

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

APPLICATION NO. 105 /2019

IN THE MATTER OF:

MR. TANAJI BALASAHEB GAMBHIRE ...APPLICANT

VERSUS

THE PRINCIPAL SECRETARY-DoE

GoM & OTHERS

...RESPONDENTS

FILE-A

[VOLUME-\_\_\_\_]

AFFIDAVIT CUM OBJECTIONS ON BEHALF OF  
ORIGINAL APPLICANT TO JOINT COMMITTEE REPORT

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[ANNEXURE No.: A-01]

[ANNEXURE PAGE No. 888 To 890]

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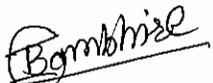
THE PRINCIPAL SECRETARY-DoE & ORS. ... RESPONDENTS

FILE-A

VOLUME-\_\_\_\_\_

SR.	DESCRIPTION	PAGE NO.
1.	Affidavit cum objections on behalf of Original Applicant to Joint Committee Report vide dated 23.09.2021	820 – 887
2.	<u>ANNEXURE-A-1</u> A true copy of the EIA (Amended) Notification issued by MoEF dated 07.07.2004	888 – 890
3.		
4.		

Date: 23.09.2021

  
APPLICANT



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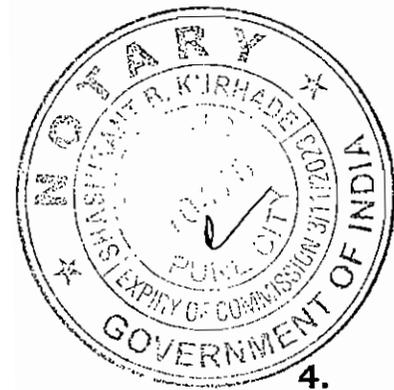
...RESPONDENTS

AFFIDAVIT CUM OBJECTIONS ON BEHALF OF ORIGINAL  
APPLICANT TO THE REPORT OF JOINT COMMITTEE  
DATED 09.06.2021:

I, Tanaji s/o Balasaheb Gambhire Aged: 38, Occupation: Service, R/o: CTS-296, Shukrawar Peth, Laxmi Apartment, Near Shivaji Maratha High School, White House Lane, Pune-411002, do hereby solemnly affirm and state on oath as follows:

I have read the contents of Joint Committee Report dated 06.09.2021 comprising SEIAA, MPCB, PMC & COLLECTOR OF PUNE as well as PMC Report dated 25.08.2021 supported with Architect Certificates dated 09.08.2021 and in reply thereto, I state as under:

1. At the outset, I state that the contents of joint Committee report are totally false, baseless, misleading, misconceived, frivolous, vexatious, neither bonafide nor true and same are doubtful for authenticity and reliance on such report will be miscarriage of the justice.
2. I state that, this Applicant has filed Original Application No. 105/2019 (WZ) before this Hon'ble Tribunal on 15.10.2019 and this Hon'ble Tribunal Vide Order dated 05.01.2021 constituted a Joint Committee comprising SEIAA, Maharashtra, State PCB, Pune Municipal Corporation and Collector Pune. With State PCB as nodal agency.
3. I state that, this Applicant served the copies of OA compilation through email dated 05.02.2021 and thereafter served the hard copies of OA compilation to the joint committee on 22.02.2021 including the Respondent No. 11-PP.
4. I state that, the Joint Committee have done nothing for 18 months since 01.03.2020 to till 08.08.2021 from the Order of this Hon'ble Tribunal the reasons



best known to them and visited the project site on 09.08.2021.

5. I state that, thereafter Joint Committee filed their false, baseless, misleading, casual, cursory & unscientific report dated 06.09.2021, which is prepared, pleaded, drafted and settled by Respondent No. 11-PP in collusion with his Architect M/s. Dasnurkar Associates through Mr. Shirish Dasnurkar and so called Experts of MPCB, SEIAA & PMC namely represented by Executive Engineer of PMC-Mr. Rahul Salunkhe, Joint Director of MPCB-Dr. Y. B. Sontakke and SEIAA Member-Mr. Pankaj Joshi and this Report is compromised statement of so called experts with their duties as this report is filed on behest of the Respondent No. 11-PP by the Joint Committee Members for their best known business.

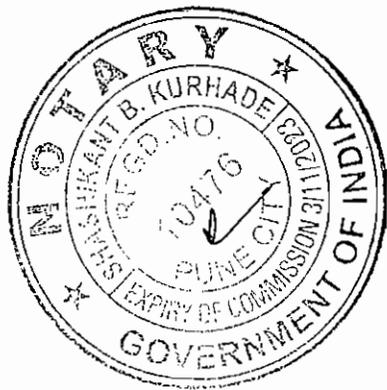
6. I state that, in despite of the joint committee visit by all signed members, final report is prepared based on the false & baseless PMC report dated 25.08.2021 and this PMC report is based on the architect certificate of the Respondent No. 11-PP. Therefore this flow of preparing the joint committee report is very



important. It means, joint committee has not applied their minds to prepare the final report and final report is just blindly signed by Joint Committee Members sitting in the public offices running on the hard earned money of tax payers. Moreover, visit is caused on 09.08.2021 and PMC is giving their report on 25.08.2021, which is after visit of joint Committee. It is clear that, the PMC Report is provided to the joint committee only after the satisfactory settlement and final deal with Respondent No. 11-PP.

7. It is important to note that, the Joint Committee in its report says that the site visit is conducted on 09.08.2021 and PMC in its report says that the site visit is conducted on 10.08.2021. In fact there was no site visit conducted in actual.

8. **IT IS ADMITTED CASE OF VIOLATION AND SUPPRESSION OF VARIOUS CONSTRUCTED AREAS WHILE CALCULATING TOTAL BUA OF PROJECT BY ARCHITECT, PROJECT PROPONENT IN COLLUSION WITH PMC, MPCB, COLLECTOR OF PUNE & JOINT COMMITTEE MEMBERS:**



a) I state that, the present case is nothing but the admitted case of violation as the documents & records related to the case clearly shows that the Respondent No. 11-PP has carried out the construction more than 20000 Sq. Mtrs. despite there being stop work order dated 13.02.2015 issued by the Respondent No. 1-PS-DoE and undertaking of Respondent No. 11-PP himself vide dated 31.10.2014.

b) Further I state that, the joint committee comprising of SEIAA, MPCB, COLLECTOR OF PUNE & PMC has collusion with PP and filed misleading report with suppression of actual total of projects and this suppressions are specifically pointed out by this Original Applicant as below;

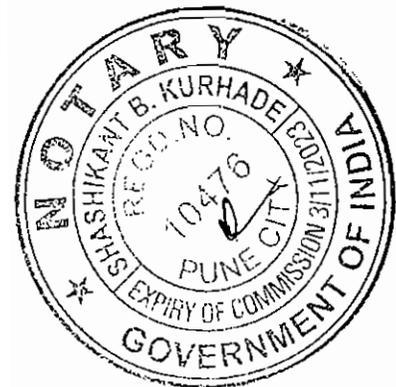


Phase	Total BUA As per Joint Committee (M <sup>2</sup> )		Total BUA As per Original Applicant (M <sup>2</sup> )	
	Completed	Proposed	Completed	Proposed
Eternity-I	18696.80	0	22466.88	0
	2667.90	0		
Eternity-II	19924.15	0	21235.47	
Eternity-III	Vacant	25264.96	2651.41	27115.58
Eternity-IV	10449.85	0	10821.82	
<b>Total BUA</b>	<b>51738.7</b>	<b>0</b>	<b>57175.58</b>	<b>27115.58</b>

	Units Completed		Proposed Units	
	Flats	Shops/ Offices	Flats	Shops
Eternity-I	184	43	0	0
Eternity-II	234		Amenity Plot yet not Developed	
Eternity-III	0	0	251	Amenity Plot yet not Developed
Eternity-IV	52	0	Amenity Plot yet not Developed	
Total Units	<b>470</b>	<b>43</b>	251 + Amenity Plot	

c) Eternity-I phase is comprised of Four Residential buildings & One Commercial Building and Architect & PP in collusion with PMC has calculated these residential area & Commercial separately, even though both these areas should be shown together. But to overcome, the total BUA limit of 20000 M<sup>2</sup>, these tactics are played.

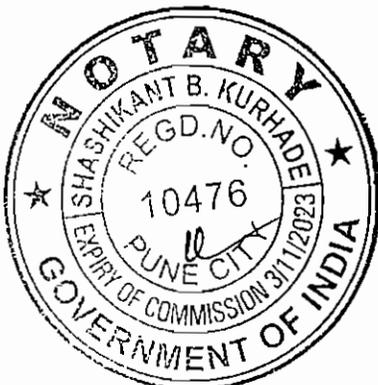
d) In Eternity-I, parking area calculations are false and actually ground coverage needs to be consider. Ground Coverage area for E & D1 building after deducting ducts & terrace openings is (368.86-25.30-



17.66-12.82) = 313.08 M<sup>2</sup> and for D2 & D3 is (427.20-53.72-14.18) = 359.3 M<sup>2</sup>, Therefore, this suppressed difference on account of Ground Coverage/ Parking for Building E, D1, D2 & D3 is ((313.08-233.71) x 2) + ((359.3-277.32) + (359.3-280.08)) = 319.94 M<sup>2</sup> and this area of 319.94 M<sup>2</sup> must be included in Architect calculated area.

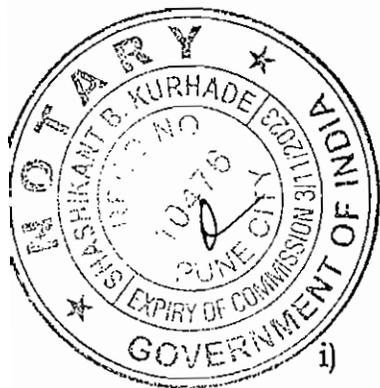
e) In Eternity-I, Respondent No. 11-PP has shown the false calculation for "Stair Cap + O.H.W.T + Lift Machine Room" to the tune of 63.49 M<sup>2</sup> for E, D1, D2 & D3 buildings. In fact, total Lift Machine Room area of "23.81 M<sup>2</sup> for E, D1, D2 & D3 is to the tune 23.81 x 4 = 95.24 M<sup>2</sup> which is not included in 63.49 M<sup>2</sup> and Therefore, this total Lift Machine Room area of 95.24 M<sup>2</sup> must be included in Architect calculated area.

f) In Eternity-I, Respondent No. 11-PP has suppressed area of Gas Bank to the tune of 30 M<sup>2</sup> and 2 covered structures of huts on Open Space to the tune of 30 M<sup>2</sup>. Therefore, this gas bank area & 2 structures of huts from open space to the total tune of 60 M<sup>2</sup> must be included in Architect calculated area.



g) In Eternity-I, actual area of STP Room is 20 M<sup>2</sup>, Underground STP tank is 200 M<sup>2</sup>, WTP Room is 20 M<sup>2</sup>, Underground WTP tank is 200 M<sup>2</sup>, LT Room & DG Set Area is 30 M<sup>2</sup>, Vermiculture pits area is 200 M<sup>2</sup> and security cabin area is 7.5 M<sup>2</sup> in total 727.5 M<sup>2</sup>. However, Respondent No. 11-PP has suppressed these areas and shown cumulative area of 340.89 M<sup>2</sup> on account of Service: STP (Package Unit), UGWT/WTP, LT/DG & Vermiculture Pits. Therefore, the difference area of  $(727.50 - 340.49) = 387.01$  M<sup>2</sup> needs to be included in Architect calculated area.

h) In Eternity-I, Respondent No. 11-PP has suppressed area of Covered car parking area for 20 Cars around the Open Space to the tune of 240 M<sup>2</sup>. Therefore, this Covered car parking area to the total tune of 240 M<sup>2</sup> must be included in Architect calculated area.



i) Therefore, the total BUA of the Nyati Eternity-I Phase is "Residential Area: 18696.80 M<sup>2</sup> + Suppressed Area: 1102.18 M<sup>2</sup> + Commercial Area: 2667.90 M<sup>2</sup>" = **22466.88 M<sup>2</sup>**.

j) In Eternity-II Phase, Respondent No. 11-PP in collusion with his Architect & PMC Officers has

suppressed the areas of "Staircase, lift, Passage, Enclosed Balcony, & refuge area" for building C2 having configuration of 'P+8' and same are shown as "Zero-0". However, the record plan of the C2 building shows the Staircase of  $(8 \times 20.33) = 162.64 \text{ M}^2$ , Lift Area of  $4.07 \text{ M}^2$ , Passage Area of  $(8 \times 9.74 \text{ M}^2) = 77.92$ , Enclosed Balcony of  $((7 \times 41.85) + 25.50) = 318.45 \text{ M}^2$ , Refuge Area of  $101.49 \text{ M}^2$  and these calculation comes to the tune of  $664.57 \text{ M}^2$ .

k) In Eternity-II, Respondent No. 11-PP has suppressed area of Gas Bank to the tune of  $30 \text{ M}^2$  and 2 covered structures of huts on Open Space to the tune of  $50 \text{ M}^2$ . Therefore, this gas bank area & 2 structures of huts from open space to the total tune of  $80 \text{ M}^2$  must be included in Architect calculated area.

l) In Eternity-II, actual area of STP Room is  $15 \text{ M}^2$ , Underground STP tank is  $250 \text{ M}^2$ , WTP Room is  $25 \text{ M}^2$ , Underground WTP tank is  $300 \text{ M}^2$ , LT Room & DG Set Area is  $45 \text{ M}^2$ , Vermiculture pits area is  $250 \text{ M}^2$  and security cabin area is  $7.5 \text{ M}^2$  in total  $892.5 \text{ M}^2$ . However, Respondent No. 11-PP has suppressed these areas and shown cumulative area of  $325.72 \text{ M}^2$  on

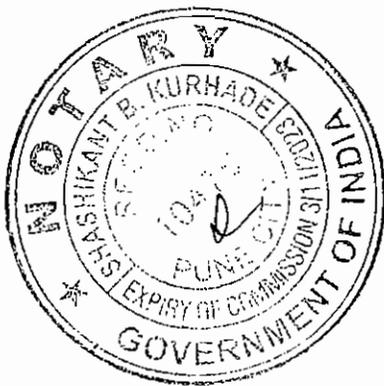


account of Service: STP (Package Unit), UGWT/WTP, LT/DG & Vermiculture Pits. Therefore, the difference area of  $(892.5 - 325.72) = 566.78 \text{ M}^2$  needs to be included in Architect calculated area.

m) Therefore, the total BUA of the Nyati Eternity-II Phase is "Residential Area:  $19924.15 \text{ M}^2$  + Suppressed Area:  $1311.32 \text{ M}^2$ " = **21235.47 M<sup>2</sup>**.

n) In Eternity-III Phase now name changed to Nyati Embrace, Respondent No. 11-PP has admitted in PS-DoE Communications dated 29.05.2018 & 04.11.2019 that the total  $2651.41 \text{ M}^2$  is carried out at site. However, Respondent No. 11-PP has demolished these structures without appropriate measures only after the Order of this Hon'ble Tribunal vide dated 05.01.2021 and only after the service of case compilation to all Respondent including Respondent No. 11-PP. Therefore, Joint Committee has recorded the false & wrong conclusion that the Plot-3 on Sr. No. 25/1/3 for Nyati Eternity III is vacant. In actual there is demolition of structures.

o) In Eternity-IV Phase, Joint Committee has recorded the Total Built-up Area of  $10449.85 \text{ M}^2$  comprising two



buildings, in actual architect certificate calculations are misleading and Architect certificate calculated total area should be 10490.59 M<sup>2</sup>.

U p) In Eternity-IV, actual area of STP Room is 15 M<sup>2</sup>, Underground STP tank is 150 M<sup>2</sup>, WTP Room is 20 M<sup>2</sup>, Underground WTP tank is 150 M<sup>2</sup>, LT Room & DG Set Area is 15 M<sup>2</sup>, Vermiculture pits area is 100 M<sup>2</sup> and security cabin area is 3.5 M<sup>2</sup> in total 448.5 M<sup>2</sup>. However, Respondent No. 11-PP has suppressed these areas and shown cumulative area of 203.49 M<sup>2</sup> on account of Service: STP (Package Unit), UGWT/WTP, LT/DG & Vermiculture Pits. Therefore, the difference area of  $(448.5 - 203.49) = 245.01$  M<sup>2</sup> needs to be included in Architect calculated area.

U q) In Eternity-IV, parking area calculations are false and actually ground coverage needs to be consider. Ground Coverage area for A1 & B1 building after deducting ducts & terrace openings is 300 M<sup>2</sup>, Therefore, this suppressed difference on account of Ground Coverage/ Parking for Building A1 & B1 is  $(300-265.55) + (300-248.23) = 86.22$  M<sup>2</sup> and this area

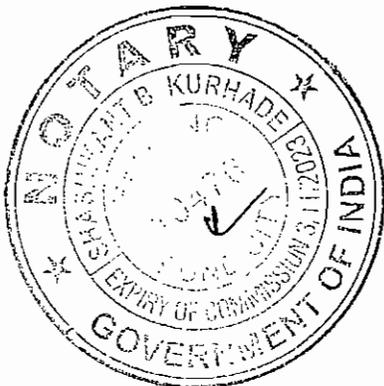


of 86.22 M<sup>2</sup> must be included in Architect calculated area.

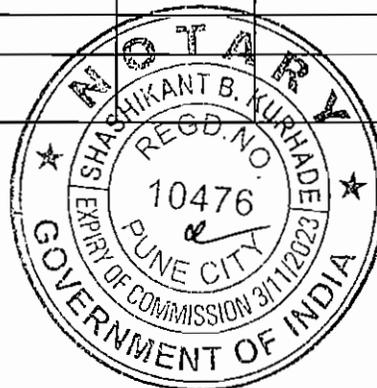
- r) Therefore, the total BUA of the Nyati Eternity-IV Phase is "Residential Area: 10490.59 M<sup>2</sup> + Suppressed Area: 331.23 M<sup>2</sup>" = **10821.82 M<sup>2</sup>**.
- s) Therefore, the Total Built-up area completed for this project comprising these four Phases Nyati Eternity-I, II, III & IV is to the tune of (22466.88 + 21235.47 + 2651.41 + 10821.82) = **57175.58 M<sup>2</sup>** with 11 completed buildings having 470 residential units and 43 commercial units and further PP sought expansion of Built-up Area of **27115.58 M<sup>2</sup>** comprising of 6 buildings with 251 residential units.

**9. SUPPRESSED CONSTRUCTION AREA AND ACTUAL BUA OF PHASE-I, II, III & IV:**

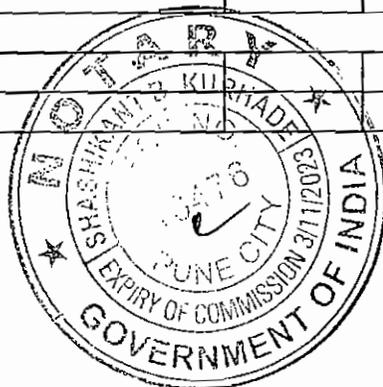
I state that, this Original Applicant has specifically pointed out the suppressions of the constructed areas in the above Para and same are computed here below in addition to the Architect Certificates dated 06.08.2021 & 09.08.2021 submitted by PP to PMC & Joint Committee;



Nyati Eternity-I						
Area in Sq. Mt.	E	D1	D2	D3	Commercial Bldg.	Total BUA
Building Configuration	P+12	P+12	P+12	P+12	G+3	
FSI Area	2500.64	2500.64	2905.97	2934.97	1864.32	12706.54
Staircase Area	98.28	98.28	99.48	99.48	0	395.52
Fire Staircase Area	137.4	137.4	138.6	138.6	0	552
Lift Area	4.07	4.07	4.07	4.07	5	21.28
Fire Lift Area	4.85	4.85	4.81	4.81	0	19.32
Passage Area	240.84	240.84	238.92	238.92	0	959.52
Double Ht. Terrace Area	417.47	417.47	500.44	500.44	484.84	2320.66
Dry balcony Area	126.51	126.51	153.78	121.29	0	528.09
Enclosed Balcony Area	372.58	372.58	434.01	434.8	211.02	1824.99
Stilt Parking Area	233.71	233.71	277.32	280.08	0	1024.82
Refuge Area	74.25	74.25	83.04	82.85	0	314.39
<b>Stair Cap + O.H.W.T + Lift Machine Room</b>	<b>63.49</b>	<b>63.49</b>	<b>63.49</b>	<b>63.49</b>	<b>55.56</b>	<b>309.52</b>
Service: STP (Package Unit), UGWT/ WTP, LT/DG & Vermiculture Pits	340.89				47.16	388.05
<b>Sub-Total-I</b>	<b>4614.98</b>	<b>4274.09</b>	<b>4903.93</b>	<b>4903.8</b>	<b>2667.9</b>	<b>21364.7</b>
<b>Suppressed Construction Area</b>						
Difference in Ground Coverage / Parking	79.37	79.37	81.98	79.22		319.94
Lift Machine Room not included above	23.81	23.81	23.81	23.81		95.24
Gas Bank	30					30
2 Structures on Open Space	30					30
Difference in Service Area of : STP (Package Unit), UGWT/ WTP, LT/DG & Vermiculture Pits	387					387
Covered Car Parking around Open Space	240					240
<b>Sub-Total-II</b>						<b>1102.18</b>
Sub-Total-I						21364.7
Sub-Total-II						1102.18
<b>Total Constructed BUA of Nyati Eternity-I</b>						<b>22466.88</b>



Nyati Eternity-II					
Area in Sq. Mt.	C1	C2	D1	E1	Total BUA
Building Configuration	P+12	P+8	P+12	P+12	
FSI Area	3496.4	2791.4	2869.94	2939.97	12097.71
Staircase Area	203.3	0	98.28	104.04	405.62
Lift Area	4.07	0	4.07	4.18	12.32
Fire Staircase Area	135	90	135	141.96	501.96
Fire Lift Area	4.85	4.85	4.85	4.78	19.33
Passage Area	97.4	0	238.56	494.4	830.36
Double Ht. Terrace Area	514.79	340.59	516.62	465.93	1837.93
Dry balcony Area	126.51	83.47	126.51	182.7	519.19
Enclosed Balcony Area	402.15	0	426.5	436.57	1265.22
Stilt Parking Area	380.63	380.63	335.93	336.16	1433.35
Lift Room Area	23.8	23.8	23.8	31.41	102.81
Refuge Area	101.49	0	77.57	110	289.06
Stair Cap + O.H.W.T	63.25	31.58	61.3	42.97	199.1
Service: STP (Package Unit), UGWT/ WTP, LT/DG & Vermiculture Pits	325.72				325.72
Club House	84.47				84.47
<b>Sub-Total-I</b>	<b>5963.83</b>	<b>3746.32</b>	<b>4918.93</b>	<b>5295.07</b>	<b>19924.15</b>
<b>Suppressed Construction</b>					
Stair case Area of C2 Building (8x20.33)		162.64			162.64
Lift Area of C2 Building (Same as C1)		4.07			4.07
Passage Area of C2 Building (8x9.74)		77.92			77.92
Enclosed Balcony of C2 Building (25.50+(7x41.85))		318.45			318.45
Refuge Area of C2 Building (Same as C1)		101.49			101.49
Difference in Service Area of : STP (Package Unit), UGWT /WTP, LT/DG & Vermiculture Pits		552.01			552.01
Gas Bank Not included above	30				30.00
2 Structures on Open Space	50				50.00
<b>Sub-Total-II</b>					<b>1296.58</b>
Sub-Total-I					19924.15
Sub-Total-II					1296.58





Difference in Service Area of : STP (Package Unit), UGWT/ WTP, LT/DG & Vermiculture Pits	245.01		245.01
Difference in Ground Coverage / Parking	34.45	51.77	86.22
<b>Sub-Total-II</b>			<b>331.23</b>
<b>Sub-Total-I</b>			<b>10490.59</b>
<b>Sub-Total-II</b>			<b>331.23</b>
<b>Total Constructed BUA of Nyati Eternity-IV</b>			<b>10821.82</b>

**10. ADMITTED CASE OF VIOLATION, BUT MEMBERS OF JOINT COMMITTEE FROM PMC, SEIAA, MPCB ARE MISLEADING THIS HON'BLE TRIBUNAL ON ACCOUNT OF DIFFERENT PROJECT:**

- i) I state that, the following are the admission position;
- ii) I state that, the Respondent No. 11-PP filed an application for Environment Clearance vide dated 12.04.2012 (Submitted to SEIAA on 03.05.2012) for the Project "Nyati Eternity" situated at survey numbers 24/1/2, 25/1/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5 & 25/1/6 situated at Village-Undri, Taluka-Haveli, District-Pune-411060 and thereafter. {PP

**Reply Page: 645, Exhi: AA}**



- iii) I state that, the SEAC-III considered the said project in its 10<sup>th</sup> meeting held on 27<sup>th</sup> to 30<sup>th</sup> May, 2014 and SEAC-III held that;

*"Proposed project "Nyati Eternity- at s.no 24/ 1/2, 25/2, 25/ 1/2, ....., 25/ 1/6 Village: Mouze Undri Tal.: Haveli, Dist.: Pune. It is noticed that the project proponent has initiated construction work without obtaining the prior environmental clearance. As per the MoEF, OM dated 12/12/2012 and OM issued by Department of Environment Government of Maharashtra, dated 31/10/2013, there appears to be a violation of EIA Notification, 2006 requirements."*

**{OA Page: 127-128, Annx: A-8}**

- iv) I state that, the Respondent No. 1-PS-DoE issued proposed directions by way of show cause notice dated 04.07.2014 to the Respondent No. 11-PP with respect to the observations recorded by Respondent No. 3-SEAC-III in its 10<sup>th</sup> meeting. **{PP Reply Page: 658, Exhi: DD}**

- v) I state that, the Respondent No. 11-PP vide its letter dated 31.10.2014 filed his reply to the above proposed direction and made following misleading submissions;



“1) We received the first commencement certificate no. PRH/NA/SR/150/2013 dated 28/06/2013 for FSI 10030.67 m<sup>2</sup> & Non FSI 4968.58 m<sup>2</sup> and started the construction accordingly.

2) In anticipation of the upcoming new notification for additional & Paid FSI, and subsequent applicability of Environment Clearance

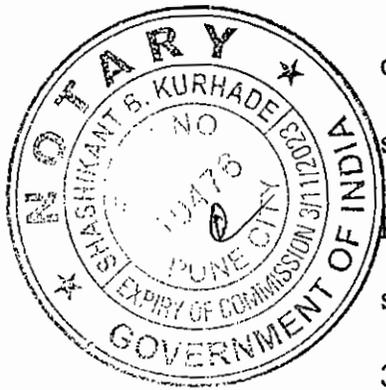
We had applied for Environmental Clearance on 03.05.2012 for 31532.64 m<sup>2</sup> of built up area (18252.13 m<sup>2</sup> + 13280.51 m<sup>2</sup>)

3) On 21.11.2013, new notification was formulated for additional & paid FSI.

4) After release of above said notification, we had stopped the work on 30.11.2013.”

In this regards, I state that the above reply of PP is after thought and commencement of this sanction dated 28.03.2013 in condition no. 24 records the sanctioned TBA of proposal in 16035.74 m<sup>2</sup> and permissible TBA is 21600 m<sup>2</sup>. However, PP says TBA sanction is 14999.25 m<sup>2</sup> and proposed TBA is 315232.64 m<sup>2</sup>. {PP Reply Page: 659, Exhi: EE} & {PP Reply Page: 653, Exhi: BB}

vi) I state that, the Respondent No. 1-PS-DoE has provided opportunity of hearing to the Respondent No.



11-PP on 20.01.2015 and only thereafter, Respondent No. 1-PS-DoE issued direction vide dated 13.02.2015 under section 5 of Environment (Protection) Act, 1986 and directed to stop construction the construction work and these directions are issued to the project "Nyati Eternity" at s. no. 24/1/2, 25/2, 25/1/2, ....., 25/1/6 Village: Mouze Undri, Taluka: Haveli: Dist: Pune. Therefore, Respondent No. 11-PP was prohibited from going ahead with construction. However, PP did not stopped his construction activity despite his own undertaking and clear cut directions vide dated 13.02.2015. **{PP Reply Page: 660, Exhi: FF}**

- vii) I state that, the Respondent No. 11-PP to overcome this illegality of environmental violation prepare a back dated letter/ application for change in land survey numbers & change in the name of Project Proponent. Respondent No. 11-PP has put date 21.05.2014 on the letter and in actual this letter is submitted to SEAC-III, but acknowledgment by environment department on letter is 12.03.2015. It is important to note here that, the date 21.05.2014 on



letter is bogus and with intention to mislead the authority. **{PP Reply Page: 657, Exhi: CC}**

viii) I state that, the Respondent No. 1-PS-DoE issued direction to MPCB Pune to file criminal complaint against the Respondent No. 11-PP and same is filed before the Hon'ble Chief Judicial Magistrate Pune vide R.C.C. No. 4835/2015 on 17.12.2015 for violations in project situated at survey no. 24/1/2, 25/2, 25/1/2, 25/1/6 situated at Village: Mouze, Undri, Tal. Haveli Dist. Pune without obtaining prior Environmental Clearance.

ix) I state that, Information officer of MPCB Pune Office vide its letter dated 07.09.2017 called the data from the Respondent No. 11-PP to provide the information to this Applicant against the RTI dated 14.08.2017 and Respondent No. 11-PP vide its email dated 07.09.2017 has replied the RTI query raised by MPCB and admitted that, Nyati Eternity is constructed on 24/1/2, 25/2, 25/1/2 with following details:

"1. Nyati Embrace, S. No. 25/1/3, Undri Nyati Builders Pvt. Ltd. -we have applied for the environment clearance dated 03.05.2012.



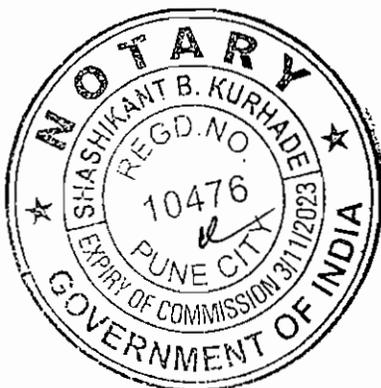
*Environment Clearance is under process so yet we have not applied for consent to Establish.*

*2. Nyati Eternity, S. No. 24/1/2, 25/2, 25/1/2 Undri by Nyati Housing- The project is less than 20000 sq. mt. So project is not seeking Environment clearance and ultimately Consent to Establish. So we have not applied for the consent to MPCB."*

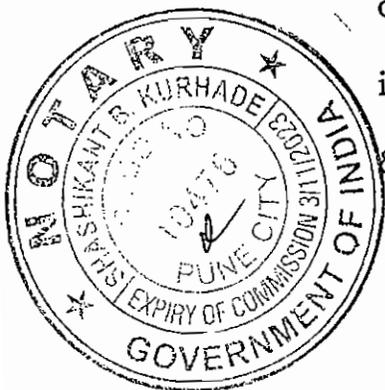
**{OA Page: 412, Annx.: A-28 Colly.}**

x) I state that, the Respondent No. 11-PP himself has admitted in his project brochure that all four phases are known as "Nyati Eternity" and same are part and parcel of one House complex Project. **{OA Page: 444, Annx.: A-32}**

xi) I state that, the Respondent No. 1-PS-DoE vide circular dated 17.01.2014 of PS-DoE clearly permits building construction activity only for redevelopment projects wherein rehabilitation of tenants in SRA/Dilapidated/CESS buildings was involved and allowed to carry out construction upto 20000 Sq. Mtrs. considering that it would not be amount of violation of EIA Notification, 2006. Further PS-DoE issued circular dated 21.04.2015 with respect to the



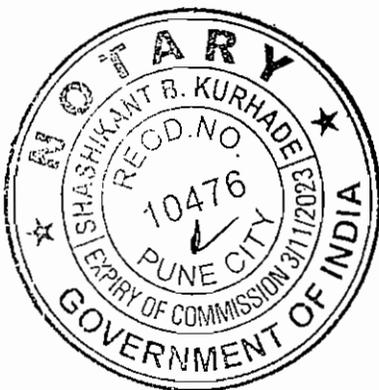
decision of Hon'ble Bombay High Court in W. P. No. 655 of 2014 vide Orders dated 24.03.2014 and in this Order Hon'ble High Court has mentioned that the "environment clearance for the purpose of construction of buildings below 20000 sq. mtrs. is not required" and it is including free sell component. However, actual fact is that the circular dated 21.04.2015 has issued for clarifying that the construction of project wherein project proponent has undertaken total construction below 20000 m2 may not be considered as violation of EIA Notification of 2006 and allowed the construction upto 20000m2 for sell component, even in residential and commercial projects. It is important to note here, that the project must be SRA/Dilapidated/CESS buildings having total construction below 20000 m2. In present case of subject . matter project is general residential & commercial project and not concerned with SRA/Dilapidated/CESS buildings and total potential of the project is more than 20000 m2. Further it is important to note that, the Orders dated 24.03.2014 & 18.12.2014 passed by Hon'ble High Court in WP (L)



No. 655 of 2014 are per incuriam in view of the Judgments passed by the Hon'ble Supreme Court of India in (2017) 9 SCC 499 Common Cause Vs UoI, (2018) 18 SCC 257 in the case of Goel Ganga Developers India Pvt. Ltd. v UOI, 2020 SCC OnLine SC 347 in the case of Alembic Chemicals v Rohit Prajapati, (2020) 2 SCC 666 in the case of Keystone developers v. Anil Tharthare. **{PP Reply Page: 661 to 663, Exhi: GG & HH}**

xii) I state that, the Respondent No. 11-PP filed his request dated 12.04.2018 before Principal Secretary of DoE for grant of EC to the project under violation by changing its Name & Land Survey Number after lapse of 38 months later from the directions dated 13.02.2015. Thereafter, Respondent No. 11-PP in collusion with former PS-DoE obtained the Letter dated 29.05.2018 withdrawing the direction dated 13.02.2015, however there are number of admission by Respondent No. 11-PP which are recorded in letter / communication dated 29.05.2018.

xiii) I state that, the Respondent No. 11-PP himself has admitted in para (a) of the communication of PS-DoE



dated 29.05.2018 obtained by misleading, misinterpretation and cheating upon the Authority that;

“ (a) you have applied for EC in anticipation of developing project “Nyati Eternity” on certain portion of lands out of S. No. 24/1/2, 25/2, 25/1/2, ....., 25/1/6 Village Mauze, Undri, Tal. Haveli, on 03.05.2012. However, you have not developed any part of the lands being part of the said original application dtd. 03.05.2012.

..

..

(e) Considering such increase in the potential of the said land due to aforesaid change in Regulation M/s. Nyati Housing had halted its construction on the said land on 30.11.2013 and submitted an application to the Chairman, SEAC-III vide its letter dtd. 21.04.2014 that there are changes in the name of applicant and the survey numbers mentioned in the E.C. application dtd. 03.05.2012 (i.e. from M/s. Nyati Builders Pvt. Ltd. S. No. 24/1/2, 25/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5, 25/1/6 at Undri, Tehsil-Haveli, District-Pune, State-Maharashtra to M/s. Nyati Housing, S. No. 25/1/3 at Undri, Tehsil-Haveli, Dist-Pune, State-Maharashtra.)



(f) However, it is seen that the committee had not taken cognizance of the same during 10<sup>th</sup> SEAC-III meeting held between 27<sup>th</sup> to 30<sup>th</sup> May, 2014 and referred the said project as per the old application dtd. 03.05.2012 in the name of M/s. Nyati Builders Pvt. Ltd. with Survey Nos. 24/1/2, 25/2, 25/1/2, ....., 25/1/6 Village Mauze, Undri, Tal. Haveli, Dist-Pune to the Environment Department, G.o.M. for initiating credible action after due verification.

After examination of the documents submitted by M/s. Nyati Housing vide reference 2) & 3) above, it has been observed that you have not developed any of the lands being part of the said original application dtd. 03.05.2012.

Hence, the Directions issued u/s. 5 of Environment (Protection) Act, 1986 read with Environment Impact Assessment Notification dtd. 14.09.2006 vide above ref. (1) are hereby withdrawn.

However, it is seen from the affidavit at reference 3) above that at the time of issuance of directions dtd. 13.02.2015, the total BUA admeasuring 2651.41 sq. m. (FSI area - 1175.02 sq. m. + Non-FSI area - 1476.39 sq. m.) constructed by M/s Nyati Housing at S. No. 25/1/3, Undri Tal. Haveli, Dist-Pune was less than 20000 sq. m., hence it is concluded that there is no case of violation of the Environment (P) Act, 1986



*r.w. EIA Notification dtd. 14.9.2006 (as amended from time to time).*

*In case, any discrepancies are observed in these documents, necessary action will be initiated against you under the provisions of the Environment (Protection) Act, 1986 read with Environment Impact Assessment Notification dtd. 14.09.2006, which please be noted."*

**{PP Reply Page: 664 to 669, Exhi: II & JJ}**

- xiv) I state that, the Respondent No. 11-PP has admitted that the EC Application dated 12.04.2012 (Submitted to SEIAA on 03.05.2012) has been filed for project situated on S. No. 24/1/2, 25/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5, 25/1/6 at Undri, Tehsil-Haveli, District-Pune, State-Maharashtra by M/s. Nyati Housing and therefore, this entire development is single project as admitted by Respondent No. 11-PP himself and the Observation of the Joint Committee is totally false, baseless, misleading and lying on the face of this Hon'ble Tribunal with high confidence due to non-actions on them.
- xv) Further I state that, the actual fact is Respondent No. 11-PP has misled the PS-DoE and in reality substantial construction has been carried out by the

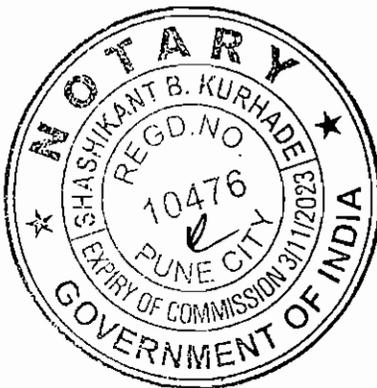


Respondent No. 11-PP on the portion of land under the proposal for EC application dated 12.04.2012 (Submitted to SEIAA on 03.05.2012). Therefore, the present case is admitted case of substantial violations and needs hardest punishment to be imposed on Respondent No. 11-PP & Joint Committee members.

xvi) I state that, the Respondent No. 11-PP in registered agreements at Clause/Para-21, clearly admitting the four phases namely, Phases-I to IV are having common sharing out of this development and it is housing complex project.

xvii) I state that, these Four Phases are internally connected being single project having no separations from each other and common sharing of infrastructures. However Joint Committee has intentionally not recorded these important aspects.

**11. FILING & REFILEING OF REPORT BY JOINT COMMITTEE WITH CARELESS, RECKLESS, IGNORANT, NEGLIGENT & IRRESPONSIBLE CONDUCT:**



- a) I state that, the Joint Committee filed report dated 06.09.2021 containing 10 pages and only with PMC internal report annexed therein and same was uploaded on NGT Website on 08.09.2021.
- b) Further I state that, the PMC has prepared their report on the basis of Architect certificates dated 11.08.2021 and these architect certificates were not uploaded along with report intentionally. Basically, PMC report is itself prepared by the Respondent No. 11-PP and PMC has just sign closing their eyes without asking for the certificates and therefore, the Joint Committee failed to file the Report along with Architect Certificates and necessary documents.
- c) I state that, the Joint Committee Members being so called experts in the field of Environment and Building Construction must have knowledge about the are duty calculation of total built-up area, but these PMC & MPCB Officer has closed their eyes and filed false, baseless, misleading, misrepresenting Report without supporting documents like last sanction building plans for best known reasons to them. Thereafter, on 14.09.2021, this Applicant received email serving



revised report copy along with PMC internal report and architect certificates.

- d) In actual, the Architect certificates dated 06.08.2021 & 09.08.2021 is the under table advise of the Joint Committee members given to the Respondent No. 11-PP to overcome the violations. This entire conduct shows the inherent lack of not only coordination between the government authorities but also ignorance, negligence & irresponsibility on account of their well- known famous business. This conduct of bureaucrats is highly careless, reckless and condemnable. Therefore, this Hon'ble Tribunal may kindly take strict action against these officers.

**12. EIA (AMENDMENT) NOTIFICATION DATED 07.07.2004 AND PROJECT COMPRISES OF PHASES OR MODULES:**

- a) I state that, the notification vide S.O. 60 (E) EIA Notification-1994 dated 27.01.1994 were amended vide S.O. 801 (E) as EIA Notification-2004 dated 07.07.2004 by insertion of entry at item no. 31, mandating prior environment clearance for New



Construction Project. In this notification, MoEF has clarify the Project Proponents shall apply for entire project covering all phases as below;

*“(iii) Any project proponent intending to implement the proposed project under sub-paras (g) and (h) in a phased manner or in modules, shall be required to submit the details of the entire project covering all phases or modules for appraisal under this notification”;*

- b) I state that, the EIA (Draft) Notification, 2020 has defied project as “(43) **Project**” means project or an activity;”
- c) I state that, the Respondent No. 11-PP has undertaken the building and construction of residential & commercial complex on the adjoining land in continuation and with common infrastructures for all the unit holders.
- d) Therefore, this entire construction activity in phase wise manner under taken in continuation on adjoining land portion with common infrastructures with single proposal to SEIAA dated 12.04.2012 (Submitted to SEIAA on 03.05.2012) seeking

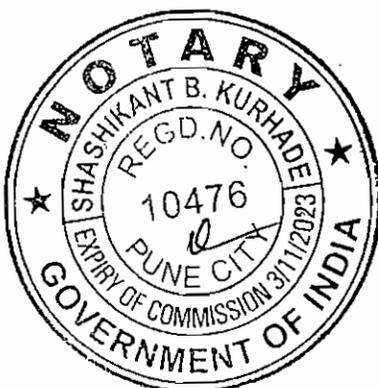


Environment Clearance for entire project by the Respondent No. 11-PP is the single project.

**13. CONCEPTS UNDER NATIONAL BUILDING CODES, DEVELOPMENT CONTROL REGULATIONS & PLANNING ACTS ARE ALIEN TO THE ENVIRONMENT JURISPRUDENCE AND EIA NOTIFICATION-2006:**

i) I state that, the term Project/Activity has been well established in the parlance of Civil Engineering and Town Planning. The MRTTP Act, which regulate Regional and Town Planning in the state, authorise Municipal Corporation/ Regional Development Authority to have its own Rules, and PMRDA / PMC has notified the development control rules under the MRTTP act in order to regulate the development activities in their limits & jurisdictions.

ii) I state that, it can be least expected from an officer conferred with professional duty as of an engineer in the Department of Building Permission of PMC /PMRDA/ Town Planning Dept. to be very meticulous in at least understanding the terms which make lot of



difference to the fact of construction. It can be least expected of them as to know the distinction between Project/Activities are comprised of Phases/modules, in residential/commercial development Complexes, as administration of Corporation / local authority would depend upon their professional advice and technical expertise to take action against the erring parties who contravene the mandate of law for safeguarding the interest of citizens which the Corporation/ local authority is required to protect.

- iii) However, I state that definitions of "Project" in Building/Construction activities are comprised of "Phases/modules" is well established in the civil engineering and therefore none of the codes, regulations, planning acts related to building construction project/activity by the Local Planning Authorities has not referred or defined the term "project or activity" in their building by laws and technical experts from Local Authorities/ Corporations has to apply their minds, but in present case the officer from the concern government authorities has intentionally neglected and failed to



apply their mind and just set in line with the Project Proponent and the Architect Certificates with non-application of minds for their well-known business against the public at large.

- iv) I state that, the definition of "Development", under Development Control Regulations for Maharashtra and applicable to the Collector of Pune and PMRDA defines as;

*"2.31 Development :- Development with its grammatical variations means the carrying out of buildings, engineering, mining or other operations in, or over, or under land or the making of any material change, in any building or land or in the use of any building or land or any material or structural change in any Heritage building or its precinct and includes demolition of any existing building, structure or erection of part of such building, structure of erection and reclamation, redevelopment and layout or sub-division of any land and to develop shall be construed accordingly."*



- v) I state that, the filing of such false and misleading reports by building permission department of PMC are filed under the directions / guidance & supervisions

with involvement of Higher Authorities of PMC and therefore these superiors have closed their eyes.

vi) I state that, the conclusion of the Joint Committee is based on the PMC Report which is further based on the false certificates of Architect of PP. It means that the Joint Committee has not visited the site in actual and has prepared the report by citing in Builder Respondent No. 11-PP office.

vii) The concept of separate revenue record, separate building sanctions, separate plinth check certificate, separate occupancy certificate, separate formation of societies and other concepts under DCR etc. are alien to the Environment Jurisprudence & EIA Notification, 2006, therefore mere procuring of separate building sanctions, separate PCC, OCC for Phase-1, Phase-2, Phase-3 & Phase-4 will not create so called four separate & distinct projects distinct from each other. Building sanction can be obtained plot wise, building wise etc. as regulated under provisions of Development Control Regulations. In fact, Respondent No. 11-PP himself has admitted that, these phases are forming a single projects and filed Application for EC



on 12.04.2012 (Submitted to SEIAA on 03.05.2012).  
But due to action from PS-DOE, Respondent No. 11-PP changed project name and land survey numbers vide its cover letter filed on 12.03.2015 come up with the idea of different and distinct projects.

- viii) Therefore, total area under development undertaken by the Respondent No. 11-PP is from Survey No. 24/1/2, 25/1/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5 & 25/1/6 situated at Village-Undri, Taluka-Haveli, District-Pune-411060 on contiguous blocks of land amalgamated & sub-divided as per size their for convenient development and accordingly 7/12 extracts were prepared and this entire land holding area is under environment jerk due to violations for which environmental impact has to be calculated as the Respondent No. 11-PP has undertaken this entire development for profits and making money at the cost of degradation of environment & ecology and its afterthought concepts of separate developments is irrelevant as long as single Project Proponent is doing this development and earning profits from this development. Entire development is on contiguous

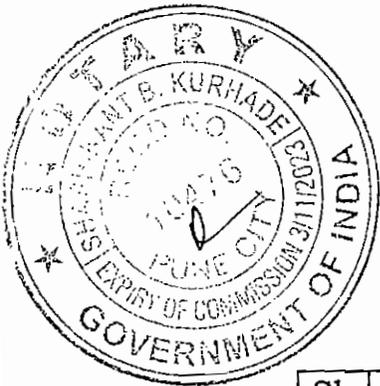


land holding. Therefore, the stand of the Joint Committee brought from the fertile minds of Officers of PMC, MPCB, SEIAA and Architect of Respondent No. 11-PP on account of different projects is totally false, baseless, misleading, misconstruction and it is wrong picture decorated by Respondent No. 11-PP after exposing him by this Applicant. Therefore, the Respondent No. 11-PP has admitted this violation.

**14. TOTAL LAND UNDER PROJECT AND ITS PHASES:**

- a) I state that, the land under development for building construction activity under taken by Respondent No. 11-PP is from the Revenue Survey Numbers 24/1/2, 25/1/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5 & 25/1/6 situated at Village-Undri, Taluka-Haveli, District-Pune-411060 is as below;

Sl.	Survey No.	7/12 Extract Land Area (M <sup>2</sup> )	Carved out Area for Phase (M <sup>2</sup> )	Total Phase Area (M <sup>2</sup> )	Phase
1.	24/1/2	10900	10900	10900	Nyati Eternity-I
2.	25/1/1 (P)	14200	4000	14200	Nyati Eternity-II
	25/1/2	4000	4000		
	25/1/4	2900	2600		
	25/1/5	2000	2000		



	25/1/6	2000	1600		
3.	25/1/3	16000	16000	16000	Nyati Eternity-III
4.	25/1/1 (P)	6000	6000	6000	Nyati Eternity-IV
5.	24/1 (P) & 25/1 (P)	58200	47100	<b>47100</b>	<b>Entire Eternity</b>

- b) I state that, the entire land holding is owned by Mr. Nitin Dwarkadas Nyati and developed by his sole proprietorship M/s. Nyati Housing. Therefore, single owner is the beneficiary from this entire project comprising four phases.
- c) I state that, the Respondent No. 11-PP created four phases namely "Nyati Eternity-I, II, III & IV" having plot area 10900 M<sup>2</sup>, 14200 M<sup>2</sup>, 16000 M<sup>2</sup> & 6000 M<sup>2</sup> respectively out of 47100 M<sup>2</sup>.
- d) I state that the Respondent No. 11-PP has changed the name of "Nyati Eternity-III phase" to "Nyati Embrace" after credible action initiated by Environment Department vide its directions dated 13.02.2015 by submitting the letter on 12.03.2015 and which was dated as 12.04.2014 and this jugglery of dates on this letter is created only to obtained the



PS-DoE letter dated 29.05.2018 overcoming the violation.

- e) I state that, the total contiguous land under construction activity is 47100 Sq. Mtrs. and same is under environmental degradation.

**15. BUILDING PERMISSIONS, PLINTH CHECKS AND OCCUPANCY OBTAINED BY PP DOES NOT PROVIDE ESCAPE ROUTES FROM MANDATORY ENVIRONMENT CLEARANCES AND CONSENTS:**

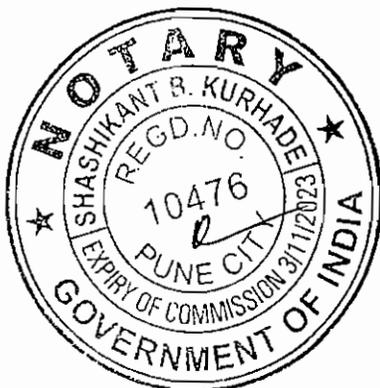
i) I state that, the Respondent No. 11-PP has obtained the building sanctions for number of time in the following manner and conditions stipulated in some commencement certificates has disclosed the FSI, TBA & Permissible TBA, however, many of the commencement certificate has not disclosed it;

Sr. No.	Phase No.	Commencement No.	Condition No.	FSI	TBUA	Permissible TBA
1	Phase-I	PMH/NA/SR/146/13 dated 28.06.2013	26	6684.09	10996.68	14715
2	Phase-I	PMH/NA/SR/524/14 dated 12.02.2015	30	10842.22	17231.52	20837.50
3	Phase-I	BHA/C.N. 918/16-17/Mouze Undri/S. No.24/1/2 Dated 29.12.2016	Not Disclosed	ND	ND	ND



4	Phase-II	PMH/NA/SR/149/13 dated 28.06.2013	22	ND	14305.99	19170.00
5	Phase-II	PMH/NA/SR/646/13 dated 23.12.2013	25	8933.93	14499.59	19170.00
6	Phase-II	BHA/Mouze Undri/S. No.251/(P)/C. N. 3445 dated 18.02.2016	28	12097.71	19170.00	ND
7	Phase-II	CC/0077/19 dated 11.04.2019	ND	ND	ND	ND
8	Phase-III	PMH/NA/SR/150/13 dated 28.06.2013	24	ND	16035.74	21600
9	Phase-III	PMH/NA/SR/745/14 dated 24.09.2014	30	ND	25264.96	ND
10	Phase-IV	PMH/NA/SR/168/09 dated 04.01.2010	ND	ND	ND	ND
11	Phase-IV	PMH/NA/SR/800/13 dated 07.11.2014	ND	ND	ND	ND
12	Phase-IV	DP/BHA/ Mouze Undir/S.N. 25/1/1/ C. N. 901/16-17 dated 08.09.2019	ND	ND	ND	ND
13	Phase-IV	DP/BHA/ Mouze Undir/S.N. 25/1/1/ C. N. 901/16-17 Dated 31.07.2017	ND	ND	ND	ND

- ii) I state that, the Respondent no. 11-PP has obtained the Plinth Check certificates for number of time in the following manner and it shows building wise & phase wise manner and not the entire project wise and it depends up on the construction progress of each building, therefore granting of separate plinth check certificate does not make any difference or escape route for obtaining mandatory EC & Consents;



Phase	Survey No.	PCC No.	Date	Buildings
I	24/1/2	PCC-7693	18.11.2013	E, D1, D2
I	24/1/2	PCC-2500	25.04.2014	D3
I	24/1/2	PCC C.N. 918/16-17	27.04.2017	Commercial Bldg. on Amenity Space
II	25/1(P), 25/1/2, 25/1/4, 25/1/5, 25/1/6	PCC-844	07.02.2014	C1,C2, D1,E1
III	25/1/3	PCC-557	23.01.2014	C3, D2 (Condition No. 24, Revised Sanction- 24.09.2014)
IV	25/1/1	PCC-1599	29.09.2015	A1, B1

- iii) I state that, the Respondent no. 11-PP has obtained the Occupancy certificates for number of time in the following manner and it shows building wise & phase wise manner and not the entire project wise and it depends up on the construction progress of each building, therefore granting of separate occupancy certificate does not make any difference or escape route for obtaining mandatory EC & Consents;

Phase	Survey No.	OCC No.	Date	Buildings & Units
I	24/1/2	OCC-1828	23.10.2015	E, D1, D2, D3 184 units



I	24/1/2	OCC-I C.N. 918/16-17	20.02.2018	21 units Commercial Bldg. on Amenity Space
I	24/1/2	OCC/0705/19	06.12.2019	22 units Commercial Bldg. on Amenity Space
II	25/1(P), 25/1/2, 25/1/4, 25/1/5, 25/1/6	OCC-2071	06.11.2015	D1-47, E1-70
II	25/1(P), 25/1/2, 25/1/4, 25/1/5, 25/1/6	OCC-3674	11.03.2016	C1-39
II	25/1(P), 25/1/2, 25/1/4, 25/1/5, 25/1/6	OCC-3445/16-17 (I)	23.01.2017	C1-08
II	25/1(P), 25/1/2, 25/1/4, 25/1/5, 25/1/6	OCC-3445/16-17 (II)	23.01.2017	C2-31 + REFUGE AREA
IV	25/1/1	OCC-901/16-17	23.01.2017	A1-52 B1-52
IV	25/1/1	OCC-C.N. 1074/16-17	31.07.2017	Club House

- iv) I state that, the Respondent no. 11-PP has obtained the formed the society in the following manner and it shows phase wise manner and not the entire project



wise and it depends up on the construction progress of each building, therefore formation of phase wise society does not make any difference or escape route for obtaining mandatory EC & Consents;

Phase	Survey No.	PCC / OCC No.	Date
Nyati Eternity-I	24/1/2	PNA/PNA(4)/HSG/(TC)17965 /2016-2017	09.03.2017
Nyati Eternity-I	24/1/2	PNA/PNA(4)/GNL/(O)/2075/ 2018-2019	13.08.2018
Nyati Eternity-III	25/1(P), 25/1/2, 25/1/4, 25/1/5, 25/1/6	PNA/PNA(4)/HSG/(TC)17966 /2016-2017	09.03.2017
Nyati Eternity-IV	25/1/1	PNA/PNA(4)/HSG/(TC)/1821 2/2017-2018	22.06.2017

**16. JOINT COMMITTEE MEMBERS, RESPONDENT NOS. 2, 5, 7, 9, 10 & 11-PP ARE GUILTY OF SUPPRESSIO VERI AND SUGGESTIO FALSI AS FALSE & MISLEADING STATEMENT ARE MADE ON THE FACE OF HON'BLE TRIBUNAL:**

- a. I state that, as per directions of Hon'ble NGT the Joint Committee Comprising of Ar. Pankaj Joshi, Member SEIAA & Dr. Y. B. Sontakke Jt. Director Water MPCB,

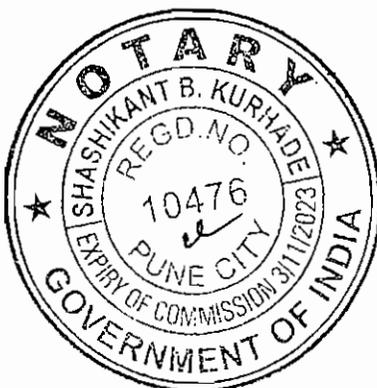


Respondent No. 5-MPCB, Respondent No. 7-Collector of Pune, Respondent Nos. 9 & 10-PMC & Respondent No. 11-PP visited site on 09.08.2021 and filed false, misleading report on account of total completed BUA, STP installation & its scientific Operation, Waste Disposal System, Soil Preservation, Solar System Installation for common lighting etc. by suppressing many important facts, events, permissions, documents that causing irreparable environmental damage and degradation and therefore these officers are guilty of ***suppressio veri and suggestio falsi*** .

- b. I state that, the Joint committee has intentionally recorded the false observations in its report & in conclusion of Report that;

**Remark of Committee:**

*“By pursuing the report submitted by the Executive Engineer of the Building Permission Department and Architect’s Certificate, annexed as Annexure-I, it is concluded that Nyati Eternity I, Nyati Eternity II, Nyati Embrace, Nyati Eternity IV are four different projects. The constructed projects are developed on different 7/12 extracts and hold different permissions and completions. Also, construction of each developed individual project*



*has not gone beyond 20,000 Sq. M. Nyati Embrace is a proposed project which will still not commissioned."*

- c. I state that, the PP himself has admitted that the building construction activity undertaken on survey no. 24/1/2, 25/1/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5 & 25/1/6 situated at Village-Undri, Taluka-Haveli, District-Pune-411060 vide own EC application dated 12.04.2012 (Submitted to SEIAA on 03.05.2012) and therefore, entire development on these survey number is single project.
- d. I state that, the Joint Committee itself has admitted in Remark of committee that the Joint Committee report is prepared from the report submitted by the Executive Engineer of PMC and Architect Certificate of the PP. It means, actual site visit is not conducted.
- e. I state that, the entire report is prepared on the basis of false and misleading report provided by the Architect of the PP and there is no application of mind by these Joint Committee Members.



- f. I state that, the One of the Joint Committee Member Mr. Pankaj Joshi seems to be an architect and he seems to be well aware of the building construction activity, even then interference of Project Proponent Architect is shocking and surprising and moreover, Joint Committee has relied on certificates issued by Architect of PP.
- g. I state that, the PP & PMC has intentionally suppressed the copies of sanction Plan vide no. PMH/NA/SR/146/13 dated 28.06.2013 granted to Nyati Eternity-I situated on Survey No. 24/1/2.
- h. I state that, the PP & PMC has intentionally suppressed the copy of revised sanction plan dated PMH/NA/SR/524/14 dated 12.02.2015 granted to Nyati Eternity-I situated on Survey No. 24/1/2.
- i. I state that, the PP & PMC has intentionally suppressed the copy of revised sanction plan BHA/C.N. 918/16-17/Mouze Undri/S. No.24/1/2 dated 29.12.2016 granted to Nyati Eternity-I situated on Survey No. 24/1/2.

I state that, the PP & PMC has intentionally suppressed the copy of sanction Plan PMH/NA/SR/149/13 dated



28.06.2013 granted to Nyati Eternity-II situated on Survey No. 25/1/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5 & 25/1/6.

- k. I state that, the PP & PMC has intentionally suppressed the copy of revised sanction Plan PMH/NA/SR/646/13 dated 23.12.2013 granted to Nyati Eternity-II situated on Survey No. 25/1/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5 & 25/1/6.
- l. I state that, the PP & PMC has intentionally suppressed the copy of revised sanction Plan BHA/Mouze Undri/S. No.251/(P)/C. N. 3445 dated 18.02.2016 granted to Nyati Eternity-II situated on Survey No. 25/1/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5 & 25/1/6.
- m. I state that, the PP & PMC has intentionally suppressed the copy of revised sanction Plan CC/0077/19 dated 11.04.2019 granted to Nyati Eternity-II situated on Survey No. 25/1/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5 & 25/1/6.
- n. I state that, the PP & PMC has intentionally suppressed the copy of sanction Plan PMH/NA/SR/150/13 dated 28.06.2013 granted to Nyati Eternity-III situated on Survey No. 25/1/3.



- o. I state that, the PP & PMC has intentionally suppressed the copy of revised sanction Plan PMH/NA/SR/745/13 dated 24.09.2014 granted to Nyati Eternity-III situated on Survey No. 25/1/3.
- p. I state that, the PP & PMC has intentionally suppressed the copy of the plinth Check Certificate dated 23.01.2014 granted to building No. C3 & D2 from Nyati Eternity-III (Now Nyati Embrace) situated on 25/1/3.
- q. I state that, the PP & PMC has intentionally suppressed the copy of sanction Plan vide no. PMH/NA/SR/168/09 dated 04.01.2010 granted to Nyati Eternity-IV situated on Survey No. 25/1/1(P).
- r. I state that, the PP & PMC has intentionally suppressed the copy of revised sanction Plan vide no. PMH/NA/SR/800/13 dated 07.11.2014 granted to Nyati Eternity-IV situated on Survey No. 25/1/1(P).
- s. I state that, the PP & PMC has intentionally suppressed the copy of revised sanction Plan vide no. DP/BHA/Mouze Undir/S.N. 25/1/1/C.N.901/16-17 dated 08.09.2019 granted to Nyati Eternity-IV situated on Survey No. 25/1/1(P).



- t. I state that, the PP & PMC has intentionally suppressed the copy of revised sanction Plan vide no. DP/BHA/Mouze Undir/S.N. 25/1/1/ C. N. 901/16-17 dated 31.07.2017 granted to Nyati Eternity-IV situated on Survey No. 25/1/1(P).
- u. I state that, the PP & Collector of Pune representative Mrs. Trupti Kolte has intentionally suppressed the copy of 7/12 extracts.
- v. I state that, the PP, PS-DOE, SEAC-III & SEIAA has intentionally suppressed the copy of Original EC Application dated 12.04.2012 (Submitted to SEIAA on 03.05.2012) along with Form-1, Form-1A, Consolidated Statement filed for obtaining prior EC for the project "Nyati Eternity" at Survey No. 24/1/2, 25/1/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5 & 25/1/6 situated at Village-Undri, Taluka-Haveli, District-Pune-411060, Maharashtra and only covering letter of PP is attached to his reply affidavit at Page No. 645, Exhibit-AA.
- w. I state that, the PP, PS-DOE, SEAC-III & SEIAA has intentionally suppressed the copy of changed EC Application with back date 21.05.2014 & submitted



on 12.03.2015 along with Form-1, Form-1A, Consolidated Statement filed for obtaining prior EC for the project "Nyati Eternity" at Survey No. 25/1/3 situated at Village-Undri, Taluka-Haveli, District-Pune, Maharashtra and only covering letter of PP is attached to his reply affidavit at Page No. 657, Exhibit-CC.

- x. I state that, the PP, MPCB & PS-DOE has intentionally suppressed the copy of criminal Complaint dated 17.12.2015 filed before Chief Judicial Magistrate, Pune by MPCB for violation of EIA Notificaiton-2006.
- y. I state that, the PP & PS-DOE has intentionally suppressed the copy of affidavit dated 28.05.2018 submitted to the PS-DOE, which is mentioned in PS-DoE Communication dated 28.05.2018 at Sr. No. 3 of Exhibit-JJ, Page-667 of PP reply.
- z. I state that, the PP has intentionally suppressed the undertaking for stay of entire construction as mentioned in the PS-DoE communication dated 29.05.2018 & 04.11.2019.

I state that, the PP has filed illegible copies of Plans & documents at Exhibit-X on Page-641, Exhibit-EE on



Page-EE & Exhibit-TT on Page-714-715 to his reply affidavit.

- bb. Therefore, the PS-DoE, MS-SEIAA, MS-SEAC-III, MS-MPCB, RO-MPCB, COLLECTOR OF PUNE, MC-PMC, CITY ENGINEER OF PMC and Respondent No. 11-PP are guilty of *suppressio veri and suggestio falsi*

**17. OBJECTIONS TO JOINT COMMITTEE REPORT DATED 06.09.2021, PMC REPORT DATED 25.08.2021 AND MISREPRESENTATION, MISINTERPRETATION, FALSEHOOD, COLLUSION, MISCONDUCT, INTENTIONAL NEGLIGENCE BY BUREAUCRATIC NEXUS FOR THEIR WELL-KNOWN BUSINESS:**

- A) That, the Joint Committee constituted by Hon'ble Tribunal vide its Order dated 05.01.2021 comprising SEIAA, MPCB, COLLECTOR OF PUNE & PMC have filed their site inspection report dated 06.09.2021 with negative observations on principal allegations against the Respondent No. 11-PP. However, Joint Committee is failed to submit the actual site condition



on various other issues and therefore these following objections are raised by this Original Applicant;

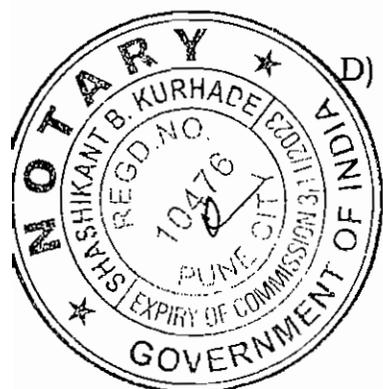
B) That, the Joint Committee has filed their Report dated 06.09.2021 based on the report dated 25.08.2021 of PMC, which is derived from the Architect Certificates dated 09.08.2021 of Respondent No. 11-PP and Joint Committee has filed this bias, false, baseless, misleading, misrepresented, unscientific report on the behest of Respondent No. 11-PP and same is without actual site visit and scientific measurement of environmental parameters. Therefore, this Joint Committee Report cannot be relied upon for adjudication of the Original Application.

C) That, the Joint Committee in their report in reply to "Sr. No. a to c" has recorded false, baseless, misrepresenting observations and misled on account of *"By pursuing the report submitted by the Executive Engineer of the Building Permission Department and Architect's certificates annexed as Annexure-I, it is concluded that Nyati Eternity I, Nyati Eternity II, Nyati Embrace and Nyati Eternity IV are four different projects. The constructed projects are*



developed on different 7/12 extracts and hold different permissions and completions. Also, the construction of each developed individual projects has not gone beyond 20,000 Sq M. Nyati Embrace is proposed project", In actual Entire development is undertaken on adjoining land area admeasuring to 47100 M<sup>2</sup> by single Respondent No. 11-PP with single Application for Environment Clearance dated 12.04.2012 (Submitted to SEIAA on 03.05.2012), which is admitted position. That the Respondent No. 11-PP has carried out entire building construction activity/project within single boundary connected with internal roads having no separate compound wall and with sharing of common amenities. Therefore, the stand taken by Joint Committee is on behest of Respondent No. 11-PP and no application of mind by the Joint Committee Members being so called experts. It is just toeing of line marked by Respondent No. 11-PP. Original Applicant is justifying the objections with following grounds.

That, the Joint Committee failed to compute the actual total completed BUA of the Nyati Eternity-I



Phase which is "Residential Area: 18696.80 M<sup>2</sup> + Suppressed Area: 1102.18 M<sup>2</sup> + Commercial Area: 2667.90 M<sup>2</sup>" = **22466.88 M<sup>2</sup>**.

E) That, the Joint Committee failed to compute the actual total completed BUA of the Nyati Eternity-II Phase which is "Residential Area: 19924.15 M<sup>2</sup> + Suppressed Area: 1311.32 M<sup>2</sup>" = **21235.47 M<sup>2</sup>**.

F) That, the Joint Committee failed to compute the actual total completed BUA of the Nyati Eternity-III now name changed to Nyati Embrace, wherein Respondent No. 11-PP has admitted in PS-DoE Communications dated 29.05.2018 & 04.11.2019 that the total **2651.41 M<sup>2</sup>** is carried out at site. However, Respondent No. 11-PP has demolished these structures without appropriate measures only after the Order of this Hon'ble Tribunal vide dated 05.01.2021. Therefore, Joint Committee has recorded the false & wrong conclusion that the Plot-3 on Sr. No. 25/1/3 for Nyati Eternity is vacant.

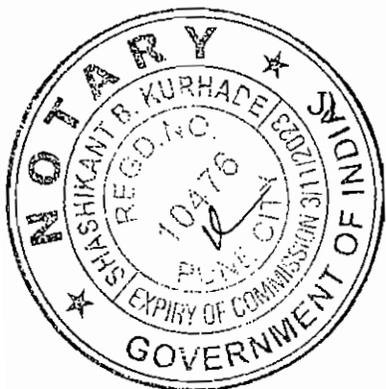
G) That, the Joint Committee failed to compute the actual total BUA of the Nyati Eternity-IV Phase which



is "Residential Area: 10490.59 M<sup>2</sup> + Suppressed Area: 331.23 M<sup>2</sup>" = **10821.82 M<sup>2</sup>**.

- H) That, the Joint Committee failed to compute the actual Total Built-up Area completed for this project comprising these four Phases Nyati Eternity-I, II, III & IV, which is to the tune of (22466.88 + 21235.47 + 2651.41 + 10821.82) = **57175.58 M<sup>2</sup>** with 11 completed buildings having 470 residential units and 43 commercial units and further expansion of Built-up Area of **27115.58 M<sup>2</sup>** comprising of 6 buildings with 251 residential units.
- I) That, the Joint Committee being mute spectator have suppressed various constructed covered areas on account of actual covered parking areas, Service: STP (Package Unit), UGWT/WTP, LT/DG & Vermiculture Pits, Gas Bank, Structures on Open Spaces, Area for C2 building from Eternity-II "Staircase, lift, Passage, Enclosed Balcony, & refuge area" and just forwarded the area calculations of Architect of Respondent No. 11-PP like postman.

That, the EIA (Amended) Notification dated 07.07.2004 has defined the Project as, "(iii) Any project



*proponent intending to implement the proposed project under sub-paras (g) and (h) in a phased manner or in modules, shall be required to submit the details of the entire project covering all phases or modules for appraisal under this notification”; Therefore, project can be either carried out in Phased manner or in modules.*

K) That, the alien concepts are not binding on the environmental jurisprudence established in India as such concepts are irrelevant to the EIA Notification, 2006 issued under Environment (Protection) Act, 1986 mandating prior Environment Clearance for the building construction projects or activities as stated in clause no. 2 of the said notification.

L) That, the Respondent No. 13-PP himself has admitted by filing Application for prior EC before SEIAA Maharashtra vide dated 12.04.2012 (Submitted to SEIAA on 03.05.2012), wherein Respondent No. 11-PP has stated that the “Application for Environment Clearance for our proposed Project “Nyati Eternity” at S. No. 24/1/2, 25/1/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5 & 25/1/6 Mauze Undri, Tal Haveli, Dist Pune-



State Maharashtra". Therefore, all the four phases are part and parcel of unisolated single project "Nyati Eternity" developed on continuing land by single project proponent i.e. M/s. Nyati Housing as sole proprietorship by Mr. Nitin D. Nyati and it is single beneficiary making money at the cost of Mother Nature. Also entire land holding is owned by Mr. Nitin D. Nyati.

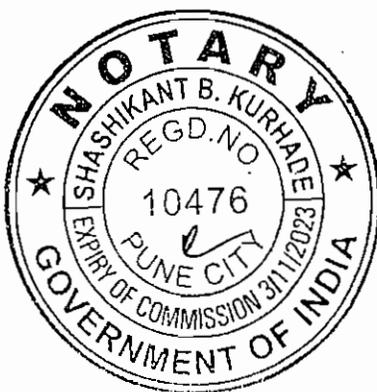
- M) That, the Respondent No. 13-PP himself has admitted that the Respondent No. 3-MS-SEAC-III has observed the violation in its 10<sup>th</sup> meeting held on 27<sup>th</sup> to 30<sup>th</sup> May, 2014. There is no challenge to the said observation till date.
- N) That, the Respondent No. 13-PP himself has admitted that the Respondent No. 1-PS-DoE has issued proposed directions dated 04.07.2014 to the entire project "Nyati Eternity" including all land survey numbers at S. No. 24/1/2, 25/1/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5 & 25/1/6 Village: Mauze Undri, Tal.: Haveli, Dist.: Pune. There is no challenge to the said directions till date.



O) That, the Respondent No. 13-PP has tried at first time to mislead the Respondent No. 1-PS-DoE vide its reply dated 31.10.2014 submitted with respect to above proposed directions dated 04.07.2014 by mentioning only sanction No. PRH/NA/SRA/150/2013 dated 28.06.2013.

P) That, the Respondent No. 13-PP himself has admitted that the Respondent No. 1-PS-DoE has issued final directions dated 04.07.2014 to the entire project "Nyati Eternity" including all land survey numbers at S. No. 24/1/2, 25/1/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5 & 25/1/6 Village: Mauze Undri, Tal.: Haveli, Dist.: Pune and directed to stop the entire construction on all above land parcels. Also PP admitted that, the total construction carried out is 2651.41 M<sup>2</sup> till issuance of this direction. And this directions have attended the finality and further there is no challenge to the said directions till date.

Q) That, the Joint Committee failed to consider the Respondent No. 11-PP has carried out substantial the construction in contravention of the stop work order dated 13.02.2015 issued by the Respondent No. 1-PS-



DOE for all survey numbers of project comprising these four phases.

- R) That, it is admitted position Respondent No. 13-PP has prepare a back dated letter/ application for change in land survey numbers & change in the name in view to overcome this illegality of environmental violation. Respondent No. 11-PP has put date 21.05.2014 on the letter and in actual this letter is submitted to SEAC-III on 12.03.2015, as shown by the acknowledgment by environment department on letter. It is important to note here that, the date 21.05.2014 on letter is bogus and with intention to mislead the authority.
- S) That, the Joint Committee failed to consider the Respondent No. 11-PP has misled to the Respondent No. 1-PS-DoE vide its Request Letter dated 12.04.2018 for consideration of proposal by isolating the land parcels and change in name of PP and obtained the Communication dated 29.05.2018. Basically Joint Committee has not considered the obtaining of communication dated 29.05.2018 was without opportunity to SEAC-III, who was noticed this



entire violation and proposal was forwarded to PS-DoE for further action.

T) That, the PS-DoE communication dated 04.11.2019 relied by upon by PP is illegal as it is violation of principal of natural justice. PS-DoE has conducted personal hearing on complaint of this Applicant without any notice and behind back by entertaining PP at personal level. PS-DoE has no powers to interfere into the duties & business of SEIAA stipulated under EIA Notification-2006.

U) In respect to the "Point No. d" of report, Joint Committee has failed to look into the bore wells. In fact the there are four bore wells on site. It is genuine for the joint committee for not the see the internal connectivity of phases within common premises and therefore, the bore well is very small aspect to look into. Therefore, the joint committee has closed their eyes while visiting the project and just signed the report with taking support of Respondent No. 11-PP.

V) That, the Joint Committee has admitted that all buildings are already constructed from Phase I, II & IV; as such the committee is unable to comment on



the soil preservation for both the projects. Soil test report is not made available at the time of site inspection.

W) In respect to the "Point No. f" of report, Joint Committee has intentionally suppressed the unscientific operation of STP and tertiary treatment units & Ozonator units are not in functioning from beginning of STP installation. STP unit's installation is not accompanied by standard package of STP and these are just scrap skeleton.

X) In respect to the "Point No. g" of report, it is admitted position that the Nyati Eternity is a project having total BUA more than 20000 Sq. Mtrs. mandating prior EC and Consents. However, PP failed to obtain the prior EC & Consents and therefore, installation of DG Sets and its operations is itself illegal and the permissions obtained from the Electrical Inspector mandates the NOC form MPCB as stipulated in condition no. 7 of the said permission. That, the Joint Committee has admitted that PP has installed six DG sets of 910 KVA capacity for each project. It means



there are six DG Sets installed at project site in illegal manner:

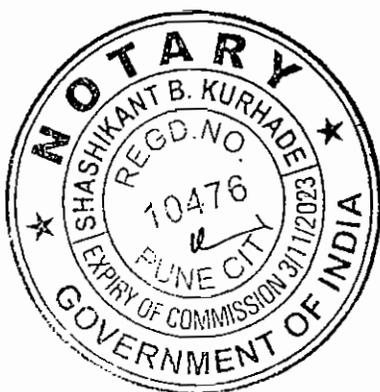
- Y) In respect to the "Point No. h" of report, the joint committee has provided false figure of the trees planted at site. In actual trees planted at site are very less in numbers.
- Z) In respect to the "Point No. i" of report, the joint committee is failed to give details of disposal of solid waste. Basically solid waste is directly dumped to PMC garbage area without any segregation and composting pits are not in functioning.
- AA) In respect to the "Point No. j" of report, the joint committee has provided false information on rain water harvesting pits. In actual, manholes for sewer lines are counted as rain water harvesting pits. And there is no rain water harvesting system, no rain water collection tank, no piping for rain water collection. Rain water runoff area of terrace is not provided, rain water treatment system details are not given. Therefore, Joint Committee has clearly lying on the issue of rain water harvesting.



- BB) In respect to the "Point No. k" of report, the joint committee has not provided any information of Solar Energy Generation for common area lighting. In fact, there is no Solar Energy Generation System for common area lighting.
- CC) That, the Joint Committee is relied on the false and misleading certificates dated 06.08.2021 & 09.08.2021 of the Architect M/s. Dasnurkar Associates through Mr. Shirish Dasnurkar of Respondent No. 11-PP.
- DD) That, the PP, Collector of Pune, PMRDA, PMC, MPCB, SEAC-III, SEIAA, PS-DoE have intentionally suppressed various covered structures & building components while calculating total completed BUA of project, which is more than 20000 Sq. Mtrs.
- EE) That, the joint committee intentionally suppressed the copies of sanction Plan vide no. PMH/NA/SR/146/13 dated 28.06.2013, PMH/NA/SR/524/14 dated 12.02.2015 & BHA/C.N. 918/16-17/Mouze Undri/S. No.24/1/2 dated 29.12.2016 situated on Survey No. 24/1/2 granted to Nyati Eternity-I.



- FF) That, the joint committee intentionally suppressed the copies of sanction Plan PMH/NA/SR/149/13 dated 28.06.2013, PMH/NA/SR/646/13 dated 23.12.2013, BHA/Mouze Undri/S. No.251/(P)/C. N. 3445 dated 18.02.2016 & CC/0077/19 dated 11.04.2019 situated on Survey No. 25/1/1, 25/1/2, 25/1/3, 25/1/4, 25/1/5 & 25/1/6 granted to Nyati Eternity-II.
- GG) That, the joint committee intentionally suppressed the copies of sanction Plan PMH/NA/SR/150/13 dated 28.06.2013 & PMH/NA/SR/745/13 dated 24.09.2014 situated on Survey No. 25/1/3 granted to Nyati Eternity-III.
- HH) That, the joint committee intentionally suppressed the copy of the plinth Check Certificate dated 23.01.2014 for building No. C3 & D2 from Nyati Eternity-III situated on Survey No. 25/1/3.
- II) That, the joint committee intentionally suppressed the copies of sanction Plan vide no. PMH/NA/SR/168/09 dated 04.01.2010, PMH/NA/SR/800/13 dated 07.11.2014, DP/BHA/Mouze Undir/S.N. 25/1/1/C.N.901/16-17 dated 08.09.2019 &



DP/BHA/ Mouze Undir/S.N. 25/1/1/ C. N. 901/16-17 dated 31.07.2017 situated on Survey No. 25/1/1(P) granted to Nyati Eternity-IV.

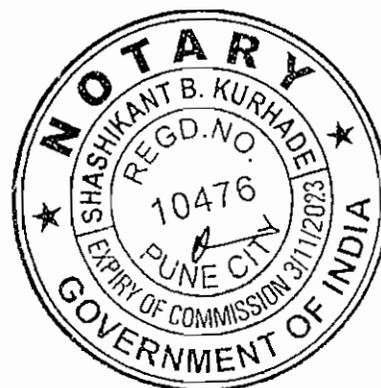
JJ) That, the PS-DOE, SEIAA, SEAC-III, MPCB & PMC has intentionally avoided to take action against the PP, despite there being clear cut violation and these authorities are seating in line with the Polluter-PP to protect their vital interests best known to them.

KK) That, the Joint Committee, MPCB, PMC and PP is misleading on account of four different project on account of separate sanctions, separate Open Spaces and separate Amenity Spaces. But on other hand, Joint Committee has intentionally avoided to record the internal connection of Phases without any boundary wall & common sharing of infrastructure between the phases. Therefore these are not four separate project in fact these are four phases viz. I, II, III, & IV of one single Project "Nyati Eternity" having same project proponent, same beneficiary, and cumulative impact on environment must be considered out of the building construction activity carried out on total adjoining land irrespective of alien



concepts of separate obtaining of building sanction, plinth check certificates, occupancy certificates, society certificates. In the present case, project is partly completed by Phase I, II & IV and party proposed for Phase-III is under construction.

- LL) That, this conduct of Joint Committee, SEIAA, MPCB, PMC and PP is unapologetic and Hon'ble Tribunal may kindly pass strict Order to give clear and unambiguous message to the community of violators and polluter.
- MM) That, the Joint Committee has not provided any photograph or electric meter details or installation details of the STP.
- NN) That, the Joint Committee has not provided any photographs or installation details of for Vermicomposting Pits for the treatment of organic waste.
- OO) That, the Joint Committee has not provided any photographs or installation details of for rainwater harvesting system.



- PP) That, the Joint Committee has not provided any photographs or installation details of for Solar Energy system for common lighting.
- QQ) That, the Joint Committee has not provided any details for tanker water supply.
- RR) That, the Joint Committee is acting in bias manner and against the law to protect the illegality of their own superiors from DoE, SEIAA & MPCB and further to cover-up their own misdeed and misconduct. So the cursory, casual, unscientific, false, baseless, misleading reports are filed to mislead this court.
- SS) That, the Joint Committee Report has been field on behest of Respondent No. 11-PP and his nexus with bureaucrats.
- TT) That, the Area Statement of the Joint Committee, SEIAA, MPCB, PMC and PP is incorrect, false and misleading, therefore Joint Committee, SEIAA, MPCB, PMC and PP deserves strict punishment.
- UU) 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

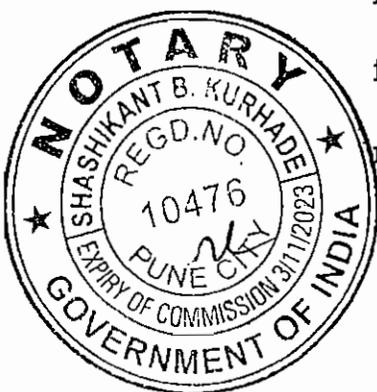


these objections I state that, Joint Committee has misled on account of four different projects against single project, ground water test, top layer of fertile soil preservation, solid & dry waste treatment, energy conservation by installing solar panels for common lighting & solar water heaters, rain water harvesting systems, tree plantation, swimming pool construction giving burden on ground water, non-operation & installation of scientific STP, fire tender movement, Marginal Spaces around buildings and fire hydrant system etc.

VV) Therefore, the Joint Committee Report cannot be relied for adjudication of the case.

**18. THEREFORE, IT IS PRAYED THAT:**

- a. Hon'ble Tribunal may kindly grant prayers sought in Original Application.
- b. Hon'ble Tribunal may kindly pass appropriate directions against the Joint Committee Members and Respondent Authorities for their involvement & facilitating the Project Proponent by filing such false reports.



- c. Pass any other just and equitable relief in the interest of environmental justice.

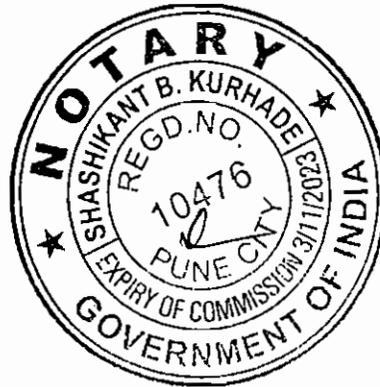
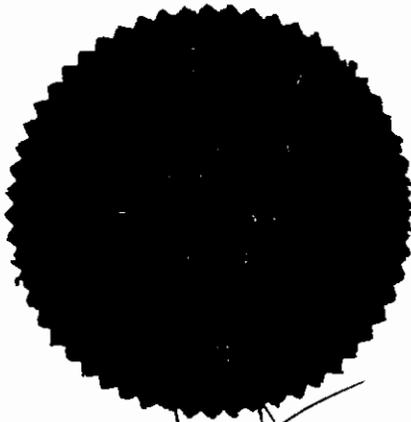
Whatever stated above is true and correct to the best of my knowledge, belief and information, hence, to verify the same I have signed hereunder at Pune.

**Place:** Pune

**Date:** 23.09.2020

*Bombhise*  
**AFFIANT**

**(TANAJI BALASAHEB GAMBHIRE)**



**BEFORE ME**  
*S. B. Kurhade*  
**Shashikant B. Kurhade**  
Notary Govt. of India

**Noted and Registered**  
at Sr. No. 403/2021  
Date: 23-SEP-2021



**ANNEXURE-A-01****THE GAZETTE OF INDIA****EXTRAORDINARY****PART II – Section 3 – Sub-section (ii)****MINISTRY OF ENVIRONMENT AND FORESTS****NOTIFICATION**New Delhi, the 7<sup>th</sup> July, 2004

S.O.801(E), dated 7<sup>th</sup> July, 2004 - Whereas a draft of certain amendments to the notification of the Government of India in the Ministry of Environment and Forests number S.O.60 (E), dated the 27<sup>th</sup> January 1994 was published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) vide number S.O.1236 (E), dated the 27<sup>th</sup> October, 2003 inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of the Gazette containing the said notification were made available to the public;

And whereas, copies of the said notification were made available to the public on 27<sup>th</sup> October, 2003;

And whereas, the Orders of the Hon'ble Supreme Court in the Writ Petition (C) No.725 of 1994 with I.A. No.20, 21, 1207, 1183, 1216 and 1251 in Writ Petition (C) No.4677 of 1985 in the matter of news item published in Hindustan Times titled "And Quiet Flows the Maily Yamuna" vs. Central Pollution Control Board and Others have been duly considered;

And whereas, the Orders of Hon'ble High Court of Madras in W.P. (C) No.33493 of 2003 and W.P. Nos.35205, 35517, 35691, 35692 and 35825 of 2003 and W.P. M.P. Nos.40556, 42562, 43720, 45348 to 45350, 42791, 42792, 43882, 43181, 43366 to 43369, 43544 and 43545 of 2003 between C.S. Kuppuraj and others Vs. the State of Tamil Nadu and others have also been duly considered;

And whereas, all objections and suggestions received have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendments in the notification number S.O. 60 (E), dated the 27<sup>th</sup> January 1994, namely:-

In the said notification, -

- I. in paragraph 3
  - (i) in item (a), for the letters, word and figures "Nos.3,18 and 20", the letters, word and figures "Nos.3,18,20,31 and 32" shall be substituted;

- (ii) after sub-para (f), the following shall be inserted, namely:-
- “(g) any construction project falling under entry 31 of Schedule-I including new townships, industrial townships, settlement colonies, commercial complexes, hotel complexes, hospitals and office complexes for 1,000 (one thousand) persons or below or discharging sewage of 50,000 (fifty thousand) litres per day or below or with an investment of Rs.50,00,00,000/- (Rupees fifty crores) or below.
- (h) any industrial estate falling under entry 32 of Schedule-I including industrial estates accommodating industrial units in an area of 50 hectares or below but excluding the industrial estates irrespective of area if their pollution potential is high.

Explanation.--

- (i) New construction projects which were undertaken without obtaining the clearance required under this notification, and where construction work has not come up to the plinth level, shall require clearance under this notification with effect from the 7<sup>th</sup> day of July, 2004.
- (ii) In the case of new Industrial Estates which were undertaken without obtaining the clearance required under this notification and where the construction work has not commenced or the expenditure does not exceed 25% of the total sanctioned cost, shall require clearance under this notification with effect from the 7<sup>th</sup> day of July, 2004.
- (iii) Any project proponent intending to implement the proposed project under sub-paras (g) and (h) in a phased manner or in modules, shall be required to submit the details of the entire project covering all phases or modules for appraisal under this notification”;

II. in Schedule-I, after item 30 and the entry relating thereto, the following shall be inserted, namely:-

- “31. New construction projects  
32. New industrial estates.”;

III. in Schedule-II, -

(i) in para 5, for sub-para (f), the following shall be substituted, namely:-

- “(f)(i) The quantum of existing industrial effluents and domestic sewage with incremental load to be released in the receiving water body due to the proposed activities along with treatment details;
- (ii) The quantum and quality of water in the receiving water body before and after disposal of solid wastes including municipal solid wastes, industrial effluents and domestic sewage;

(iii) The quantum of industrial effluents and domestic sewage to be released on land and type of land;”;

(ii) in para 6, for sub-para (a), the following shall be substituted, namely:-

“(a) Nature and quantity of solid wastes generated including municipal solid wastes, biomedical wastes, hazardous wastes and industrial wastes.”.

[No. Z-11011/1/2002-IA-I]  
R. Chandramohan, Jt. Secy.

**Note:** The principal notification was published in the Gazette of India vide number S.O.60 (E) dated 27-1-1994 and subsequently amended *vide*:

- 1) S.O. 356 (E) dated 4<sup>th</sup> May, 1994,
- 2) S.O 318 (E), dated 10<sup>th</sup> April, 1997,
- 3) S.O. 73 (E) dated 27<sup>th</sup> January, 2000,
- 4) S.O. 1119 (E) dated 13<sup>th</sup> December, 2000,
- 5) S.O. 737(E) dated 1<sup>st</sup> August, 2001,
- 6) S.O.1148 (E) dated 21<sup>st</sup> November, 2001,
- 7) S.O. 632 (E) dated the 13<sup>th</sup> June, 2002,
- 8) S.O. 248 (E) dated the 28<sup>th</sup> February, 2003,
- 9) S.O. 506 (E) dated the 7<sup>th</sup> May, 2003,
- 10) S.O. 891(E) dated the 4<sup>th</sup> August, 2003,
- 11) S.O. 1087(E) dated the 22<sup>nd</sup> September, 2003.

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