2015 & 13.07.2015.

15.23 I state that, the Original Application is not the application simpliciter for violation of law alone but it is specifically dealing with the environmental damage cause due to this illegal construction of project and substantial adverse impact on environment.



15.24 I state that, the Respondent No. 13-PP has filed proposal vide dated 07.10.2017 and obtained Commencement Certificate on 03.01.2018 from PMC, wherein PMC has imposed condition no. 19 on PP for obtaining Environment Clearance. Therefore, Original Applicant has relied on this Commencement Certificate vide dated 03.01.2018 which is issued with respect to the proposal dated 07.10.2017 and accordingly Applicant has pleaded the cause of action

in Para-30 at Page-42 of OA is 03.01.2018 and not 07.10.2017.

15.25 I state that, the Architect Certificate vide dated 26.11.2020 produced by Respondent No. 13-PP states that the revised sanction plan Vide CC/2554/17, Dated: 03/01/2018 is without any additional construction only for internal changes done in building C1 after obtaining Occupancy certificate Dated: 13/07/2015 from Pune Municipal Corporation. 100 % construction is completed on 13/07/2015 at the time of obtaining occupancy certificate. **{Page: 404}**

15.26 I state that, the Respondent No. 13-PP has not carried out the entire construction within one day on the very same day of grant of commencement certificate and sanctions from PMC and therefore, the limitation will not be counted from the day of grant of sanction or commencement of occupancy or completion and it shall be considered from the full load operations exploding the environment. On the other hand, permission phase, construction phase and

operational phase of the project needs to be taken into consideration.

15.27 I state that, the Respondent No. 13-PP himself admits that, the construction has been carried out in step by step manner from 18.03.2006 to up till 13.07.2015 with TBA from **0 M²** to **66335.99 M²** and thereafter the operations of project are also under taken in step by step manner and therefore there is gradual increase in the capacity of project and it is not completed in one day to count down the running of limitation from 9 years back occupancy. Therefore, PMC has imposed the condition in their Commencement Certificate for obtaining EC, when they noticed or observed the exploitation of environment and burden on natural resources by PP due to non-assessment and non-appraisal and mandated to obtain EC & Consents from competent authority



15.28 I state that, the Joint Committee in reply at Para-15 in the table has pointed out that "The PP has also developed the green area between the river and the D. P. road that passes through the plot." In actual

Committee has suppressed the illegal covered construction raised by PP on said plot after 13.07.2015 increasing Total BUA of the project by constructing covered structures.

15.29 Therefore I state that, the Original Applicant therefore submits that the issue of Locus, limitation and cause of action is well settled by this Hon'ble Tribunal as well as Hon'ble Supreme Court of India in the matters mentioned supra and same is favouring this Original Applicant .

16. ORIGINAL APPLICANT IS RELYING ON FOLLOWING CITATIONS FOR ENVIRONMENTAL DAMAGE AND COMPENSATION:

16.1 I state that, this is the worst case of environmental damage therefore PP has crossed the principles laid down by the Hon'ble Supreme Court of India and Hon'ble NGT in various case and PP should be charged with very exemplary damages to have deterrent effect on him.

16.2 In M. C. Mehta and Ors. Vs Union of India, (1987) 1 SCC 395, Hon'ble Supreme Court Observed that;

"32. We would also like to point out that the measure of compensation in the kind of cases referred to in the preceding paragraph must be correlated to the magnitude and capacity of the enterprise because such compensation must have a deterrent effect. The larger and more prosperous the enterprise, greater must be the amount of compensation payable by it for the harm caused on account of an accident in the carrying on of the hazardous or inherently dangerous activity by the enterprise".

16.3 In Vellore Citizens Welfare Forum Vs. Union Of India & Ors (1996) 5 SCC 647, Hon'ble Supreme Court Observed that;

"(11) SOME of the salient principles of "Sustainable Development", as culled out from Brundtland Report and other international documents, are Inter-Generational Equity, Use and Conservation of Natural Resources, Environmental Protection, the Precautionary Principle, Polluter Pays Principle, Obligation to Assist and Cooperate, Eradication of Poverty and Financial Assistance to the developing countries. We are, however, of the view that "The Precautionary Principle" and "The Polluter Pays Principle" are essential features of



"Sustainable Development". The "Precautionary Principle" - in the context of the municipal law - means:

(I) Environmental measures - by the State government and the statutory authorities - must anticipate, prevent and attack the causes of environmental degradation.

(II) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(III) The "onus of proof is on the actor or the developer/industrialist to show that his action is environmentally benign.

(12) **"THE Polluter Pays Principle"** has been held to be a sound principle by this court in *Indian Council for Enviro-legal Action v. Union of India*. The court observed "... we are of the opinion that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country".

THE court ruled that

"... once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity



irrespective of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on".

CONSEQUENTLY *the polluting industries are "absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas". The "Polluter Pays Principle" as interpreted by this court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.*

(13) *THE Precautionary Principle and the Polluter Pays Principle have been accepted as part of the law of the land. Article 21 of the Constitution of India guarantees protection of life and personal liberty. Articles 47, 48-A and 51-A(g) of the Constitution are as under:*



"47. *Duty of the State to raise the level of nutrition and the standard of living and to improve public health.-The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.*

48-A. *Protection and improvement of environment and safeguarding of forests and wildlife.-*

The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.

51-A.(g) *to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures."*

Apart from the constitutional mandate to protect and improve the environment there are plenty of post-independence legislations on the subject but more relevant enactments for our purpose are: the Water (Prevention and Control of Pollution) Act, 1974 (the Water Act), the Air (Prevention and Control of Pollution) Act, 1981



(the Air Act) and the Environment (Protection) Act, 1986 (the Environment Act). The Water Act provides for the constitution of the central Pollution Control Board by the central government and the constitution of the State Pollution Control Boards by various State governments in the country. The Boards function under the control of the governments concerned. The Water Act prohibits the use of streams and wells for disposal of polluting matters. It also provides for restrictions on outlets and discharge of effluents without obtaining consent from the Board. Prosecution and penalties have been provided which include sentence of imprisonment. The Air Act provides that the central Pollution Control Board and the State Pollution Control Boards constituted under the Water Act shall also perform the powers and functions under the Air Act. The main function of the Boards, under the Air Act, is to improve the quality of the air and to prevent, control and abate air pollution in the country. We shall deal with the Environment Act in the latter part of this judgment.

(14) IN view of the above-mentioned constitutional and statutory provisions we have no hesitation in holding that the Precautionary Principle and the Polluter Pays Principle are part of the environmental law of the country.



(15) *EVEN otherwise once these principles are accepted as part of the Customary International Law there would be no difficulty in accepting them as part of the domestic law. It is almost an accepted proposition of law that the rules of Customary International Law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the courts of law. To support we may refer to Justice H.R. Khannas opinion in A.D.M. v. Shivakant Shakla, Jolly George Varghese case and Gramophone Co. case.*

(16) *THE constitutional and statutory provisions protect a persons right to fresh air, clean water and pollution-free environment, but the source of the right is the inalienable common law right of clean environment. It would be useful to quote a paragraph from Blackstones commentaries on the Laws of England (Commentaries on the Laws of England of Sir William Blackstone) Vol. III, fourth edition published in 1876. Ch. XIII, "Of Nuisance" depicts the law on the subject in the following words:*

"ALSO, if a person keeps his hogs, or other noisome animals, or allows filth to accumulate on his premises, so near the house of another, that the stench incommodes him and makes the air unwholesome, this is an injurious nuisance,

as it tends to deprive him of the use and benefit of his house. A like injury is, if ones neighbour sets up and exercises any offensive trade; as a tanners, a tallow-chandlers, or the like; for though these are lawful and necessary trades, yet they should be exercised in remote places; for the rule is, *sic utere tuo, ut alienum non leadas*; this therefore is an actionable nuisance. And on a similar principle a constant ringing of bells in ones immediate neighbourhood may be a nuisance.

... With regard to other corporeal hereditaments; it is a nuisance to stop or divert water that used to run to anothers meadow or mill; to corrupt or poison a watercourse, by erecting a dye-house or a lime-pit, for the use of trade, in the upper part of the stream; to pollute a pond, from which another is entitled to water his cattle; to obstruct a drain; or in short to do any act in common property, that in its consequences must necessarily tend to the prejudice of ones neighbour. So closely does the law of England enforce that excellent rule of gospel-morality, of doing to others, as we would they should do unto ourselves."

(17) OUR legal system having been founded on the British common law the right of a person to a pollution-free environment is a part of the basic jurisprudence of the land.



(18) *THE Statement of Objects and Reasons to the Environment Act, inter alia, states as under: "THE decline in environmental quality has been evidenced by increasing pollution, loss of vegetal cover and biological diversity, excessive concentrations of harmful chemicals in the ambient atmosphere and in food-chains, growing risks of environmental accidents and threats to life-support systems. The world communitys resolve to protect and enhance the environmental quality found expression in the decisions taken at the United Nations Conference on the Human Environment held in Stockholm in June 1972. The government of India participated in the Conference and strongly voiced the environmental concerns. While several measures have been taken for environmental protection both before and after the Conference, the need for a general legislation further to implement the decisions of the Conference has become increasingly evident.*

EXISTING laws generally focus on specific types of pollution or on specific categories of hazardous substances. Some major areas of environmental hazards are not covered. There also exist uncovered gaps in areas of major environmental hazards. There are inadequate linkages in handling matters of industrial and



environmental safety. Control mechanisms to guard against slow, insidious build-up of hazardous substances especially new chemicals in the environment, are weak. Because of a multiplicity of regulatory agencies, there is need for an authority which can assume the lead role for studying, planning and implementing long-term requirements of environmental safety and to give direction to, and coordinate a system of speedy and adequate response to emergency situations threatening the environment.

*IN view of what has been stated above, there is urgent need for the enactment of a general legislation on environmental protection which inter alia, should enable coordination of activities of the various regulatory agencies, creation of an authority or authorities with adequate powers for environmental protection, regulation of discharge of environmental pollutants and handling of hazardous substances, speedy response in the event of accidents threatening the environment and deterrent punishment to those who endanger human environment, **safety and health.**"*



16.4 In M. I. Builders Pvt. Ltd. Vs. Radhey Shyam Sahu & Ors. 1999 (6) SCC 464, Hon'ble Supreme Court Observed that;

"74. High Court has directed dismantling of the whole project and for restoration of the park to its original condition. This Court in numerous decisions has held that no consideration should be shown to the builder or any other person where construction is unauthorised. This dicta is now almost bordering rule of law. Stress was laid by the appellant and the prospective allottees of the shops to exercise judicial discretion in moulding the relief. Such discretion cannot be exercised which encourages illegality or perpetuates an illegality. Unauthorised construction, if it is illegal and cannot be compounded, has to be demolished. There is no way out. Judicial discretion cannot be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. Judges are not entitled to exercise discretion wearing robes of judicial discretion and pass orders based solely on their personal predilections and peculiar dispositions. Judicial discretion wherever it is required to the exercised has to be in accordance with law and set legal principles. As will be seen in



moulding the relief in the present case and allowing one of the blocks meant for parking to stand we have been guided by the obligatory duties of the Mahapalika to construct and maintain parking lots.”

16.5 In *M. C. Mehta Vs Kamal Nath*, (2002) AIR (SC) 1515,

Hon'ble Supreme Court Observed that;

“9. THE question remaining for further consideration relating to the award of exemplary damages is only as to the quantum. The various laws in force to prevent, control pollution and protect environment and ecology provide for different categories of punishment in the nature of imposition of fine as well as or imprisonment or either of them, depending upon the nature and extent of violation. The fine that may be imposed alone may extend even to one lakh of rupees. Keeping in view all these and the very object underlying the imposition of imprisonment and fine under the relevant laws to be not only punish the individual concerned but also to serve as a deterrent to others to desist from indulging in such wrongs which we consider to be almost similar to the purpose and aim of awarding exemplary damages, it would be both in public interest as well as in the interests of justice to fix the quantum of



exemplary damages payable by Span Motels Pvt. Ltd. at rupees ten lakhs only. This amount we are fixing keeping in view the undertaking given by them to bear a fair share of the project cost of ecological restoration which would be quite separate and apart from their liability for the exemplary damages. The question relating to the said quantum of liability for damages on the principle of "polluter pays", as held by this Court against the Span Motels Pvt. Ltd. and undertaken by them, will be determined separately and left open for the time being.
.....".



16.6 In *Dipak Kumar Mukherjee Vs. Kolkatta Municipal Corporation and Ors-* **2013 (5) SCC 336**, Hon'ble Supreme Court Observed that;

"8. What needs to be emphasised is that illegal and unauthorised constructions of buildings and other structure not only violate the municipal laws and the concept of planned development of the particular area but also affect various fundamental and constitutional rights of other persons. The common man feels cheated when he finds that those making illegal and unauthorised constructions are supported by the people entrusted with the duty of preparing and executing master

plan/development plan/zonal plan. The reports of demolition of hutments and jhuggi jhopris belonging to poor and disadvantaged section of the society frequently appear in the print media but one seldom gets to read about demolition of illegally/unauthorisedly constructed multi-storied structure raised by economically affluent people. The failure of the State apparatus to take prompt action to demolish such illegal constructions has convinced the citizens that planning laws are enforced only against poor and all compromises are made by the State machinery when it is required to deal with those who have money power or unholy nexus with the power corridors."



9. We have prefaced disposal of this appeal by taking cognizance of the precedents in which this Court held that there should be no judicial tolerance of illegal and unauthorized constructions by those who treat the law to be their sub-servient, but are happy to note that the functionaries and officers of Kolkata Municipal Corporation (for short, the Corporation) have been extremely vigilant and taken steps for enforcing the provisions of the Kolkata Municipal Corporation Act, 1980 (for short, the 1980 Act) and the rules framed thereunder for demolition of illegal construction raised by

respondent No. 7. This has given a ray of hope to the residents of Kolkata that there will be zero tolerance against illegal and unauthorised constructions and those indulging in such activities will not be spared.

16.7 In Sterlite Industries (I) Ltd. Etc. Vs Union of India & Ors. Etc, 2013 (4) SCC 575, Hon'ble Supreme Court Observed that;

“(D) Environmental Law -- Damage to Environment by pollution -- Quantum of Compensation -- Running of Copper Smelter Plant -- Damage caused by pollution through emission and discharge of effluents -- Constitution Bench of Supreme Court in M .C. Mehta and Another vs. Union of India and others, (1987) 1 SCC 395, observed that quantum of compensation must be co-related to magnitude and capacity of the enterprises, because such compensation must have a deterrent effect and larger and more prosperous the enterprises, the greater must be the amount of compensation -- As per NERI Reports of 1998, 1999, 2003 and 2005, appellants plant did pollute the environment through emission and discharge of effluents which did not conform to standards laid down by TNPCB under Air Act and Water Act -- For



these deficiencies, TNCPB also did not renew its consent for some period, yet, appellant continued to operate its plants without such renewal -- Thus, appellant company is liable to pay compensation by paying damages -- Considering the magnitude, capacity and prosperity of appellant-company, a compensation of Rs. 100 crores for having polluted the environment in the vicinity of the plant and having operated the plant without renewal for a fairly long period -- No less amount would have the desired deterrent effect on appellant -- That amount initially to remain in five years Fix Deposit and interest thereon to be utilized for improving environment in the vicinity of the plant, as directed".

"39. ... "The enterprise must be held to be under an obligation to provide that the hazardous or inherently dangerous activity in which it is engaged must be conducted with the highest standards of safety and if any harm results on account of such activity, the enterprise must be absolutely liable to compensate for such harm and it should be no answer to the enterprise to say that it had taken all reasonable care and that the harm occurred without any negligence on its part."



The Constitution Bench in the aforesaid case further observed that the quantum of compensation must be co-related to the magnitude and capacity of the enterprise because such compensation must have a deterrent effect and the larger and more prosperous the enterprise, the greater must be the amount of compensation payable by it.

.....

"PBDIT for the financial year 2010-11 was Rs. 1,043 Crore, 40% higher than the PBDIT of Rs. 744 Crore for the financial year 2009-10. This was primarily due to higher LME prices and lower unit costs at Copper India and with the improved by-product realization."

Considering the magnitude, capacity and prosperity of the appellant-company, we are of the view that the appellant-company should be held liable for a compensation of Rs. 100 crores for having polluted the environment in the vicinity of its plant and for having operated the plant without a renewal of the consents by the TNPCB for a fairly long period and according to us, any less amount, would not have the desired deterrent effect on the appellant-company. The aforesaid amount will be deposited with the Collector of Thoothukudi District, who will invest it in a Fixed Deposit with a Nationalized Bank for a



period of five years. The interest therefrom will be spent for improving the environment, including water and soil, of the vicinity of the plant after consultation with TNPCB and approval of the Secretary, Environment, Government of Tamil Nadu.”

41. Before we part with this case, we would like to put on record our appreciation for the writ petitioners before the High Court and the intervener before this Court for having taken up the cause of the environment both before the High Court and this Court and for having assisted this Court on all dates of hearing with utmost sincerity and hard work. In Indian Council for Enviro-Legal Action and Others v. Union of India and Others [(1996) 3 SCC 211], this Court observed that voluntary bodies deserve encouragement wherever their actions are found to be in furtherance of public interest. Very few would venture to litigate for the cause of environment, particularly against the mighty and the resourceful, but the writ petitioners before the High Court and the intervener before this Court not only ventured but also put in their best for the cause of the general public.”



16.8 In Goa Foundation Vs Union Of India & Ors, 2014 (6)

SCC 590, Hon'ble Supreme Court Observed that;

"62. Regulatory and monitoring measures enforced by the Departments of Mines and Geology, the Goa State Pollution Control Board and the Regulator appointed by the Central Government under sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 cannot, however, restore entirely the environment that is damaged in course of mining operations. The Expert Committee has, therefore, recommended that a permanent fund for inter-generational equity and sustainability of mining for all times to come named as Goan Iron Ore Permanent Fund be created and an expert group may be constituted by the State for working out the details of this fund. Mr. Harish Salve, learned Amicus Curiae, submitted that as the lessees of mining leases earn out of the sale proceeds of the iron ore excavated by them, they should be directed to contribute 10% of the sale proceeds of all iron ore excavated in the State of Goa and sold by them towards the Goan Iron Ore Permanent Fund. He cited the judgment of this Court in Samaj Parivartana Samudaya and Ors. v. State of Karnataka and Ors. (supra) in which this Court has similarly directed for creation of a Special Purpose Vehicle out of 10% of the sale



proceeds of the ore sold by e-auction. There is a lot of force in the aforesaid submission of Mr. Salve".

16.9 In *Krushn Kant Singh & Ors. Vs National Ganga River Basin Authority & Ors.* In Application No. 299/2013 Decided on 16.10.2014, Hon'ble NGT (PB) held that;

"51. It is not possible to assess exact environmental damage and the cost of restoration thereof in view of the long period involved in the present case and the fact that the statutory Boards empowered to prevent and control pollution have not performed their statutory duties in accordance with the spirit and object of the environmental Acts and jurisprudence. This unit is responsible for causing great environmental pollution of different water bodies including Phuldera drain, the Syana Escape canal, the River Ganga and even the groundwater in and around the area of this industrial unit. Besides scientific data of inspection by the Expert teams, officers of the Pollution Control Board, analysis report and the fact that the water in the Phuldera drain had turned brown, even to the naked eye, demonstrates the extent of pollution caused by this unit. Considering the magnitude of the pollution caused by unit, its capacity and



prosperity, responsibility of the unit to pay compensation cannot be disputed on any plausible cause or ground. The Supreme Court in the case of *Sterlite Industries (India) Ltd. v. Union of India & Ors.* (2013) 4 SCC 575, enunciated the principle that a company which has caused the damaged to the environment and for operating the plant without valid renewal of consent for a fairly long period would obviously be liable to compensate by paying damages. while relying upon the judgment of the Constitution Bench of the Supreme Court in the case of *M.C. Mehta v. union of India* (1987) 1 SCC 395, the court further stated that the plea of reasonable care and that the damage to environment occurred without specific negligence on the part of the unit is not a sustainable defence to a direction for payment of compensation for causing environmental damage. The court further held that magnitude, capacity and prosperity of the unit are the relevant considerations for determining the extent of the liability in such case. Applying these principles to the facts of the present case, there can hardly be any dispute that it is a polluting unit. It is also beyond controversy that this unit has operated without consent of the Boards from 1974 till the year 1991, thereafter, it committed default in compliance of the



conditions of the consent right up to the year 2000. Even thereafter, it did not strictly comply with the conditions and directions issued by the respective Boards. This unit is a direct source of polluting River Ganga.

The PP is a profit making unit. No record has been produced before the Tribunal to establish anything to the contrary. Though, it may not be possible to determine with exactitude the exact amount of compensation payable on account of damage to environment because of the long period involved and also for the reason that even scientifically the extent of damage and amounts required for restoration and restitution thereof cannot be determined at this stage now. Cleaning and removal of sludge from Phuldera drain, treatment of other pollutants flowing in the said drain, preventing any discharge into the Syana Escape Canal and making River Ganga pollution free are the basic needs which require attention of the Expert bodies particularly, in the facts and circumstances of this case. We fix a compensation of Rs 5 crores which shall be deposited with the UPPCB and shall be spent for that purpose alone by and joint team of CPCB, UPPCB, MoEF including for removal of sludge and all pollutants in the Syana Escape Canal till it joins river Ganga.



This amount shall also be used for preventing ground water pollution.

The unit has caused serious pollution persistently. There is sufficient material before the Tribunal to establish both direct and indirect pollution being caused by this unit. The unit has even intentionally failed to comply with the directions and conditions of the consents order passed by the respective boards. Not even submitting an application to the board for obtaining consent to operate and shows complete disregard towards law and its statutory obligations by the unit. It is not only case where it is a threat to cause environmental pollution but is a case of causing environmental pollution. Right to carry on business cannot be permitted to be misused or to pollute the environment so as to reduce the quality of life of others. Risk to harm to environment or to human health is to be decided in the public interest according to 'a reasonable person's test'. The man's perception with reference to the facts of this case cannot return a finding any different than the one recorded by us.".....

"59. Reverting to the case of Simbhaoli sugar and distillery unit which has been a serious polluter for all this time and has damaged the ground water as well as polluted the River



Ganga through Phuldera Drain, now for years. This unit has failed to take all remedial measures despite service of show cause notices, closure orders and directions issued by the CPCB. The trade effluent discharged by the unit had often been found to be in violation of the prescribed standards. The unit had also failed to dismantle the underground pipeline through which the effluent containing the pollutants was being discharged into the Phuldera drain, despite specific directions issued by the respective Boards. Large extent of sludge which could only be generated from a sugar and distillery unit was found in the Phuldra drain and on its banks. The inspections on different occasions even noticed that the unit was bypassing the ETP and throwing untreated effluent into the drain and/or on the land. This Unit, on the one hand violated the conditions of the consent order from time to time while on the other, it even operated without consent of the Board for short duration subsequent to 1991, till which year it operated totally without consent. These are the few circumstances which fully establish the fact that this unit is a seriously polluting unit and has been polluting the different water bodies including the groundwater now for a considerable time. There can hardly be any doubt in inspecting the case



advanced on behalf of the respective Boards that this unit has continuously failed to comply with the requirements of law and discharge its statutory obligations on the one hand while on the other it has also failed to fulfil its corporate social responsibilities. Therefore, the unit is liable to make good and to restore damage, degradation and pollution of environment caused by its activity particularly, the water bodies and with greater emphasis, the River Ganga. Thus, in our considered view, this unit must be held liable to pay heavy compensation for restitution, restoration, prevention and control of pollution of various water bodies and more emphatically River Ganga. Consequently, in exercise of the powers conferred upon this Tribunal under Section 15 and all other enabling provisions of the NGT Act and the legislative mandate contained under Section 20 of the said Act,



16.10 In *Indian Council for Environ Legal Action Vs Union of India and Ors*, (1996) 5 SCC 281, Hon'ble Supreme Court of India Observed that:

“Enactment of a law, but tolerating its infringement, is worse than not enacting a law at all. The continued infringement of law, over a period of time, is made possible by adoption of

such means which are best known to the violators of law. Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the enforcement authorities encourages lawlessness and adoption of means which cannot, or ought not to, be tolerated in any civilized society. Law should not only be meant for the law-abiding but is meant to be obeyed by all for whom it has been enacted. A law is usually enacted because the legislature feels that it is necessary. It is with a view to protect and preserve the environment and save it for the future generations and to ensure good quality of life that Parliament enacted the anti-pollution laws, namely, the Water Act, Air Act and the Environment (Protection) Act, 1986. These Acts and Rules framed and notification issued thereunder contain provisions which prohibit and/or regulate certain activities with a view to protect and preserve the environment. When a law is enacted containing some provisions which prohibit certain types of activities, then, it is of utmost importance that such legal provisions are effectively enforced. If a law is enacted but is not being voluntarily obeyed, then, it has to be enforced. Otherwise, infringement of law, which is actively or passively condoned for personal gain, will be



encouraged which will in turn lead to a lawless society. Violation of antipollution laws not only adversely affects the existing quality of life but the non-enforcement of the legal provisions often results in ecological imbalance and degradation of environment, the adverse effect of which will have to be borne by the future generations."

16.11 In Indian Council For Enviro Legal Action Vs Union Of India 1996 (3) SCC 212, Hon'ble Supreme Court

Observed that;

"(71) RESPONDENTS 4 to 8 shall pay a sum of Rupees fifty thousand by way of costs to the petitioner which had to fight this litigation over a period of over six years with its own means. Voluntary bodies, like the petitioner, deserve encouragement wherever their actions are found to be in furtherance of public interest. The said sum shall be deposited in this court within two weeks from today. It shall be paid over to the petitioner."



17. THEREFORE, IT IS PRAYED THAT:

A) Hon'ble NGT may kindly grant prayers in Original Application.

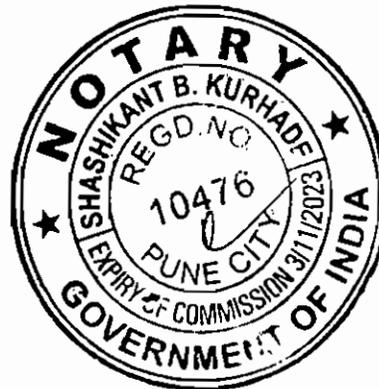
B) Any other prayers in the interest of environmental justice.

Whatever stated above is true and correct to the best of my knowledge, belief and information, hence, to verify the same I have signed hereunder at Pune.

Date: 11.10.2020

Bambhise
AFFIANT

(TANAJI BALASAHEB GAMBHIRE)



BEFORE ME

[Signature]
Shashikant B. Kurhade
Notary Govt. of India

Noted and Registered
at Sr. No. *429/204*
Date: - *17.10.2021*



NOTARIAL



NOTARIAL



NOTARIAL



NOTARIAL

ANNEXURE-A-1

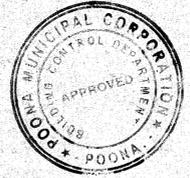
STAMP OF APPROVAL 3/16

WING A1

REVISED PLAN

पुनर्गणना दि. 1/8/2012
 APPROVED SUBJECT TO CONDITION
 APPROVED UNDER COMMENCEMENT
 CERTIFICATE NO. 1077/2012

श्री. जयशंकर प्रसाद
 श्री. जयशंकर प्रसाद



TRUE COPY

Bombhise

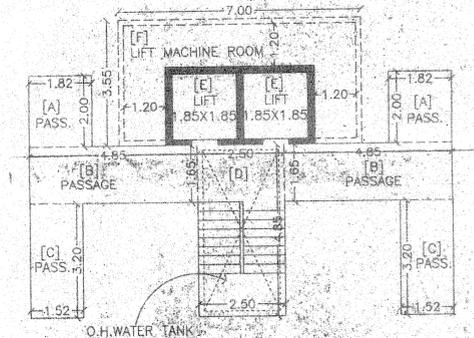
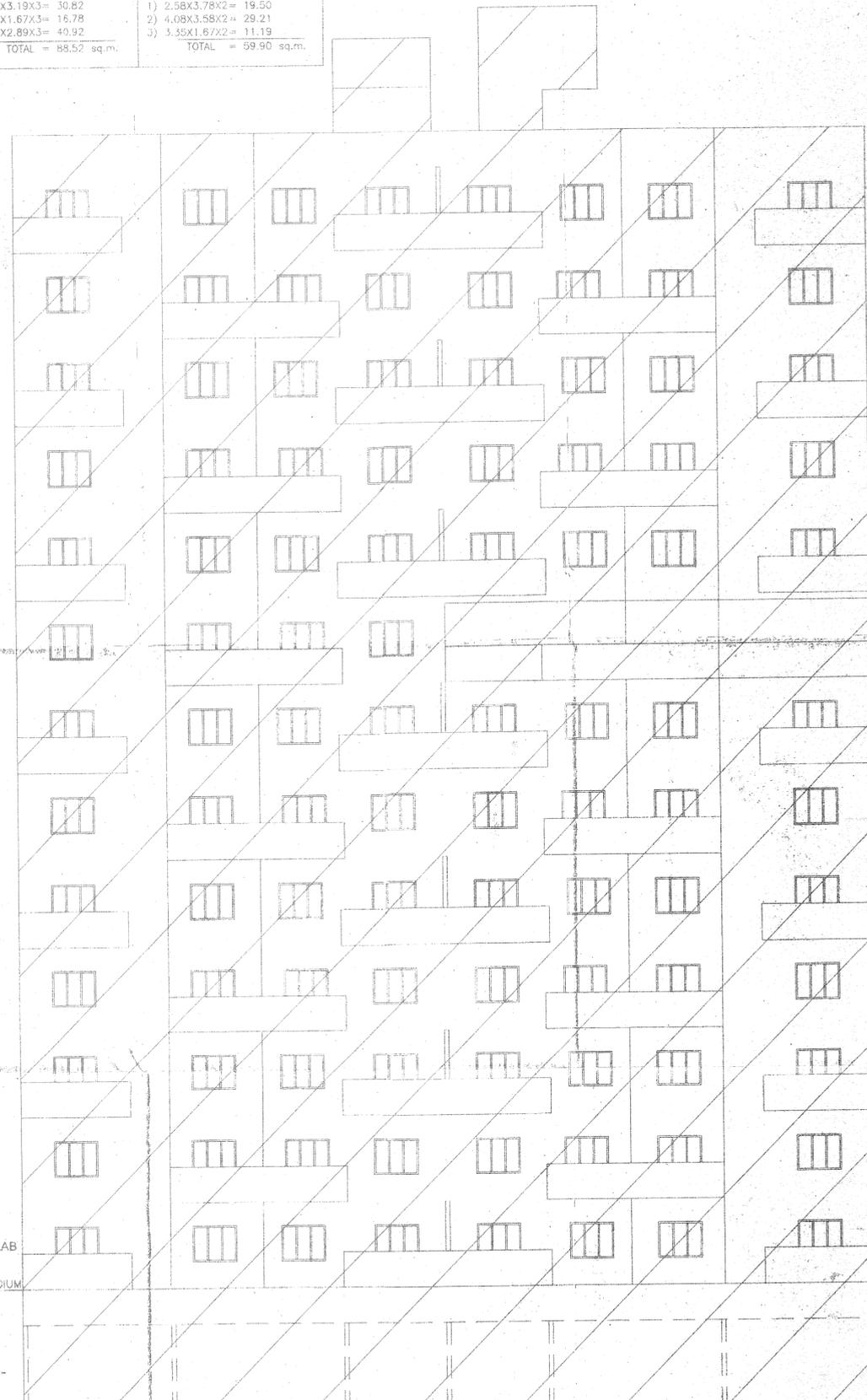
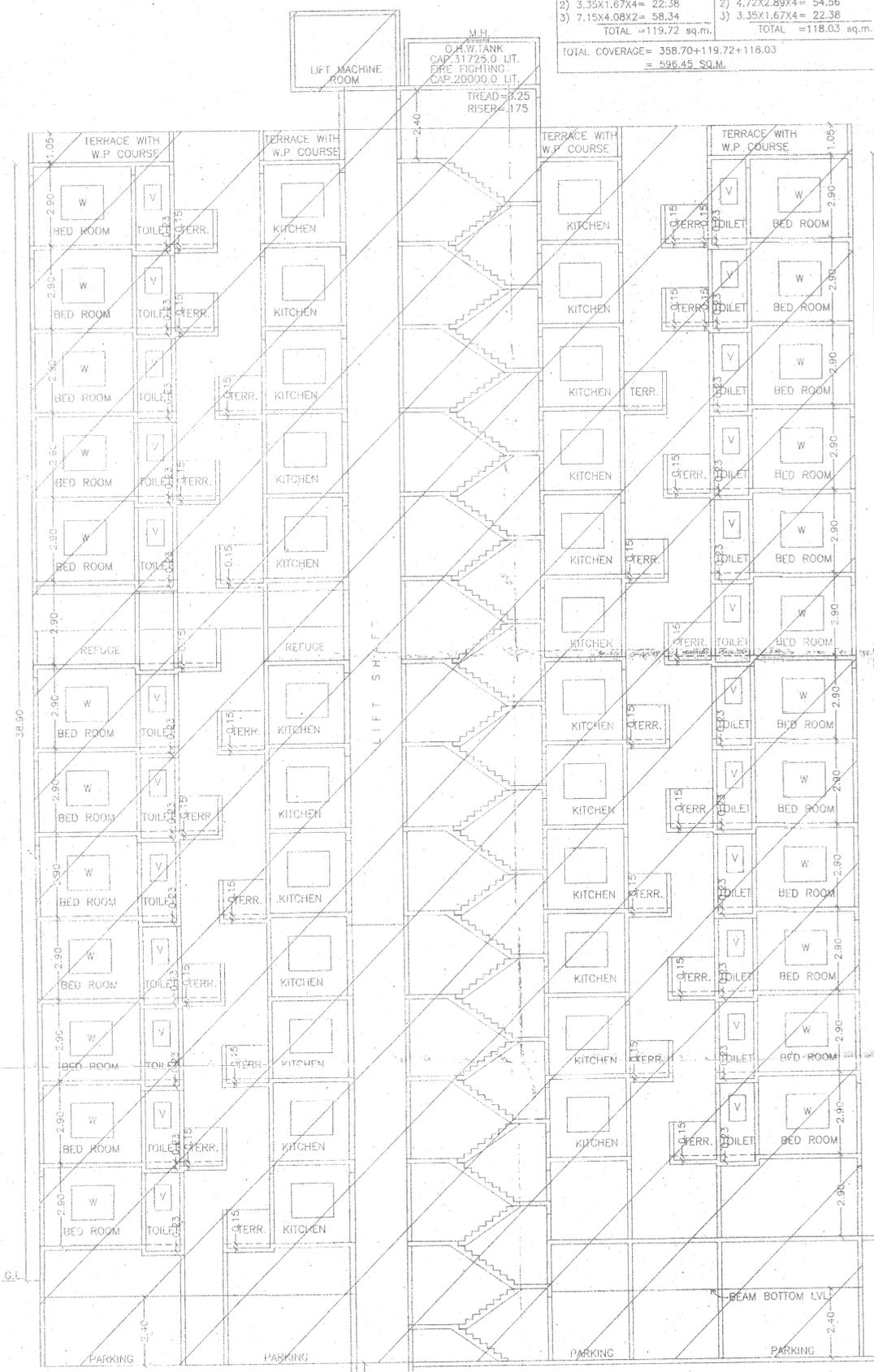
COVERAGE CALCULATION (WING A1)
 PROPOSED COVERAGE=MAX. B/UP AREA
 MAX.B/UP AREA =358.70 SQ.M.

ADD TERRACE	
2nd FLOOR PLAN	3rd FLOOR PLAN
1) 2.58X3.78X4= 39.00	1) 3.22X3.19X4= 41.09
2) 3.35X1.67X4= 22.38	2) 4.72X2.89X4= 54.56
3) 7.15X4.08X2= 58.34	3) 3.35X1.67X4= 22.38
TOTAL =119.72 sq.m.	TOTAL =118.03 sq.m.

TOTAL COVERAGE= 358.70+119.72+118.03 = 596.45 SQ.M.

TERRACE CALCULATION (WING A1)

3rd,5th,7th,9th,11th FLOOR PLAN		2nd,4th,6th,10th,12th FLOOR PLAN	
1) 2.58X3.78X4= 39.00	1) 3.22X3.19X4= 41.09	1) 2.58X3.78X2= 19.50	1) 2.58X3.78X2= 19.50
2) 3.35X1.67X4= 22.38	2) 4.72X2.89X4= 54.56	2) 4.08X3.58X2= 29.21	2) 4.08X3.58X2= 29.21
3) 7.15X4.08X2= 58.34	3) 3.35X1.67X4= 22.38	3) 3.35X1.67X2= 11.19	3) 3.35X1.67X2= 11.19
TOTAL =119.72 sq.m.	TOTAL =118.03 sq.m.	TOTAL = 88.52 sq.m.	TOTAL = 59.90 sq.m.



PASSAGE CALCULATIONS

A) 1.82X2.00X2 = 07.28	E) 2X1.85X1.85 = 6.84
B) 4.85X1.65X2 = 16.00	F) 1X7.00X3.85 = 26.95
C) 1.52X3.20X2 = 09.73	TOTAL = 33.01 SQ.M.
TOTAL = 33.01 SQ.M.	TOTAL = 31.89 SQ.M.

PARKING STATEMENT FOR BUILDING 'A1'

RESIDENTIAL	TN	CAR	SCOOTER	CYCLE
RES.TN 80-150 SQ.M.	45	45	90	90
RES.TN 80-150 SQ.M.	02	04	06	08
TOTAL	47	49	96	98
REQ. AREA	12.50	2.97	1.30	
TOTAL REQ. AREA	612.50	192.00	137.20	
		941.70 SQ.MT.		

OWNER'S NAME, ADDRESS, SIGNATURE

SHRI. JAYSHANKAR PRASAD S. GOYAL (P.A.H.)

PROJECT: PROPOSED RESIDENTIAL BUILDINGS AT S. NO.6/2 & S.NO.7 AT AUNDH, NEAR SPICER COLLEGE, PUNE

SWAPNEEL J. DESHPANDE
 ARCHITECT, TOWN PLANNER, INTERIOR DESIGNER

95/B, PRABHAT ROAD, ERANDWANA,
 PUNE - 411 004
 PHONE NO. 2553 21 82, 2553 11 41
 FAX NO. 81 (020) 2553 23 25

DATE	DEALT BY	REVISED BY	CHECKED BY	SCALE
17.01.2012			MANDAR J.	1:100

STAMP OF APPROVAL

WING A2

REVISED PLAN

APPROVED SUBJECT TO CONDITION
APPROVED UNDER COMMENCEMENT
CERTIFICATE NO. 25/2012/23

Building Inspector Deputy Engineer P.M.C.



AREA KEY PLAN [TYPICAL FLOOR]

AREA OF BLOCK = 23.58x29.31

DEDUCTIONS = 691.13 SQ.M

- 01] 0.89x1.37x4 = 3.78
- 02] 1.89x3.19x4 = 24.32
- 03] 2.19x12.63x2 = 55.32
- 04] 5.90x3.78x2 = 41.58
- 05] 7.04x1.37x2 = 19.29
- 06] 12.20x3.04x2 = 74.18
- 07] 5.90x2.84x1 = 15.62
- 08] 1.82x2.00x2 = 7.28 (passage)
- 09] 1.98x1.85x2 = 7.33
- 10] 1.85x1.85x2 = 6.85 (lift)
- 11] 3.95x1.65x2 = 13.04 (passage)
- 12] 4.30x1.65x1 = 7.10 (RH lobby)
- 13] 1.32x3.20x2 = 9.73 (passage)
- 14] 3.03x3.05x2 = 18.48
- 15] 2.50x3.20x1 = 8.00 (staircase)
- 16] 1.35x0.15x2 = 0.41
- 17] 5.50x2.89x1 = 15.90

TOTAL AREA = 328.01 (A)

DEDU. FOR CUPBOARD AT TYPICAL FLOOR:

CUPBOARD A = 0.23x2.40x8 = 4.42 (B)

TOTAL AREA OF DEDUCTION = A+B

= 328.01+4.42

= 332.43 SQ.M.

TOTAL B/UP AREA = 691.13-332.43

TOTAL B/UP AREA = 358.70 SQ.M.

AREA KEY PLAN [8th & 13th FLOOR]

AREA OF BLOCK = 23.58x29.31

DEDUCTIONS = 691.13 SQ.M

- 01] 0.89x1.37x3 = 02.84
- 02] 1.89x3.19x3 = 18.09
- 03] 2.19x12.63x1 = 27.66
- 04] 0.77x1.37x1 = 01.05
- 05] 3.35x3.04x1 = 10.18
- 06] 14.54x11.03 = 160.38
- 07] 5.54x3.55x1 = 19.67
- 08] 1.82x2.00x2 = 07.28 (passage)
- 09] 1.98x1.85x2 = 07.33
- 10] 1.85x1.85x2 = 06.85 (lift)
- 11] 3.95x1.65x2 = 13.04 (passage)
- 12] 4.30x1.65x1 = 07.10 (RH lobby)
- 13] 1.52x3.20x2 = 09.73 (passage)
- 14] 3.03x3.05x2 = 18.48
- 15] 2.50x3.20x1 = 08.00 (staircase)
- 16] 1.35x0.15x2 = 00.41
- 17] 5.50x2.89x1 = 15.90
- 18] 12.20x3.04x1 = 37.08
- 19] 7.04x1.37x1 = 09.64
- 20] 5.90x3.78x1 = 20.79
- 21] 2.19x6.39x1 = 13.99

TOTAL AREA = 415.50 (A)

DEDU. FOR CUPBOARD AT TYPICAL FLOOR:

CUPBOARD A = 0.23x2.40x6 = 3.51 (B)

TOTAL AREA OF DEDUCTION = A+B

= 415.50+3.51

= 418.81 SQ.M.

TOTAL B/UP AREA = 691.13-418.81

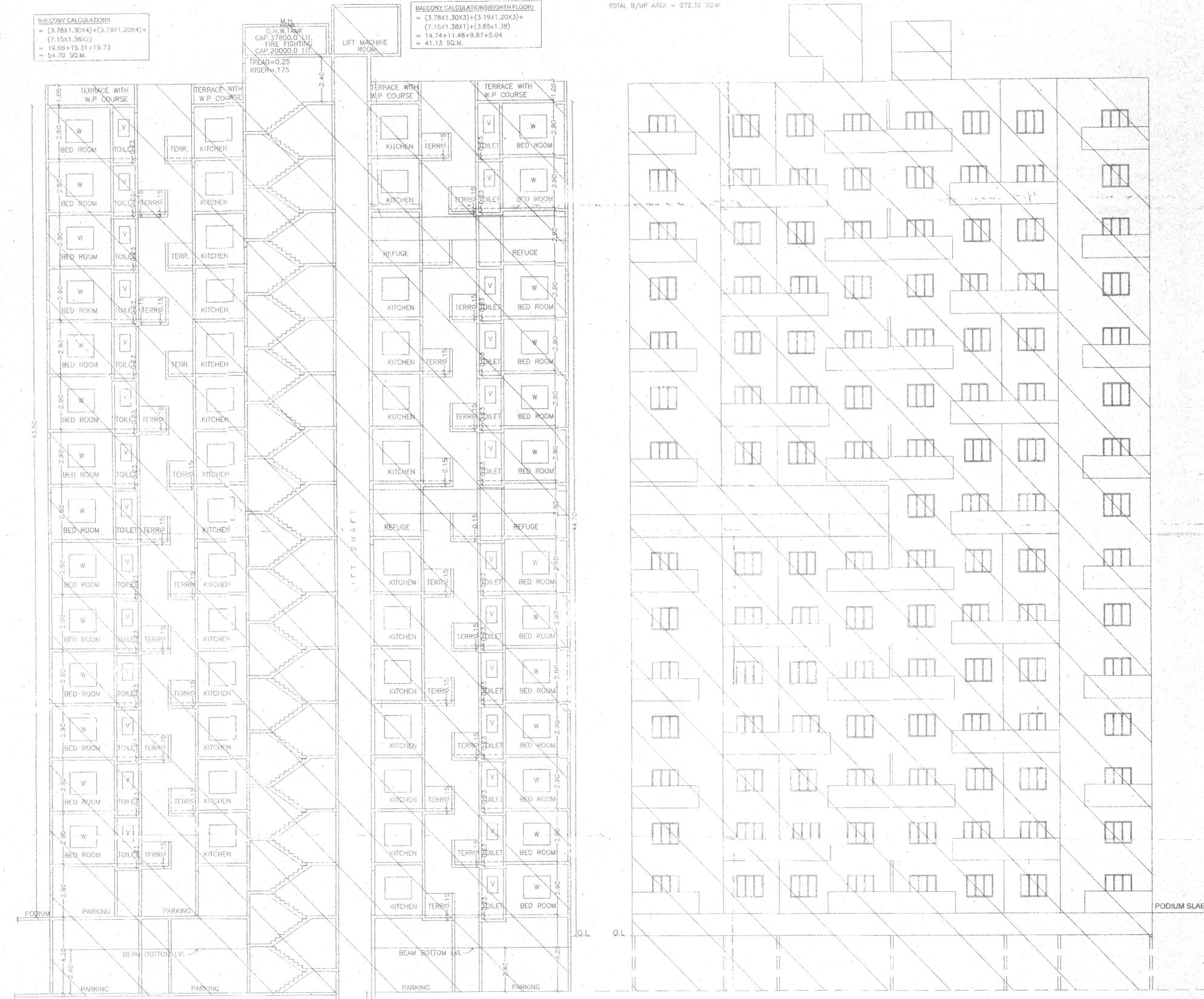
TOTAL B/UP AREA = 272.32 SQ.M.

F.S.I. STATEMENT FOR BUILDING 'A2'

FLOOR	F.S.I.	BALCONY	STAIRCASE	PASSAGE	TERRACE	TN	LIFT L.M.R.
FIRST	181.42	27.35	12.12	16.50	61.18	2	
SECOND	358.70	54.70	12.12	33.01	122.84	4	
THIRD	358.70	54.70	12.12	33.01	122.38	4	
FOURTH	358.70	54.70	12.12	33.01	122.84	4	
FIFTH	358.70	54.70	12.12	33.01	122.38	4	
SIXTH	358.70	54.70	12.12	33.01	122.84	4	
SEVENTH	358.70	54.70	12.12	33.01	122.38	4	
EIGHTH	272.32	41.13	12.12	33.01	092.14	3	6.84
NINTH	358.70	54.70	12.12	33.01	122.38	4	
TENTH	358.70	54.70	12.12	33.01	122.84	4	
ELEVENTH	358.70	54.70	12.12	33.01	122.38	4	
TWELFTH	358.70	54.70	12.12	33.01	122.84	4	
THIRTEENTH	358.70	54.70	12.12	33.01	122.38	4	
FOURTEENTH	358.70	54.70	12.12	33.01	122.84	4	
FIFTEENTH	358.70	54.70	12.12	33.01	122.38	4	
TOTAL	5116.89	779.58	181.80	478.64	1747.02	57	31.69

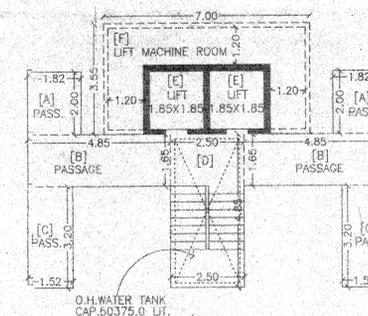
BALCONY CALCULATIONS
= (3.78x1.30x4)+(3.19x1.20x4)+
(7.15x1.38x2)
= 19.66+15.51+19.73
= 54.70 SQ.M.

BALCONY CALCULATIONS(EIGHTH FLOOR)
= (3.78x1.30x3)+(3.19x1.20x3)+
(7.15x1.38x1)+(3.65x1.38)
= 14.74+11.48+9.87+5.04
= 41.13 SQ.M.



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PASSAGE CALCULATIONS	STAIRCASE CALCULATIONS
1] 1.82x2.00x2 = 07.28	D] 1x4.85x2.50 = 12.12
9] 4.85x1.65x2 = 16.00	TOTAL = 12.12 SQ.M.
5] 1.52x3.20x2 = 09.73	LIFT & L.M.R. CALCULATIONS
TOTAL = 33.01 SQ.M.	E] 2x1.85x1.85 = 6.84
	F] 1x7.00x3.50 = 24.85
	TOTAL = 31.69 SQ.M.

COVERAGE CALCULATION (WING A2)
PROPOSED COVERAGE=MAX. B/UP AREA
MAX. B/UP AREA = 358.70 SQ.M

2nd FLOOR PLAN	3rd FLOOR PLAN
1] 2.58x3.78x4 = 39.00	1] 3.22x3.19x4 = 41.09
2] 3.35x1.67x4 = 22.38	2] 4.72x2.89x4 = 54.56
3] 7.15x4.08x2 = 58.34	3] 3.35x1.67x4 = 22.38
TOTAL = 119.72 sq.m.	TOTAL = 118.03 sq.m.

TOTAL COVERAGE = 358.70+119.72+118.03 = 596.45 SQ.M.

TERRACE CALCULATION (WING A2)

3rd,5th,7th,9th,11th,13th,15th FLOOR PLAN	2nd,4th,6th,10th,12th,14th FLOOR PLAN
1] 2.58x3.78x4 = 39.00	1] 3.22x3.19x4 = 41.09
2] 3.35x1.67x4 = 22.38	2] 4.72x2.89x4 = 54.56
3] 7.15x4.08x2 = 58.34	3] 3.35x1.67x4 = 22.38
TOTAL = 119.72 sq.m.	TOTAL = 118.03 sq.m.

8th,13th FLOOR PLAN

1] 2.58x3.78x3 = 29.28	1] 3.22x3.19x4 = 41.09
2] 3.35x1.67x3 = 16.78	2] 4.72x2.89x4 = 54.56
3] 7.15x4.08x1 = 29.17	3] 3.35x1.67x4 = 22.38
4] 3.65x4.08x1 = 14.89	TOTAL = 118.03 sq.m.
TOTAL = 90.10 sq.m.	

PARKING STATEMENT FOR BUILDING 'A2'

RESIDENTIAL	TN	CAR	SCOOTER	CYCLE
RES. TN 80-150 SQ.M.	45	45	90	90
1.2.2				
RES. TN 80-150 SQ.M.	12	24	36	48
2.3.4				
TOTAL	57	69	126	138
REQ. AREA	12.50	2.0	1.40	
TOTAL REQ. AREA	952.50	252.00	1193.20	
			1307.70 SQ.M.	

OWNER'S NAME, ADDRESS, SIGNATURE

SHRI ISHWAR K. GOYAL (P.M.H.)

PROJECT

PROPOSED RESIDENTIAL BUILDINGS AT S. NO.6/2 & S NO.7 AT AUNDH, NEAR SPICER COLLEGE, PUNE.

ARCHITECT, TOWN PLANNER, INTERIOR DESIGNER

SWAPNEEL J. DESHPANDE

85/B, PRABHAT ROAD, ERANDWANA, PUNE - 411 004

PHONE NO. 2553 21 82, 2553 11 41

CAD/CADD/3D/2D

FAX NO. 91 (020) 2553 23 25

DATE	DEALT BY	REVISED BY	CHECKED BY	SCALE
17/01/2012	SHR		SHR	1:50

ELEVATION

SECTION AT A-A

PUNE MUNICIPAL CORPORATION
Shivajinagar, Pune 411 005.

Office of Construction Control
Sr. No. OCC/0435/15
Date: 13/07/2015

[vide section 263(1) of Provincial Municipal Cooperation Act, Bombay,1949]

COMPLETE OCCUPANCY LETTER/CERTIFICATE NO. 1

Shri Ishwarchand Kishorilal Goyal (PAH) C/o. Shri Jagdish Deshpande (Licensed. Architect)
Resident Of 95/B, Siddhtek Apartment, Prabhat Road,
Erandawana, PUNE- 411 004.

To,

Vide Sections 253 and 254 of Provincial Municipal Corporation Act, Bombay 1959 and Sections 45/69 of MRTP Act within the boundaries of Pune municipal Corporation Market: Aundh, Housing Survey No. 6/2 +7 TP Scheme –in which for building C1 and C2, vide our Commencement Certificate Number 3099/10 dated 13/12/2010 (Regeneration), repairs Consent Certificate Letter No. CC/1006/12 dated 25/6/12 , next Consent certificate Letter No. CC/0046/15 dated 8/4/2015, permission is being granted to construct. The said permission is granted in response to your application for consent Certificate as on 9/7/2015 for complete/partial completion of said construction and for permission to occupation of said building ,that was made to us, we are pleased to issue you said Certificate and further inform you that under Section 263(1) of Provincial Municipal Corporation Act, Bombay 1959, and subject to completion of following mentioned terms and conditions following described portion of building is permitted to be occupied.

Description of portion of construction that can be occupied

FLOORS	Wing C 1	Wing C 2
Ground Floor	Total Parking	Total Parking
First Floor Flat Nos.	101, 102, 103	101, 102, 103
Second Floor Flat Nos.	201, 202, 203	201, 202, 203
Third Floor Flat Nos.	301, 302, 303	301, 302, 303
Fourth Floor Flat Nos.	401, 402, 403	401, 402, 403
Fifth Floor Flat Nos.	501, 502, 503	501, 502, 503
Sixth Floor Flat Nos.	601, 602, 603	601, 602, 603
Seventh Floor Flat Nos.	701, 702, 703	701, 702, 703
Eighth Floor Flat Nos.	801, 802	802, 803
Ninth Floor Flat Nos.	901, 902, 903	901, 902, 903
Tenth Floor Flat Nos.	1001, 902A, 1003	1001, 1002, 1003

Wing 'C 1'-Flats 29, Wing 'C 2'-Flats 29, Total 58 Flats and Ground Floor with Parking.



Sd/-
Asst. Engineer
Office of Construction Control
Pune Municipal Corporation

In future, except with approved map if any construction (e.g. Including all within marginal distance and shed on terrace and partition wall or closed grill parking) is done, without any prior notice the entire unauthorised/illegal construction shall be demolished and entire expenses incurred therefor shall be recovered from the flat holder/ owner.



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ANNEXURE-A-3**Government of Maharashtra**

No. Comp-2019/CR- 20/SEIAA
 Environment Department
 217 (Annex), Mantralaya,
 Mumbai- 400 032.
 November 18, 2019.

To,

To,
 The Commissioner,
 Municipal Commissioner Office,
 Pune.

Subject: Proposed Directions dated 29.08.2019 issued under Section 5 of the Environment (P) Act, 1986 r.w. EIA Notification dated 14.09.2006.

Ref. :

- 1) Complaint Notice of Mr. Tanaji Balasaheb Gambhire through Advocate Nitin Lonkar dated 06.08.2019 .
- 2) Directions u/s 5 of the Environment (P) Act, 1986 r.w. EIA Notification dated 14.09.2006 issued to you vide letter dated 29.8.2019.
- 3) Representation submitted by M/s Padmavati Associates vide letter dated 11.11.2019
- 4) Personal hearing conducted in the chamber of the Secretary, Environment Department on 11.11.2019.

We refer to the Show Cause notice/proposed directions at reference (2) dated 11.11.2019 issued to the project proponent – M/s Padmavati Associates under section 5 of the Environment (P) Act 1986 r.w. EIA Notification dtd. 14.09.2006 whereby and where under the project proponent was asked to show cause as to why its building construction activity in respect its project "Pristine Royale" situated at Survey no. 6/2, 6/3, & 7 of Village Aundh, Tah. Haveli, Dist. Pune should not be stopped forthwith for the violation of EIA Notification dated 14.09.2006, and why further legal action should not be initiated against the project proponent under the provisions of Environment (P) Act 1986 and Rules made thereunder.

We also refer to the representation made by M/s Padmavati Associates under reference (3) above and also the personal hearing conducted in the chamber of the Secretary, Environment Department on 11.11.2019 in connection with our said show cause notice dated 29.8.2019.

After going through the contents of complaint raised by Adv. Nitin Lonkar, on behalf of his client, Mr. Tanaji Balasaheb Gambhire, under Notice / Complaint dated 6/8/2019, for the subject project identified as "Pristine Royale", situated at City Survey no. 6/2, 6/3, & 7 of

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village Aundh, Taluka- Haveli, District Pune this office has issued a Proposed direction notice to project proponent / promoter, Padmavati Associates and sought the clarification on various issues related to subject project. Accordingly the project proponent submitted its Reply/written submissions on 11/11/2019, along with papers of evidence. The project proponent/promoter in his reply has denied the contentions raised by the complainant and requested to withdraw the show cause notice and to dismiss the complaint.

After going through the objections raised by the complainant, the reply of the project proponent and the papers on record before me, it reveals that, the total sanctioned BUA is ~~48592.67~~ sq. mtrs. and the actual total construction BUA is 55923.67 (IN REPLY TO NOTICE)sq. mtrs. The project proponent failed to submit the application within the time period as per the Notification 804(A) issued vide Gazette of India dtd. 14/3/2017. They have constructed and completed the project/buildings without obtaining Environmental Clearance. Hence, it's clear cut violation of EP Act and DC Rules of PMC. Therefore, legal action shall be taken against the project proponent.

You are hereby directed to take strict legal action against the project proponent- Padmavati Associates as per provisions of the Environment (P) Act, 1986 r.w. EIA Notification and submit report of the same action taken within a period of 15 days.


(Ahil Diggikar)
Principal Secretary
Environment Department

CC-to: 1) Member Secretary, Maharashtra Pollution Control Board, Mumbai is hereby directed to take legal action as per section 5 of the EP Act r/w EIA Notification dtd.14.9.2006.

2) M/s Padmavati Associates,
Pristine Properties, Office No.501/502,
Fortune House, 5th Floor, Plot No.117A,
Prabhat Road, Apex Colony,
Deccan Gymkhana, Pune-411004.

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ANNEXURE-A-4

शहर अभियंता कार्यालय
बांधकाम विकास विभाग, क्र. ६
पुणे महानगरपालिका
जावक क्र. : ३०६/४२७०
दिनांक : १३/१२/२०१९

प्रति,
मे. पद्मावती असोसिएटस्
(श्री. ईश्वरचंद्र किशोरीलाल गोयल
व सचिन इश्वरचंद्र गोयल)
५ वा मजला, प्लॉट नं. ११७अ,
प्रभात रोड, अपेक्स कॉलनी,
डेक्कन जिमखाना, पुणे-४११००४

यांस.....

विषय-Intentional Violation of D.C Rule, of Pune Municipal corporation,
Maharashtra regional & town planning Act 1966 EIA Notification
2006, Environmental protection M/s Padmavati Associates in their
Residential construction project at Sr.No.6/2,6/3& 7, Village-Aundh
Pune.

- संदर्भ-१) अॅड. श्री. निलेश लोणकर यांची दि. ६/८/२०१९ ची नोटीस
२) खात्याचे पत्र जा.क्र. झोन६/२९४९, दि. ३०/८/२०१९
३) मा. प्रिन्सीपल सेक्रेटरी एनव्हायरोनमेंट डिपार्टमेंट अॅण्ड मॅबर सेक्रेटरी SEIAA
महाराष्ट्र यांचे दि. २९/८/२०१९ चे पत्र आ.क्र. ४५२७, दि. २९/९/२०१९
४) खात्याचे पत्र जा.क्र. झोन६/३४१०, दि. २३/९/२०१९
५) अॅड. श्री. निलेश लोणकर यांची MPCB बोर्डास दि. १३/८/२०१९ ची नोटीस
६) महाराष्ट्र पोल्युशन कंट्रोल बोर्ड यांचे पत्र आ.क्र. ५५३५, दि. ४/११/२०१९
७) खात्याचे पत्र जा.क्र. झोन६/४३२४, दि. १६/११/२०१९
८) मे. पद्मावती असोसिएटस् यांचा खुलासा आ.क्र. ४६७८, दि. ८/११/२०१९
९) मा. प्रिन्सीपल सेक्रेटरी एनव्हायरोनमेंट डिपार्टमेंट अॅण्ड मॅबर सेक्रेटरी SEIAA
महाराष्ट्र यांचे दि. १६/११/२०१९ चे आदेश

विषयांकित बाबत संदर्भ क्र. १ अन्वये अॅड. श्री. निलेश लोणकर यांनी नोटीस पाठवलेली आहे. सदर नोटीशीच्या अनुषंगाने आपणांस खुलासा करणेबाबत संदर्भ क्र. २ अन्वये कळविण्यात आले आहे. मा. प्रिन्सीपल सेक्रेटरी एनव्हायरोनमेंट डिपार्टमेंट अॅण्ड मॅबर सेक्रेटरी SEIAA महाराष्ट्र यांनी संदर्भ क्र. ३ अन्वये अॅड. श्री. निलेश लोणकर यांचे नोटीशीच्या अनुषंगाने मे. पद्मावती असोसिएटस् यांना खुलासा करणेबाबत कळविले आहे त्याची प्रत पुणे मनपास पाठविण्यात आली आहे. सदर पत्राच्या अनुषंगाने आपणांस संदर्भ क्र. ४ अन्वये नोटीसीमधील

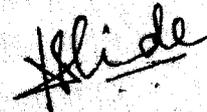
मुद्दयांचा खुलासा करणेबाबत कळविण्यात आले आहे. संदर्भ क्र. ५ अन्वये महाराष्ट्र पोल्युशन कंट्रोल बोर्ड यांनी कळविले आहे. सदर पत्राच्या अनुषंगे संदर्भ क्र. ७ अन्वये आपणांस खुलासाबाबत कळविण्यात आले आहे. त्यानुसार मे. पद्मावती असोसिएट्स यांनी संदर्भ क्र. ८ अन्वये खुलासा सादर केलेला आहे.

विषयांकित मिळकतीचे विकसन करणेकरीता डीपीओ/७१४९/४/२९९, दि. ७/१२/२००५ अन्वये लेआऊट मान्य करून वेळोवेळी लेआऊट दुरुस्त व बांधकाम परवानगी घेऊन प्रोजेक्ट पूर्ण करणेत आला आहे. तसेच सदर बांधकामास वेळोवेळी भोगवटापत्र देण्यात आले असून अंतिम भोगवटापत्र ओसीसी/०४३५/१५, दि. १३/७/२०१५ अन्वये देण्यात आले आहे.

विषयांकित बाबत मे. पद्मावती असोसिएट्स यांनी मा. प्रिन्सीपल सेक्रेटरी एनव्हायरनमेंट डिपार्टमेंट यांचेकडे दि. ११/११/२०१९ रोजी प्रस्ताव सादर केला त्यानुसार मा. प्रिन्सीपल सेक्रेटरी एनव्हायरनमेंट डिपार्टमेंट यांचेकडे मे. पद्मावती असोसिएट्स यांची सुनावणी घेण्यात आली होती. सदर सुनावणीमध्ये विकसक यांनी एनव्हारोमेंट सर्तीफिकेट मिळवणेसाठी वेळेत अर्ज दाखल न करता प्रोजेक्टचे काम पूर्ण करण्यात आले असल्याने विकसक मे. पद्मावती असोसिएट्स यांचेवर कायदेशीर कारवाई करून रिपोर्ट सादर करणेबाबत संदर्भ क्र. ९ अन्वये आदेश दिले आहेत.

तरी एनव्हारोनमेंट सर्तीफिकेट दाखल करणे आवश्यक असताना आपण पुणे मनपाची दिशाभूल करून भोगवटापत्र घेतल्याचे निदर्शनास आले आहे. तरी आपण पुणे मनपाची एम.एम.सी. अॅक्ट १९४९चे कलम २५८ अन्वये दिशाभूल केली असल्याने आपणावर नियमानुसार कार्यवाही करण्यात येत आहे.

कळावे,


कार्यकारी अभियंता
बां. वि. वि. झोन क्र. ६,
पुणे महानगरपालिका
13/12

सोबत:-संदर्भांकित पत्राची प्रत
प्रत- ला. आर्कि. श्री. जगदीश देशपांडे
रा. अ-१ सक्सेस चेंबर,
१२३२, आपटे रोड, डेक्कन जिमखाना,
पुणे-४११००७

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ENGLISH TRANSLATION OF ANNEXURE-A-4

Office of City Engineer
Construction Dev Dept No 6
Pune Municipal Corporation
Outward No Zone-6/4970
Date 13/12/2019

To,
M/s Padmavati Associates
(Shri Ishwarchandra Kishorilal Goyal &
Sachin Ishwarlal Goyal)
5th Floor, Plot No 117A,
Prabhat Road, Apex Colony
Deccan Gymkhana, Pune-411004

Sub: International Violation of D.C. Rules, of Pune
Municipal Corporation, Maharashtra Regional
& Town Planning Act 1966 EIA Notification
2006, Environmental Protection M/s
Padmavati Associates in their Residential
Construction Project at Sr. No 6/2, 6/3 and 7
Village Aundh, Pune

- Ref:
1. Notice of Adv Shri Nilesh Lonkar dated 6/8/2019
 2. Department letter Outward No Zone-6/2949 dated 30/8/2019
 3. Letter of Principal Secretary Environment Department & Member Secretary SEIAA Maharashtra dated 29/8/2019 Inward No 4527 dated 21/9/2019
 4. Department's letter Outward No Zone-6/3410 dated 23/9/2019
 5. Notice of Adv Shri Nilesh Lonkar dated 13/8/2019 to MPCB Board
 6. Letter of Maharashtra Pollution Control Board Inward No 5535 dated 4/11/2019
 7. Account Outward No Zone-6/4324 dated 16/11/2019

8. Clarification of M/s Padmavati Associates
Outward No 4678 dated 8/11/2019
9. Secretary of Principal Secretary
Environment Department & Member
Secretary SEIAA Maharashtra dated
16/11/2019

With reference to subject matter vide reference No 1 Adv Shri Nilesh Lonkar has sent notice. In view of this notice about making clarification vide reference No 2 it is informed. Vide reference No 3 in view of the notice of Adv Shri Nilesh Lonkar the Principal Secretary Environment Department & Member Secretary SEIAA Maharashtra has asked M/s Padmavati Associates to give clarification a copy of which has been given to Pune Municipal Corporation. In view of the said letter vide reference No 4 about giving clarification on the basis of points of notice. Vide reference No 5 Maharashtra Pollution Control Board has informed. In view of the letter vide reference No 7 you have been informed about clarification. Accordingly M/s Padmavati Associates has given clarification vide reference No 8.

For doing development of subject property vide DPO/7149/4/219 dated 7/12/2005 by way of approving the layout and by way of rectifying the layout time to time and obtaining construction permission the project has been completed. Similarly from time to time Occupancy Certificate has been given to this construction. Last Occupancy Certificate was given vide OCC/0435/15 dated 13/7/2015.

In respect of the subject matter M/s Padmavati Associates has submitted the proposal to Principal Secretary Environment Department on 11/11/2019. Accordingly the hearing of M/s Padmavati Associates was conducted before Principal Secretary Environment Department. In this hearing for obtaining Environment Certificate the Developer did not file application in time; but work of the project was completed. Hence vide reference No 9 it was ordered to take legal action against M/s Padmavati Associates and to submit report.

Thus when it was essential to submit the Environment Certificate it appears that by way of misleading Pune Municipal Corporation you have obtained the Occupancy Certificate. Hence under section 258 of MMC Act 1949 you have misled Pune Municipal Corporation hence as per rule action is being taken against you.

Thanks,

SD
Executive Engineer
Construction Dev Dept No 6
Pune Municipal Corporation

Encl: Copy of reference letter

Copy to:

Licensed Architect Shri Jagdish Deshpande
A-1, Success Chamber, 1232 Apte Road
Deccan Gymkhana, Pune

TRUE TRANSLATION



ANNEXURE A-5

MAHARASHTRA POLLUTION CONTROL BOARD REGIONAL OFFICE – PUNE

Phone No. (020) 2581 1694
(020) 2581 1627
Fax No. (020) 2581 1029



Jog Center, 3rd Floor,
Wakdewadi,
Old Pune-Mumbai Road,
Pune -411 003

Visit us at <http://mpcb.mah.nic.in>

Ref. No. ROP/ *MPCB/PD/2003030003*
To
M/s. Padmavati Associate Pristine Royale
S. No. 6/2, 6/3 & 7, Aundh,
Tal- Haveli, Dist-Pune

Date:- *03/03/2020*

Sub: Proposed Directions under section 33 A of Water (Prevention & Control of Pollution) Act, 1974, 31 A of Air (Prevention & Control of Pollution) Act, 1981 & Hazardous Waste (M & TM) Rules, 2008.

Ref : 1) Board Warning Notice issued vide no.19112013 FTS 0061.
2) Visit of Board Officials dtd. 23/10/2019
3) Proposal submitted by SRO P-I vide no. MPCB-LEGAL_ACTIONS-161219030 on.17.12.2019

WHEREAS, your industry is located in the "Pollution Prevention Area" under the Water Act 1974, under the Air Act 1981 and Hazardous Waste (Management and handling) Rules, 1989 followed by further amendments made therein from time to time.

AND WHEREAS, the Board had granted the consent to operate under Section 26 of the Water (Prevention & Control of Pollution) Act, 1974, under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorization under Rule 5 of the Hazardous Wastes (MH & TM) Rules, 2016. And, it is obligatory on your part to provide pollution control systems as it warranted and to operate and maintain the same continuously and effectively so as to achieve the standards prescribed in the consent.

AND WHEREAS, the officer of the Board has visited your industry on 23.10.2019 and reported that:

- 1) You have constructed and completed construction of residential project without obtaining consent to establish & operate from MPCB Board.
- 2) You have not yet obtained NOC from Central Ground Water Department..
- 3) You have not provided full-fledged sewage treatment plant to treat domestic, Operation and maintenance of STP is poor
- 4) You are not recycling treated effluent and it was being discharged to PMC sewer line.
- 5) During visit Operation and maintenance of OWC is very poor
- 6) You have not produced MPCB legal documents during visit.

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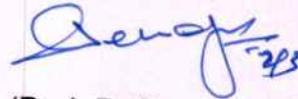
AND WHEREAS, from the record of this office and observations made during the visit, I came to the conclusion that you are not complying with the consent condition and the provision of Water (Prevention & Control of Pollution) Act, 1974 thereby causing grave injury to the environment.

NOW THEREFORE, in exercise of the powers conferred upon me under section 33 A of Water (Prevention & Control of Pollution) Act, 1974, 31 A of Air (Prevention & Control of Pollution) Act, 1981, I, Dr.J.B.Sangewar, Regional Officer of the Board, at Pune hereby issue directions as under-

1. Whys your unit shall not be directed to close down the manufacturing activity forthwith?
2. Why the competent authorities shall not be directed to disconnect Water / electricity supply of your unit?

You are directed to remain present for personal hearing on 20.03.2020 at 3:50 pm in the office of Regional Officer, M. P. C. Board, Jog centre, 3rd floor, wakadewadi, Pune-03 along with action plan towards the compliance of above related points, else this office will rather be compelled to initiate further action as deemed fit in your case as per the provisions of various Environmental enactments, which may please be noted.

For and on behalf of
Maharashtra Pollution Control Board



(Dr. J. B. Sangewar)
Regional Officer, Pune

Copy Submitted for information to

1. The Member Secretary, MPC Board, Mumbai.
2. The Sr. Law Officer, MPC Board, Mumbai
3. The Joint Director, (PAMS),

Copy to-

The Sub-Regional Officer, M.P.C.Board,Pune-I/II/PC.

- You are directed to keep the follow up and report the compliance from time to time.

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ANNEXURE-A-6

ITEM NO.12

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SUO MOTU WRIT PETITION (CIVIL) No(s).3/2020

IN RE : COGNIZANCE FOR EXTENSION OF LIMITATION

Date : 23-03-2020 This petition was taken up suo motu for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE SURYA KANT

By Courts Motion

COUNSEL PRESENT

Mr. Tushar Mehta, SG
Ms. Swati Ghildiyal, Adv.
Mr. Ankur Talwar, Adv.
Mr. G.S. Makkar, Adv.
Mr. Raj Bahadur, Adv.
Mr. B.V. Balaram Das, AOR

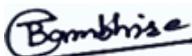
Mr. Dushyant Dave, Sr. Adv.

UPON hearing the counsel the Court made the following
O R D E R

This Court has taken *Suo Motu* cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State).

To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such

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proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.

We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities.

This order may be brought to the notice of all High Courts for being communicated to all subordinate Courts/Tribunals within their respective jurisdiction.

Issue notice to all the Registrars General of the High Courts, returnable in four weeks.

(SANJAY KUMAR-II)
ASTT. REGISTRAR-cum-PS

(MUKESH NASA)
COURT MASTER

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR

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MAHARASHTRA POLLUTION CONTROL BOARD
REGIONAL OFFICE - PUNE

Phone No. 020-25811694
 Fax No. 020-25811701
 e-mail : ropune@mpcb.gov.in
 visit us : www.mpcb.gov.in



Jog Centre, 3rd Floor,
 Wakdewadi,
 Old-Pune Mumbai Road,
 Pune- 411003

MPCB/ROPI/MPCB/NGT O.A. 34/2020/Directions/ 2008250002

Date: 25/08/2020

To,
 M/s. Padmavati Associates,
 100, East Street Gallery, East Street,
 Camp, Pune.

Sub: Directions under section 33 A of Water (Prevention & Control of Pollution) Act, 1974, 31 A of Air (Prevention & Control of Pollution) Act, 1981 to stop Construction Activities.

Ref : 1. Proposed Directions issued by Board on 03/03/2020.
 2. The Joint Committee (SEIAA, GoM, MPCB and PMC) visit on 20/08/2020
 3. Proposal submitted by SRO Pune- I vide no. MPCB-LEGAL_ACTIONS-220820002 on 23/08/2020.

WHEREAS, your construction project is located in the 'Pollution Prevention Area' under Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of) Act, 1981 & Hazardous & Other Waste (Management & TM) Rules, 2016.

AND WHEREAS, It is an obligatory on your part to obtain Prior Environmental Clearance under EIA Notification Dtd. 14/09/2006.

AND WHEREAS, It is an obligatory on your part to obtain Consent to Operate of the Board under section 26 of the Water (Prevention & Control of Pollution) Act, 1974; under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Hazardous and Other Wastes (Management & Transboundary Movement) Rules, 2016.

AND WHEREAS, it is an obligatory on your part to be comply with all the conditions stipulated in consent with respect to generation, treatment and disposal of effluent as well as generation, handling and disposal of Hazardous Waste.

AND WHEREAS, it is an obligatory on your part to provide pollution control systems as it warranted and to operate and maintain the same continuously and effectively so as to achieve the standards prescribed in the consent.

AND WHEREAS, the joint Committee (SEIAA, GoM, MPCB and PMC) visited on 20/08/2020 and accordingly Sub Regional Officer Pune-I has submitted proposal and in their reported that following non-compliances / violations,

1. You have carried out construction activity for TBUA 55862.25 SQM. at Pristine Prism and Pristine Royal on Su. no 6/2, 7 Village Aundh, Pune without obtaining Environmental Clearance, Consent to Establish and Consent to Operate from competent Authority.
2. You have installed OWC at Pristine Royal Project but same was not found in operation.

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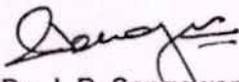
3. You have installed 160 CMC capacity Sewage Treatment Plant in M/s. Pristine Prism Project however during visit same is not in operation and from the condition of STP its observed same is not in operation since long back.
4. You are discharging untreated domestic effluent into the Pune Municipal Corporation Sewer line.
5. You have not provided Sewage Treatment plant to treat the domestic waste generated from M/s. Pristine Royal Project and discharging without treatment to the local body sewer line.

AND WHEREAS, Board has already issued Proposed Directions for the above non-compliances vide reference (1) but you have not yet submitted any reply or compliance report of said proposed directions.

AND WHEREAS, after going through the record of your case, reports and information of the Board officials and making necessary enquiries, I came to the conclusion that you are fail to comply with the provision of Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 and thereby causing grave injury to the environment in the least bothered way.

NOW THEREFORE, in exercise of the powers conferred upon me by the Board under section 33 A of Water (Prevention & Control of Pollution) Act, 1974, under section 31 A of Air (Prevention & Control of Pollution) Act, 1981, I undersigned, Dr. J. B. Sangewar, Regional Officer of the Board, at Pune hereby directed you to stop the your construction activities forthwith till to obtaining consent to Establish and Operate and Environmental Clearance from Competent Authority, failing of which the competent authorities will be directed to disconnect water and electricity supply of your construction project, which may please be noted.

For and on behalf of
Maharashtra Pollution Control Board


(Dr. J. B. Sangewar)
Regional Officer, Pune

Copy Submitted for favour of information to

1. Hon'ble Member Secretary, M.P.C. Board, Mumbai.
2. Joint Director(WPC), M.P.C. Board, Mumbai.
3. Law Officer (Policy & Law Div.), M.P.C. Board Mumbai.

Copy to-

Executive Engineer, Office of the City Engineer, Building Permission Department, Pune Municipal Corporation, Pune :- You are requested to not to issue any further permission for proposed construction activity.

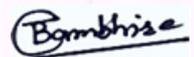
Copy to :-

The Sub-Regional Officer, M.P.C.Board, Pune-I :- You are directed to communicate the above directions to the Project Proponent and submit the compliance report accordingly within stipulated time please.

Copy to- for information:-

1. Chairman, Pristine Prism CHS, Su. No. 6/2, 7, Village Aundh, Pune
2. Chairman, Pristine Royal CHS, Su. No. 6/2, 7, Village Aundh, Pune.

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IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
Suo Motu Writ Petition (Civil) No.3 of 2020

IN RE: COGNIZANCE FOR EXTENSION OF LIMITATION.

..... **Petitioner (s)**

Versus

.....**Respondent (s)**

O R D E R

1. Due to the onset of COVID-19 pandemic, this Court took *suo motu* cognizance of the situation arising from difficulties that might be faced by the litigants across the country in filing petitions/applications/suits/appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central or State). By an order dated 23.03.2020 this Court extended the period of limitation prescribed under the general law or special laws whether compoundable or not with effect from 15.03.2020 till further orders. The order dated 23.03.2020 was extended from time to time. Though, we have not seen the end of the pandemic, there is considerable improvement. The lockdown has been lifted and the country is returning to normalcy. Almost all the Courts and Tribunals are functioning either physically or by

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virtual mode. We are of the opinion that the order dated 23.03.2020 has served its purpose and in view of the changing scenario relating to the pandemic, the extension of limitation should come to an end.

2. We have considered the suggestions of the learned Attorney General for India regarding the future course of action. We deem it appropriate to issue the following directions: -

1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.
2. In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.
3. The period from 15.03.2020 till 14.03.2021 shall also stand excluded in computing the periods

prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

- 4. The Government of India shall amend the guidelines for containment zones, to state.

“Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements.”

- 3. The Suo Motu Writ Petition is disposed of accordingly.

.....CJI.
[S. A. BOBDE]

.....J.
[L. NAGESWARA RAO]

.....J.
[S. RAVINDRA BHAT]

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New Delhi,
March 08, 2021.