

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO.107/2022 (WZ)

Mr.Ibra Mashnaji Konapure & Ors. ---Applicants

Vs

Union of India & Ors ---Respondents

**Affidavit on behalf of Respondent No.5 & 6 -Maharashtra
Pollution Control Board**

I, Ravindra Andhale, Age-55 years , Occupation -Service , the Regional Officer of the Maharashtra Pollution Control Board at Thane, having my office address at Plot No.P-30, 5th Floor, Office Complex Building, Near Mulund Checknaka, Thane-400 605, do hereby state on solemn affirmation as under:-

1. I am filing this Affidavit in compliance of this Hon'ble Tribunal order dated 23/1/2023 on behalf of the Respondent Nos.5 & 6 i.e. Maharashtra Pollution Control Board before this Hon'ble Tribunal.
2. I say and submit that the Applicant has filed the present Application before this Hon'ble Tribunal regarding illegal structure carried out by Respondent No.11-i.e. M/s.Eversmile Properties Pvt.Ltd. namely "Srishti Namaah" situated at Sector Nos.II(A) on Old Survey No.233(part), 235(part), 256(part), New Survey Nos.66(part), 68(part) and 69(part) at Village: Penkarpada, Mira Road (East), Dist: Thane etc.





3. I say and submit that Respondent-Board has granted Consent to Establish to the Respondent No.11-Project Proponent vide letter dated 2/2/2022, for Residential & Commercial Building Construction Project at Old Survey Nos.233(part), 235(part) & 256(part), New Survey Nos.66(part), 68(part) and 69(part) at Village: Penkarpada, Mira Road (East), Dist: Thane, on total plot area 37,880.24 sq.mtrs. for total construction BUA 3,04,576.76 sq.mtrs., subject to certain terms and conditions, wherein, it was one of the condition No.10 that the Project Proponent shall not take effective steps towards construction unless Environment Clearance is obtained. I say and submit that the Respondent no.11- Project Proponent had/has intentions to construct built- up area upto 3,04,576.76 sq.mtrs.
4. I say and submit that this Hon'ble Tribunal vide Order dated 29/11/2022 constituted a Joint Committee comprising of (i) One Representative from the State Environment Impact Assessment Authority (SEIAA); (ii) One Representative from the Maharashtra Pollution Control Board (MPCB); (iii) One representative from Maharashtra Coastal Zone Management Authority(MCZMA) and directed the Committee to visit the site and submit a factual and action taken report.
5. In compliance of the Hon'ble NGT Order dated 29/11/2022, the Joint Committee has submitted its report before this Hon'ble Tribunal on 23/1/2023, which was taken on record by this Hon'ble Tribunal.



6. I say and submit that for violation of consent condition No.10, the Respondent Board has issued proposed directions vide letter no. MPCB/PD/2303130002 dated 13.3.2023 to the Responent No.11-Project Proponent. A copy of the proposed directions dated 13.3.2023 is enclosed herewith and marked as an Annexure-‘I’.

Solemnly affirmed on this 13th day of March, 2023 at Thane.

I know the Affiant,

For and on behalf of
Maharashtra Pollution Control
Board i.e. Respondent No.6

Advocate for Respondent
Board

Joshi
(Ravindra Andhale)
Regional Officer – Thane



NOTARISED

SUJATA V. JOSHI
ADVOCATE & NOTARY

101/102, Vishal Bldg., Station Road,
Kalwa (W), Thane-400 605.

NOTED & REGISTERED

Sr. No. 2200/2023.

13 MAR 2023



MAHARASHTRA POLLUTION CONTROL BOARD

Tel : 25802272		Regional Office, Thane
Fax : 25805398		5 th Floor, Office Complex Bldg.,
Website: http://mpcb.gov.in		Near Mulund Check Naka,
E-mail Id: rothane@mpcb.gov.in		Wagle Estate, Thane-400 604.
"Your Service is Our Duty"		

No. MPCB/ROT/PD/ MPCB/PD/2303130002

Date : 13 /03/2023

To,
M/s. Eversmile Properties Pvt. Ltd.,
Old Survey Nos. 233 (Pt.) ,235(Pt.) & 256 (Pt.)
(New Survey Nos. 66 (Pt.),68 (Pt.) &69 (Pt.),
At Village Penkarpada, Mira Road (E), Thane.

Sub: Proposed Directions u/s 33A of the Water (Prevention &Control of Pollution) Act, 1974 and/or u/s 31A of the Air (Prevention & Control of Pollution) Act, 1981.

Ref: - 1) Consent to Establish granted by Board on 2.2.2022.
2) Committee's visit to the site under subject 20/01/2023.
3) Action proposal submitted by Sub- Regional Officer, Thane-II vide Legal Unique No. MPCB-LEGAL_ACTIONS- 230123010.

WHEREAS, the Maharashtra Pollution Control Board has granted consent to establish to your project subject to certain terms & conditions. **AND WHEREAS**, it is obligatory on your part to comply with the consent conditions and to provide adequate water & air pollution control devices so as to achieve the standards prescribed by the Board.

AND WHEREAS, Mr. Irba Mashnaji Konapure filed an original application no. 107/2022 before Hon'ble National Green Tribunal (NGT), Western Zone and subsequently Hon'ble NGT vide its order dtd 29.11.2022 directed a Joint Committee comprising SEIAA, MPCB and MCZMA to visit the site and submit a factual and action taken report w.r.t the violation.

AND WHEREAS, accordingly the joint committee visited the site on 20.1.2023 and submitted the factual report to Hon'ble NGT on 23.1.2023. **AND WHEREAS**, Hon'ble NGT in its order dated 23.1.2023 directed the Board to file its reply affidavit.

AND WHEREAS, the officials of the MPC Board visited your site and observed that you have taken effective steps towards implementation of the project and constructed BUA of 16733 sq.m. (as per architect's certificate) without obtaining prior Environmental Clearance from competent authority, thus you have violated the condition no. 10 of the consent to establish granted by the Board.

AND WHEREAS, the above fact shows gross violation of consent conditions and clearly indicates your negligent attitude towards compliance of various Environmental Acts.

NOW THEREFORE, in exercise of the powers conferred upon me by the Board under section 33A of the Water (P & CP) Act, 1974 and under section 31 of the Air (P & CP) Act, 1981, I, hereby direct you as follows:

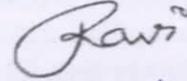
- Why your construction activity shall not be stopped forthwith?
- Why environmental compensation / penal charges for violation of consent conditions shall not be levied upon you?
- Why legal action shall not be initiated against you for violation of the provisions of the aforementioned Acts?

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You shall submit reply to this direction within seven days, failing which further stringent legal action will be initiated, which may please be noted.

This is issued with the post-facto approval from competent authority.



(R. B. Andhale)
Regional Officer, Thane

Copy submitted to :

Assistant Secretary (Technical), MPC Board, Sion, Mumbai-22.

Copy to:-

Sub-Regional Officer, M.P.C. Board, Thane-II - He is directed to serve these directions to project proponent and submit compliance.

Master file.