



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

IA NO79OF 2024

IN

ORIGINAL APPLICATION NO 108 OF 2023

Nitin Nanaso Phalke

... Applicant

- Versus -

Union of India & Ors

... Respondents

AFFIDAVIT IN OPPOSITION ON BEHALF OF THE ORIGINAL APPLICANT TO
THE IA FILED ABOVE BY THE RESPONDENT NO 10

I, Nitin Nanaso Phalke, Son of, Nanaso Bajirao Phalke, aged about 42 years, residing at Post – Pimpalsuti, Tal – Shirur, District – Pune, do hereby solemnly affirm and state as follows:

1. That I am the Original Applicant in OA 108 of 2023 and also the Respondent in the Interlocutory application preferred by Respondent No 10. I state that I have read a copy of the captioned Application filed by the Respondent no 10 of the Original Application (hereinafter referred to as "IA Applicant") along with all the Annexures therewith.
2. That being the Original Applicant I am acquainted with the facts and circumstances and I am competent to swear this affidavit. However, I am filing the present Affidavit in Opposition for the limited purpose of specifically dealing with the contentions, averments and allegations raised by the IA Applicant.

3. At the outset, I deny all the contentions, averments, statements, submissions and allegations made by the IA applicant in the captioned Application and I am dealing with those portions only which are material for the disposal of the instant application and I state that nothing contained in the Application should be admitted for want of specific traverse or otherwise save and except those that appear from the record and/or are specifically admitted therein.
4. At the outset, I also state that the contentions, averments, statements, submissions and allegations made by the IA applicant in the captioned Application are mostly directed towards Respondent No 11 of the Original Application to which the Original Applicant is in no way privy to and is totally unaware of and is also not concerned with and by levelling certain unknown and shocking allegations against Respondent No 11, the IA applicant has conveniently linked Respondent No 11 to myself and thereby have tried to entangle me into his fictitious allegations.
5. I state and submit that the purported application under reply seems to be totally frivolous, speculative, baseless and is a product of the applicant's concoctions and it has no semblance with the reality. Moreover, I state and submit that this application has been deliberately designed to divert the attention of this Hon'ble Tribunal to other irrelevant issues and thereby derail the whole proceedings and the scurrilous allegations made therein that the Original Application has been filed at the instance of the Respondent No 11 is totally defamatory.



6. I state that with regards to the repeated allegations of number of Dattatraya Gulabrao Phalke being allegedly used in RTI application made by me, it is submitted that though myself and Dattatraya Gulabrao Phalke belong to the same village and since Dattatraya Gulabrao Phalke also resides in Pune, therefore his number was provided so as to overcome any difficulties related to communication. However, merely because of this, it is not to be implied that there was any collusion between the Applicant and the Respondent No 11 or any other respondent for that matter in filing this Original application against the Interim applicant.

7. I state that vide Order dated 25.04.2024 the Hon'ble Tribunal directed my personal presence on the next date of hearing being 22.08.2024 to explain the allegations made in the IA under reply and complying with such order I appeared before the Hon'ble Tribunal on 22.08.2024 in which I answered all the questions that were put to me by the Hon'ble bench who upon being satisfied dispensed with my attendance henceforth and also the Hon'ble Tribunal did not pass any order dismissing the Original application as prayed for in the present application.

Copy of Orders dated 25.04.2024 and Order dated 22.08.2024 is annexed herewith and marked as Annexure IR/1.

8. I state that in terms of the Order dated 22.08.2024 there was a direction upon me to submit an affidavit for stating and confirming my identity and affirming the fact that there is no nexus with any of the Respondents in filing this present application. In compliance with the same, I have affirmed and



filed an affidavit to that effect in which I have mentioned my Mobile number and the Aadhar card and have affirmed the details to be true.

Copy of affidavit dated 06.01.2025 is annexed herewith and marked as Annexure IR/2.

9. I also state that being a citizen of this country and also being a resident of the village where the IA applicant has been conducting its illegal activities, I have every right to approach this Hon'ble Tribunal in my own capacity and simply because Respondent No 11 is known to me as belonging from the same village and/or his mobile number having been used (for convenience in future communication), it is absurd to stretch it to the extent and allege that the instant original application has been filed at the behest of Respondent 11 to 13.

10. That without prejudice to the submissions made, I proceed to deal with the allegations of the applicant in a para-wise manner.

a) Save and except what are matters of record, I deny each and every allegation contained in Paragraph 1 to 7 of the application. I reiterate that I am not privy to any of the facts stated above and the facts stated therein are totally private to the IA Applicant and the Respondent No 11. However, it is asserted that notwithstanding the same, I am not estopped from pursuing this cause of action for the protection of environment in the light of blatant violations of environmental laws.

b) Save and except what are matters of record, I deny each and every allegation contained in Paragraph 8, 9, 10 of the application. I strongly deny that Respondent No 11 got this application filed by me at his behest to meet his own alleged agenda. I strongly deny that simply because the phone number of Respondent No 11 was shown in my RTI Application that would imply that this application was filed at his instance. It is strongly denied that there has been suppression of material facts as alleged or that the tribunal has been misled by such applications or that there was any illegal objective to be met.

11. I also submit that the Joint Committee as appointed in terms of Order dated 29.02.2024 also submitted its finding on 20.08.2024 which show that mining activity has been conducted even till the very recent. Since by various rulings of the Hon'ble Supreme Court it has been repeatedly held that the Hon'ble Tribunal is vested with suo moto powers under the NGT Act 2010, therefore under such circumstances, irrespective of everything else, it becomes imperative for the Hon'ble Tribunal to intervene for protection of the environment and hence under no circumstances, given the present state of facts, should this application be dismissed as there is no illegal object behind filing of this application and rather the application is totally Bonafide and meant to further the cause of justice and save the environment from further degradation.



12. In view of the facts and circumstances stated above, it is therefore prayed that this application deserves to be dismissed with costs for being frivolous, vexatious and without adequate grounds.

13. The statements made in Paragraphs 1 to 12 are true to my knowledge and the rest are my humble submission before this Hon'ble Tribunal.

14. The annexures attached with this affidavit are true copies of their respective originals.

Phue



[9 JAN 2025

NOTED AND REGISTERED AT SERIAL NUMBER 717 / 2025

BEFORE ME
Khandre
V. A. KHANDRE
NOTARY, GOVT. OF INDIA
9033, Balbhawan Chowk, Ghodnadi,
Dist. Shivajinagar, Dist. Pune - 412210.



Item No.8

(Pune Bench)

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

[Through Physical Hearing (With Hybrid Option)]

ORIGINAL APPLICATION NO.108 OF 2023 (WZ)

Nitin Nanaso Phalke

.... Applicant

Versus

MoEF&CC & Ors.

....Respondents

Date of hearing : 25.04.2024

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

Applicant : Mr. Ayan Poddar, Advocate

Respondent : Mr. Nitin Sardesai, Senior Advocate along with Mr. Pourush Ranka, Advocate for R-10

ORDER

1. Learned counsel Mr. Pourush Ranka for respondent No.10 – Rajendrasinh Bhamboo Infra Pvt Ltd has sent us an e-mail dated 24.04.2024 seeking immediate listing of the present matter for hearing to press I.A. No.79 of 2024 wherein it is prayed that the original applicant namely Nitin Nanaso Phalke has no locus as well as credential to maintain the present Original Application and that the same is being presented at the instance of respondent No.11 – Dattatray G. Phalke. Therefore, the Original Application be dismissed with exemplary costs and punitive action be initiated against the original applicant as well as respondent No.11.

2. The learned senior counsel for respondent No.10 has pointed out that respondent No.11 in the present Original Application – Dattatray G. Phalke had earlier filed Original Application No.74 of 2023 alongwith I.A. No.128/2023 and while allowing said I.A., vide order dated 05.10.2023, this Tribunal has held that the applicant does not have *locus standi* as well as credential to file the said Original Application. It is argued that

this finding is given by this Tribunal on an application moved by the learned counsel alleging that the applicant – Dattatray G. Phalke was an extortionist.

3. Learned counsel for respondent No.10 submits that now respondent No.11 – Dattatray G. Phalke has got the present Original Application No.108/2023 filed through another person namely Nitin Nanaso Phalke and for this, he has drawn our attention to mobile number of respondent No.11 being 90498061120 being the same which is shown as that of the original applicant in the application under RTI (Annexure A-23).

4. Thereafter, the learned counsel for respondent No.10 has drawn our attention to the fact that when he moved I.A o.79/2024 with the above mentioned prayers, a copy of the same was sent to the applicant of the present Original Application and in response to that, he wrote back vide e-mail dated 24.04.2024, as “please remove my email id from the list. You may need to be find correct one for concerned person”.

5. In the meantime, while this order was being dictated, the learned counsel for the applicant in present Original Application, Mr. Ayan Poddar appeared through VC and states that he has been served copy of I.A. No.79/2024 and would like to file objections against the same for which two weeks’ time be allowed. The same is allowed.

6. On the next date, the applicant – Nitin Nanaso Phalke shall appear in person before us.

7. Put up this matter for next consideration on 22.08.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 25, 2024
O.A. No.108/2023 (WZ)
npj

Item No.5

(Pune Bench)

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

[Through Physical Hearing (with Hybrid Option)]

**ORIGINAL APPLICATION NO.108 OF 2023 (WZ)
WITH
I.A. NO.79/2024 IN O.A.NO.108/2023 (WZ)**

Nitin Nanaso Phalke

.... **Applicant**

Versus

MoEF&CC & Ors.

...**Respondents**

Date of Hearing : 22.08.2024

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

Applicant : Mr. Ayan Poddar, Advocate along with applicant in person

Respondents : Mr. Aniruddha Kulkarni, Advocate for R-2 and R-3
Ms. Manasi Joshi, Advocate for R-4 and R-5
Ms. S.B. Vaidya-Pandit, Advocate for R-6, R-7 and R-8
Mr. Nitin Sardesai, Senior Advocate along with
Mr. Pourush Ranka, Advocate for R-10

ORDER

1. In pursuance of our previous order dated 25.04.2024, the applicant Nitin Nanaso Phalke is present in person before us and stated that it is he only who has filed the present Original Application on his own and not at the instance of respondent No.11 – Dattatray G. Phalke. He also stated that the mobile number of respondent No.11 and his mobile number are different. He has also shown his Aadhar card in which address is found to be the same which is recorded in the Original Application. He also clarified that he is not related to respondent Nos.11, 12 and 13 in the present O.A. We direct him to file an affidavit stating all these facts within a week from the date of uploading of this order.

2. It is also apprised to us by the applicant that by mistake, his e-mail id is recorded wrongly in the array of parties as nitinphalke@gmail.com although it is actually nitinnphalke@gmail.com. Therefore, we direct the

Registry and the parties, which are being represented by their respective counsel before us, to correct the said e-mail address of the applicant accordingly so that future correspondence shall be made properly on the correct e-mail address of the applicant.

3. The Joint Committee, which was constituted by us vide order dated 29.02.2024, has submitted its report dated 20.08.2024, wherein it is indicated that the report was directed to be submitted on following two points:

Point no.1 : *What is the actual quantity of stone, which has been mined by the Project Proponent*

Point No.2 : *Market value of the mined stone by the Project Proponent*”

4. Out of these two points, only point no.1 has been responded by submitting in that report that the total volume of mined stone is 393935.664 CUM and in bras, the same is stated to be 139059.289 bras, but they have not given the market valuation of the same. We direct them to submit additional report stating therein the market value of the said quantity of mined stone. We further want them to submit by way of an affidavit as to whether royalty has been paid on the entire quantity of the stone which has been mined. These facts shall be submitted by the Joint Committee in their affidavit/report.

5. The learned counsel for the applicant submits that he would file the reply against the application filed by respondent No.10 wherein allegation is made that the Original Application has been got filed through present applicant on behalf of respondent No.11. He may file the said reply before the next date.

6. The learned counsel for the applicant further submits that as the queries put forth by this Tribunal have been clarified by the applicant by personally appearing before this Tribunal today, his personal appearance henceforth may be dispensed with. We accordingly dispense with the personal appearance of the applicant.

7. From the side of respondent No.1 – MoEF&CC, learned counsel Mr. Pushkal Mishra has appeared.

8. From the side of respondent No.2 – Principal Secretary, Ministry of Environment & Climate Change, Government of Maharashtra and respondent No.3 – SEIAA, Maharashtra, learned counsel Mr. Aniruddha Kulkarni has appeared and states that he has not received copy of the Original Application and the documents annexed therewith. We direct the learned counsel for the applicant to serve copies of the Original Application as well as the documents to the learned counsel for respondent Nos.2 and 3 through e-mail.

9. From the side of respondent Nos.4 and 5 – MPCB, learned counsel Ms. Manasi Joshi has appeared.

10. From the side of respondent No.6-District Collector, Pune, respondent No.7 – Tahsildar, Shirur and respondent No.8 – District Mining Officer, Pune, learned counsel Ms. S.B. Vaidya-Pandit has appeared.

11. From the side of respondent No.9 – Chief General Manager (Tech), NHAI, none has appeared.

12. From the side of respondent No.10 – Rajendrasinh Bhamboo Infra Pvt Ltd., learned senior counsel Mr. Nitin Sardesai has appeared.

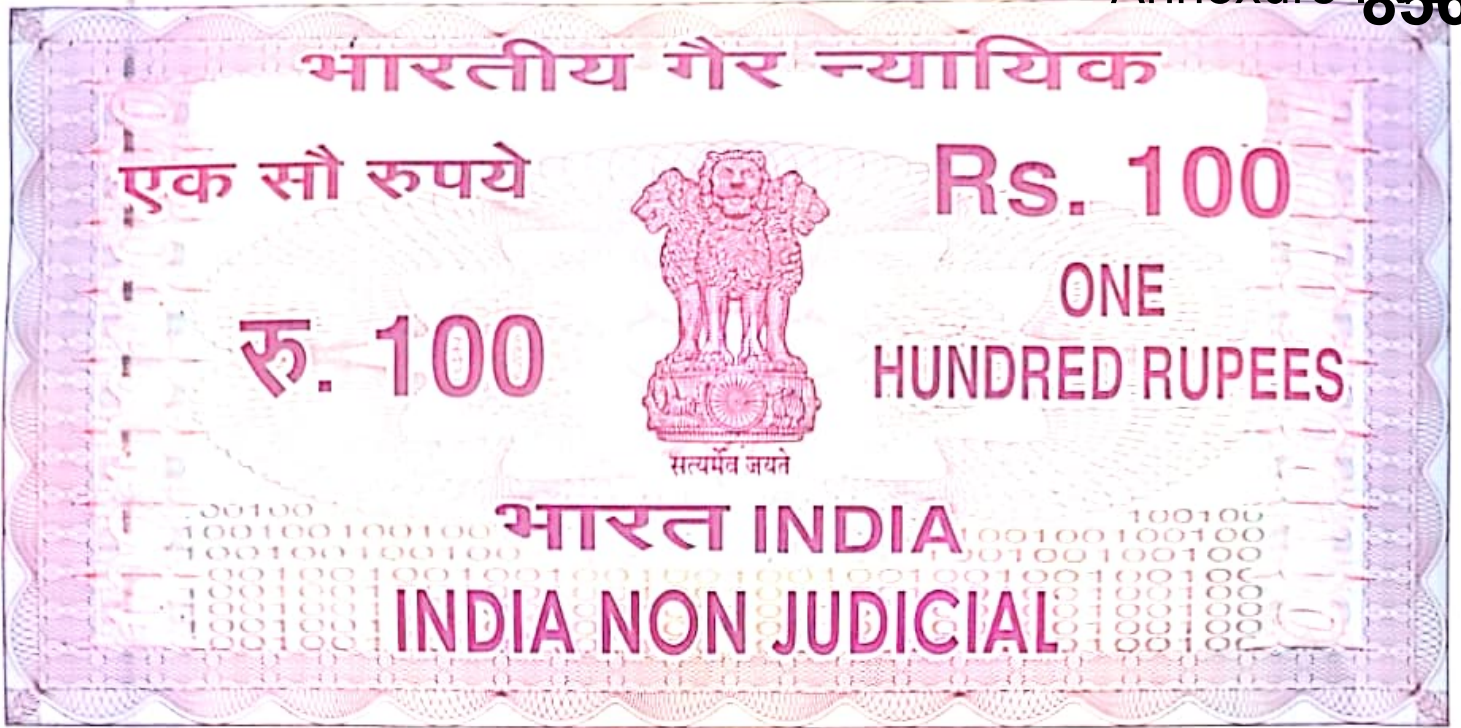
13. From the side of respondent Nos.11 to 13, none has appeared, despite sufficient service.

14. Put up this matter for next consideration on 10.01.2025.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

August 22, 2024
O.A. No.108/2023 (WZ)
npj



महाराष्ट्र MAHARASHTRA

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अनुक्रमांक 3044 दिनांक 21/12/2024
 अनुरोध स्वरूप सत्यता कथने 9000
 मद्रांक कोषागार कार्यालयी कार्यावधिका आहे. पुनिलक्षण
 मुंबई मुद्रांक कार्यालय, ११५८ चे आवेष्टित आहे.
 मद्रांक कोषागार कार्यालये जेव्हा येव नितीन नानासा फाल्के
 संपूर्ण पत्ता: पिंपरी
 हस्त लिखिताने संपूर्ण सत्यता/सत्यता
 संपूर्ण पत्ता: ९९

उपकोषागार कार्यालय
 शिरूर, जि. पुणे
 26 DEC 2024
 उपकोषागार अधिकारी



मि. नितीन नानासा फाल्के (मुद्रांक विक्रेता)
 प. क्र. ००१२००१ मद्रांक कार्यालयी मुद्रांक: २१/०३/२०
 पत्ता - मुख्य मंडळ, शिरूर अफिस, शिरूर



AFFIDAVIT

I, Nitin Nanaso Phalke, Son of Nanaso Bajirao Phalke, aged 42 years, by faith Hindu, by occupation – Business, do hereby solemnly affirm and state as follows:

1. That I am the Applicant in Nitin Nanaso Phalke v. MoEF&CC and Ors. being Original Application No 108 of 2023 (Western Zone) and I am well aware of the facts and circumstances of the case. I have filed the same on my own

volition and not on the instance of Respondent No 11 of the said application (Mr. Dattatray G. Phalke) or any other person for that matter.

2. I further state that I am in no way related to Respondent No 11 (Mr. Dattatray G. Phalke) or to Respondent No 12 (Mr. Nanaso G. Phalke) or to Respondent No 13 (Mrs. Sandhyadevi D. Parkhe).

3. I further state that my Mobile Number is 9730568372 and it is exclusively belongs to me and to my knowledge it cannot be same as that of the Mobile Number of Respondent No 11 of the said application (Mr. Dattatray G. Phalke).

4. I also state that my Aadhar Card Number is 8683 6053 7737 and the address shown therein has been correctly stated and the same has been stated in the application also.

5. That having regard to the above-noted facts, I pray that my Original Application be treated to have been filed Bonafide and be disposed off accordingly.

Solemnly affirmed and signed

Before me on 06th day of January 2025

At Pune

Phalke
DEPONENT

ADVOCATE

NOTED AND REGISTERED AT
SERIAL NUMBER 557/2025

BEFOR ME

V. A. Khandre

V. A. KHANDRE
NOTARY, GOVT. OF INDIA
9002, Subhash Chond, Ghodnadi
Tel. Shirur, Dist. Pune - 412210



6 JAN 2025