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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH AT PUNE
ORIGINAL APPLICATION NO. 83 OF 2023

IN THE MATTER OF

DR. VINAYKUMAR V. JATHAR ... APPLICANT

VERSUS

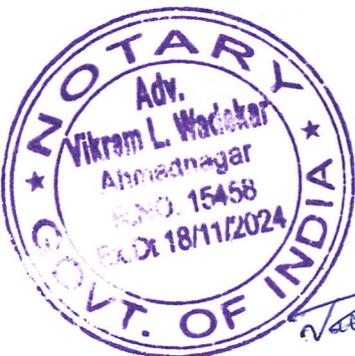
SHRIGONDA MUNICIPAL

COUNCIL & ORS. ... RESPONDENTS

AFFIDAVIT IN REPLY TO THE APPLICATION OF THE
APPLICANT FILED ON BEHALF OF THE RESPONDENT NO. 1 IS
AS UNDER:

I, Pramod Dorajkar, Age: 33 years; Occ: Service; R/at: Shrigonda, Tal: Shrigonda, Dist: Ahmednagar; the Chief Officer of the Respondent No.1 and authorized signatory for the Respondent No.1 do hereby state on solemn oath and affirmation as under:

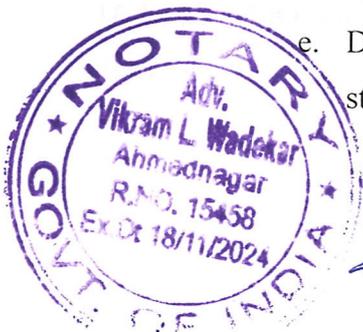
1. The Applicant has filed the captioned Application for stopping the alleged beautification project of the alleged Natural Water Body Lendi Nala ("said Project") seeking reliefs as prayed for in the captioned Application because it is allegedly going to affect adversely the flow of the natural water body. The Hon'ble Tribunal *vide* Order dated 31st May, 2023 has constituted a committee to submit a report to answer the



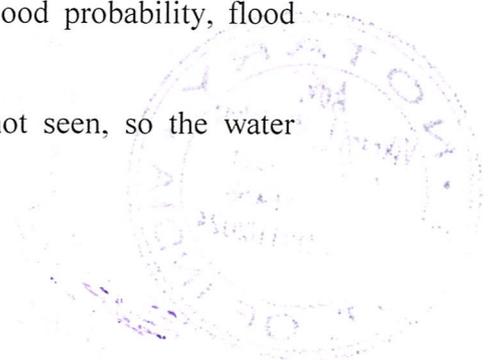
questions more particularly stated in its Order dated 31st May, 2023. The Respondent No. 1 is filing this Reply to the captioned Application filed by the Applicant.

PRELIMINARY SUBMISSIONS:

2. The Respondent No. 1 states and submits that in furtherance to the Order dated 31st May, 2023, a Joint Committee was constituted. As per the Order dated 31st May, 2023, the Joint Committee was directed to visit the spot and submit a factual and action taken report on (i) Impact on flow carrying capacity of the Nala; (ii) Impact on high flood level of the Nala; and (iii) Flood risk to nearby population due to the proposed project. The Joint Committee along with the Applicant and his counsel visited the spot on 28th June, 2023 and filed its report on 04th August, 2023 ("said Report"). Following are the observations of the Joint Committee:
 - a. The Respondent No. 1 is not reducing the width of the Lendi Nala to 3.0 mtr.
 - b. Currently there are 4 cross drainage works on the Nala course. The cross drainage pipes are in different size and number at each intersection. To ensure smooth and uninterrupted flow, the design of the cross drainage work should be technically sound. It was observed that there are less number of cross drainage pipes at Balaji Mangal Karyalay, Sasanenagar Road and Salvandevi Road.
 - c. Year on year silt deposition on Nala bed created water flow hindrance. In future overall Nala shall be desilted.
 - d. Lendi Nala is not a notified channel and because of that blue and red line demarcation has not been carried out. As such no technical data is available about flow carrying capacity, flood probability, flood level etc.
 - e. Due to silting of Nala proper gradient is not seen, so the water stagnation is noticed.



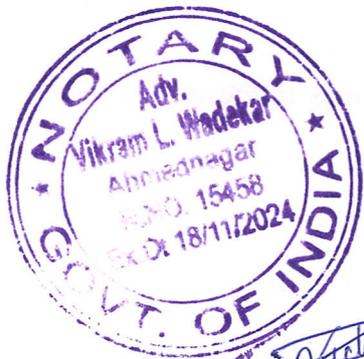
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The Joint Committee has suggested the following actions:

- i. To construct the retaining wall at remaining part, at the border of Nala to prevent encroachment.
- ii. The 3.0 mtr. channel width is necessary to regulate the flow of sewage water without hindrance and to avoid social and health related issues of residents residing nearby Nala & public utility places. Hence channelizing of Nala is needed as proposed.
- iii. Desilted soil and excavated material should be lifted and transported to landfill site or other places with the consent of land owner.
- iv. Measurement and demarcation of Nala width is directed at four specified places to be done by the Deputy Superintendent of Land Records, Shrigonda.
- v. Existing clogged cross drainage pipes shall be cleaned immediately and water flow shall be maintained for no stagnancy.
- vi. It is advised to construct new Cause Ways at Sasanenagar, Balaji Mangal Karyalay & Salvandevi Road with additional pipes.
- vii. Instructed to use innovative ideas such as Root Zone Technology to filter domestic sewage water to minimize contamination with natural water body.
- viii. Shrigonda Municipal Council should ensure that no encroachment is done within the Nala.
- ix. Expedite the proposal for setting up STP.

3. The Respondent No. 1 further states and submits that in accordance to the Orders passed by the Hon'ble Supreme Court and Hon'ble National Green Tribunal in O.A. No. 606/ 2018, the Respondent No. 1 has submitted a proposal on 27.01.2022 for setting up STP and request for allocation of land for setting up the STP in Shrigonda. The Respondent No. 2 *vide* letter dated 24.05.2023 has submitted the proposal to the State Government for allocation of land for setting up STP by the



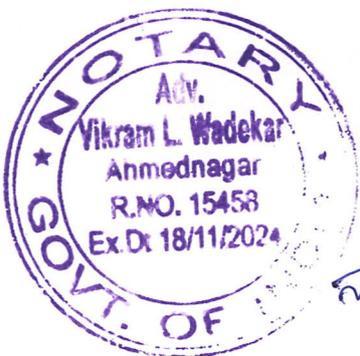
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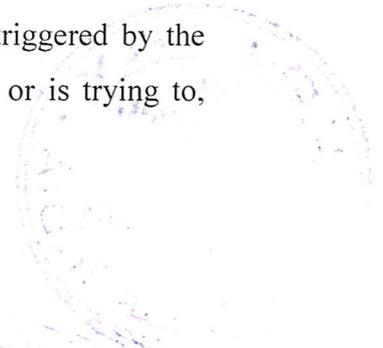
Respondent No.1. Furthermore, the Respondent No. 1 states that since it will take some time to set up the STP, the Respondent No.1 following the Seechewal Model and Karnal Technology of Sewage Treatment & Zero Discharge Model for small townsis setting up filtration chambers along the Lendi Nala so that the treated waste water can be utilized by the farmers nearby for irrigating their lands. The Respondent No.1 through the said Project is taking efforts to ensure that the Lendi Nala becomes clean and pollution free.

4. The Respondent No. 1 states and submits that Lendi Nala meets the Saraswati River only when there are heavy rains. The Saraswati River is approximately 1.1 kms far from the Lendi Nala and meets the Saraswati River only after 1.1 kms. The Respondent No.1 further states that the Saraswati River is not a notified river and flows seasonally. The execution of the said Project will ensure that the water flowing from the Lendi Nala will be pollutant free and clean thereby preventing pollution of the Saraswati river. The Respondent No. 1 craves leave to refer to and rely upon appropriate documents, photos, reports, maps, etc. at the time of the hearing. Annexed and marked as **Annexure A** is the letter dated 31st August, 2023 by the Jalsampada Department, Government of Maharashtra.
5. The present Application is neither true, nor legal nor *bonafide*. The contents of the Application are baseless and unmeritorious. The Respondent No.1 states and submits that the Applicant has filed the captioned Application with an ulterior motive, to harass the Respondent No.1 and obstruct the development of Shrigonda city. The Respondent No. 1 vehemently denies all the statements, submissions, allegations and averments made in the Application unless the same are specifically admitted. It is apparent from the pending litigations triggered by the Applicant, that the Applicant has always tried to, and or is trying to, stall any project that is taken by the Respondent No. 1.

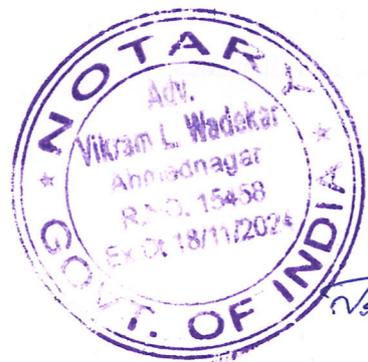


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6. The Respondent No. 1 vehemently denies the contention of the Applicant that said Nala is actually 50.45 mtrs. wide, which, after retaining wall and the alleged beautification project, is being reduced to 3 mtrs. The Respondent No. 1 states and submits that such contention of the Applicant is not only misleading but mischievous only to seek reliefs from this Hon'ble Tribunal. The Respondent No. 1 submits that due to the false statements and or misrepresentations made by the Applicant to this Hon'ble Tribunal, the entire, otherwise heavily burdened departments, concerned Government machineries were set in motion, thus spending their valuable time and resources. The Respondent No. 1 states and submits that for these reasons alone, heavy costs be imposed on the Applicant.
7. The Respondent No. 1 further states and submits that the Applicant has contended that the said Project undertaken by the Respondent No. 1 on the Lendi Nala is a "beautification" project and is an imminent threat to the environmental and ecological sensitive area of the said Natural Body. It is apparent from the description of the works to be undertaken, that the said Project is nothing but an essential project that is being undertaken for the safety of the people staying in the vicinity, and has no adverse impact on the environment. It is also submitted that the said Nala is not an environmental and ecological sensitive area.
8. The Respondent No.1 states and submits that the project is being carried out in respect of the Lendi Nala, a minor water body, which flows very rarely and is not a notified water stream. Nala in the literal sense of the term means a drain. The Lendi Nala is a drain through which 'Water' flows only during the monsoons while during the remaining months only domestic sewage water flows through the Lendi Nala. The Applicant is trying to portray the Lendi Nala as a river and or a major water body, which is in fact not the case. Thus, the said Project is in fact a project undertaken by the Respondent No.1 to clean the Lendi

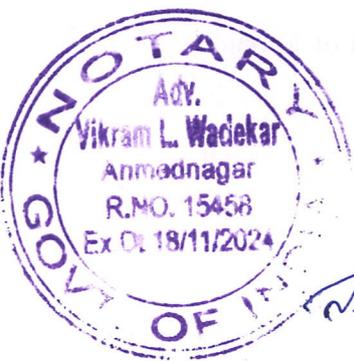


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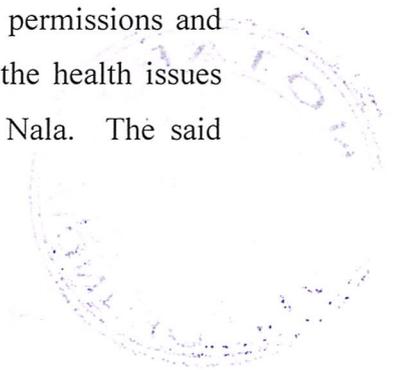
Nala by deepening and desilting of the Nala to regulate the flow of sewage water and to avoid the stagnancy of sewage water by channelizing the drainage water flow, thereby addressing health hazard issues. It is pertinent to note that there is no demarcation of any buffer and or prohibited zone (marking of red line and blue line) as the said Nala is not notified as a water body, far remains a potable water body.

9. The Respondent No.1 states that only domestic sewage water flows through the Nala for major part of the year resulting in silting and stagnation of the sewage water creating health hazards for residents and school students in its vicinity. The Respondent No. 1 states and submits that the said Project will reduce the problems and health hazards faced by the citizens in its vicinity. The Respondent No.1 further states that the Respondent No. 1, *vide* the said Project, is not reducing the width of the Nala as contended by the Applicant. In fact, the said Project will help increase the percolation capacity thereby increasing the groundwater levels in the area.
10. The Respondent No.1 states that the said Project will help to regulate, channelize and maintain regular waste water flow due to which the seasonal monsoon water flow will remain unobstructed and undisturbed thus, increasing the flow carrying capacity of the Nala. It is pertinent to note that District Ahmednagar *inter alia* Taluka Shrigonda is a rain shadow region experiencing scanty rainfall. The chances of this region experiencing floods is negligible. Nevertheless, the said Project *inter alia* the desilting and cleaning of the Nala will increase the percolation rate and prevent occurrence of floods during monsoons.
11. The Respondent No.1 states that it is carrying out the said Project after a thorough study and after obtaining various necessary permissions and approvals. The said Project will effectively address the health issues faced by the citizens residing in the vicinity of the Nala. The said



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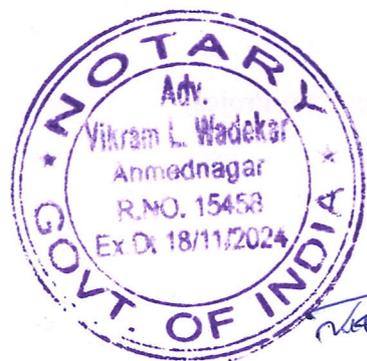


Project will reduce contamination of water, improve water quality and the percolation rate thereby making it environmentally sustainable.

12. In the light of the directions issued by the Hon'ble Supreme Court in *Almitra H Patel Vs. Union of India & ors.* and *Paryavaran Suraksha Vs. Union of India*, health issues cannot be deferred for a long time. Providing clean air, water, hygiene and environment being part of the right to life, ought to be the top most priorities for good governance. This Hon'ble Court has also directed in OA No. 606/ 2018 that sewage can be processed by cost-effective methods at several identified locations with least expenses. Decentralized and prefabricated treatment plants can be explored. The Respondent No. 1 states that in compliance of the aforementioned directions, the Respondent No.1 is carrying out the said Project. This Hon'ble Court has also directed community involvement by appropriate awareness and strategies to encourage public participation and contribution. The Applicant however, instead of helping the Respondents in achieving aforementioned goals, through this present Application and other pending litigations is making every possible effort to stall the said Project which is in fact going to resolve the health issues faced by the citizens residing in the vicinity of Lendi Nala.

13. The Respondent No.1, without prejudice, states and submits that the water flowing in the Lendi Nala is within the standards as laid down by the State Pollution Control Board and does not aggravate pollution or impede the flow of the water in Lendi Nala. The Respondent No.1 craves leave to file and rely appropriate reports at the time of hearing.

14. The Respondent No.1 states that the Central Pollution Control Board and Maharashtra State Pollution Control Board being necessary parties, have not been made parties to the present Application. The Respondent No. 1 states that on this ground alone, the present Application ought to be dismissed *in limine*.



Vikram L. Wadekar

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15. The Respondent No.1 states and submits that the Applicant is neither a resident of the area nor a vigilant duty bound citizen. The Respondent No.1 further states that the Applicant has filed the present Application out of personal vendetta and has been filed only to harass the Respondent No.1 and extort money from the Respondent No.1. It is apparent from the pending litigations filed by the Applicant, that the Applicant has always tried to, and or is trying to, stall any project that is taken by the Respondent No.1. The said Project is in fact an essential project undertaken for the safety of the people residing in the vicinity and ecological and environment friendly. The Applicant thus, has no locus to file the present Application. The present Application filed by the Applicant is misplaced and liable to be dismissed.
16. The Respondent No.1 further states and submits that the Applicant has no legal right or authority or locus to file the present Application. Therefore, the present Application is not legally tenable, and needs to be dismissed on this ground alone.
17. The Respondent No. 1 reiterates that the Lendi Nala is a drain through which water flows only during the monsoons and domestic sewage water flows for the rest of the year through the Lendi Nala. The contention of the Applicant that the Lendi Nala is a natural water body and is an un-isolated part of the environment and ecology and environmentally sensitive is absolutely false and misleading. The Respondent No.1 further states that the said Project is in fact undertaken by the Respondent No.1 to clean the Lendi Nala by deepening and desilting the Nala to regulate the flow of sewage water and avoiding stagnancy of sewage water by channelizing the drain i.e. Lendi Nala. The said Project will increase the percolation capacity which will help increase the groundwater levels in the area. The Applicant has falsely stated that the said Project is unsustainable. As can be seen, the Project is in fact addressing the issues pertaining to the health hazards caused



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due to the current condition of the Lendi Nala and is also environmentally sustainable. The Respondent No.1 therefore, states that this Hon'ble Tribunal has no jurisdiction to try and entertain the present Application as there involves no substantial dispute relating to environment.

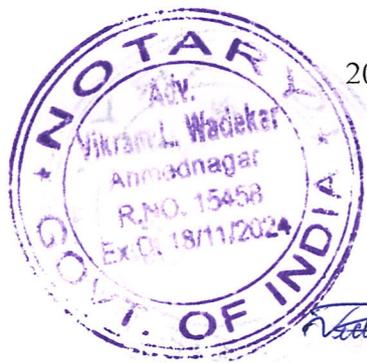
18. It is apparent from the Application that no cause of action has accrued in favour of the Applicant for filing the captioned Application. The Respondent No.1 states that the statements made regarding the cause of action by the Applicant are vague and does not set out material facts and particulars of the case. The Respondent No.1 states that the Applicant has purposefully and intentionally concealed material facts from this Hon'ble Tribunal and has not come before this Hon'ble Tribunal with clean hands. Therefore, the captioned Application of the Applicant is liable to be dismissed for non-disclosure of cause of action. The Respondent No. 1 further states that the Applicant has initiated frivolous litigation on bogus and vexatious cause of action and is an abuse of process of law for personal gains. Hence, the present Application of the Applicant is liable to be dismissed.

19. The Respondent No.1 states and submits that the present Application is not filed within limitation and hence, is not maintainable and liable to be dismissed.

PARAWISE REPLY:

Without prejudice to the above contention, which are raised independently of each other, the Respondent No.1 is submitting its para wise Reply as under:

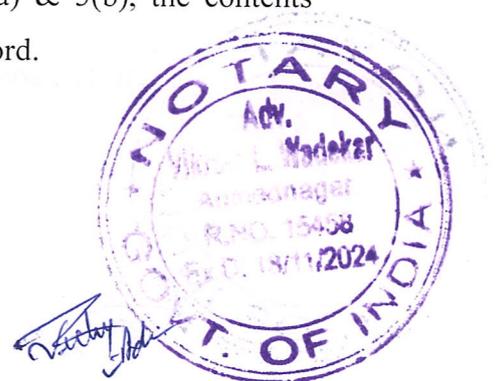
20. The contents of para no. 1 & 2 of the captioned Application are a matter of record and require no comments.



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21. With reference to the contents of para no. 3 of the captioned Application, the Respondent No.1 vehemently denies the same. The Respondent No. 1 denies that the Applicant is a Social and Environmental Activists. The Respondent No.1 strongly denies that unsustainable development of narrowing/ reducing the width of Lendi Nalah under the garb of beautification project by constructing 'Retaining Wall', 'Nalah Channelization', 'Filtration Chamber' and 'Cross Drainage work', etc. thereby creating imminent threat to environmental & ecological sensitive area of natural water body. The Respondent No. 1 vehemently denies the contention of the Applicant that the width of the said Nala is being reduced due to the said Project. The Respondent No.1 states and submits that the contentions of the Applicant are false and misleading. The Respondent No.1 further submits that as has been stated hereinabove, the said Project is an eco-friendly essential project undertaken for the safety of the citizens residing in its vicinity creating a positive impact on the environment.
22. With reference to the contents of para no. 4 of the captioned Application, the Respondent No.1 strongly denies that the Respondent No.1 in collusion with the other Respondents have issued tender for the non-sustainable development without giving any heads to the adverse impact of the beautification work on the environment & ecology of the Natural Water Body. The Respondent No.1 reiterates that the said Project is being carried out after a thorough study and after obtaining various permissions and approvals. The said Project will reduce the contamination of water, improve water quality and percolation rate thereby making it environmentally sustainable.
23. With reference to the contents of para no. 5(a) & 5(b), the contents thereof are generally correct and a matter of record.



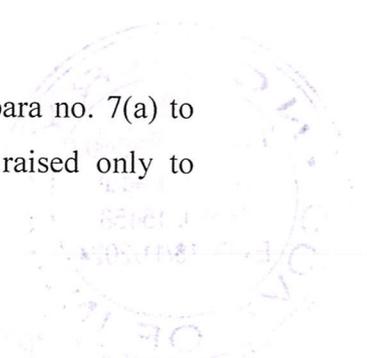


24. With reference to the contents of para no. 5(c) of the captioned Application, the Respondent No.1 completely denies the contents thereof. The Respondent No. 1 completely denies that the proposed development is going to be harmful for the natural water course as well as going to cause damage to the environment & ecology of natural water course. As has been stated hereinabove, the said Project is eco-friendly and will in fact reduce the pollution of water and increase the percolation rate of water making it environmentally sustainable.
25. With reference to the contents of para nos. 6(a) to 6(k), the Respondent No.1 states that the contents thereof are a matter of record and as such require no comments.
26. The contents of para no. 6(l) are completely false and denied by the Respondent No.1 and the Applicant is put to strict proof thereof.
27. With reference to the contents of para no. 6(m) & 6(n), the contents thereof are a matter of record and require no comments.
28. With reference to the contents of para nos. 6(o) & 6(p), the Respondent No.1 states that the contents thereof are a matter of record and as such require no comments.
29. With reference to the contents of para no. 6(q), the Respondent No.1 vehemently denies the same. The Respondent No.1 states that the Applicant is misleading this Hon'ble Tribunal by portraying a drain channel as a natural water body. The Respondent No.1 at the cost of repetition, states and submits that the said Project is being carried out after a thorough study and after obtaining various necessary permissions and approvals.
30. The grounds for the present Application mentioned in para no. 7(a) to 7(m) are absolutely false, frivolous and baseless and raised only to



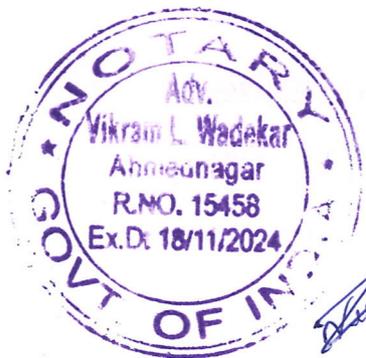
N. N. Nodkar

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mislead this Hon'ble Tribunal. The Respondent No.1 states that the Application does not set out relevant / material facts and particulars of the case and therefore, the captioned Application of is liable to be dismissed. The Respondent No.1 states that the Applicant has initiated frivolous litigation on vague, ambiguous, bogus, vexatious and imaginary cause of action. The Respondent No.1 therefore submits that the Application is liable to be dismissed. The cause of action stated by the Applicant is imaginary. The Respondent No.1 states that this Hon'ble Tribunal has no jurisdiction to try and decide the present Application. Hence, the present Application is liable to be dismissed in *limine*. The Respondent No.1 states and submits that the Applicant is not entitled for any reliefs claimed in the present Application. The Respondent No.1 prays that heavy costs be imposed on the Applicant for filing false and frivolous Application. Moreover, the Applicant has utterly failed to make out a *prima facie* case for grant of stay against the Respondent No.1 herein.

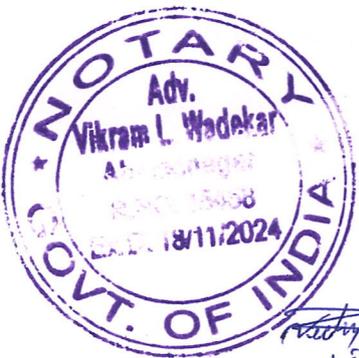
31. The Respondent No. 1 further states and submits that the Hon'ble Supreme Court in *Almitra H Patel Vs. Union of India & ors.* and *Paryavaran Suraksha Vs. Union of India*, had issued ***directions for remedial action which include constitution of a four-member special task force in every district having – one each nominated by District Magistrate, Superintendent of Police, State Pollution Control Boards and District Legal Services Authority (DSLAs) for awareness about SWM Rules, 2016 by involving educational, religious and social organizations including local Eco-clubs.*** The Hon'ble Supreme Court had vide order dated 14.12.2020 further directed to ***continue monitoring at the level of Chief Secretaries and quarterly status reports be filed with CPCB so that CPCB may file a consolidated report every six months before the Tribunal. It was further directed that compensation in terms of earlier orders be recovered and credited to a separate account with the Environment Department of concerned***



State to be used for restoration of environment. As to the status of compliance by all the States and UTs of the directions and guidelines issued by the Hon'ble Supreme Court and the Hon'ble Tribunal, the Hon'ble Tribunal observed that, *"Even where STPs are functional, treated sewage instead of being used for agriculture or other non-contact purposes is again discharged into rivers, lakes and drains and at times again mixed with waste water requiring treatment again. In absence of proper sewage management facilities, septic tanks and soak pits are considered as acceptable methods to address gaps."*

32. The Hon'ble Tribunal has further pointed out in the order dated 22.05.2023, *"Segregation of biodegradable waste and its processing closest to the point of generation is a task which requires good governance and according of high priority. Similarly, preventing sewage discharge into the sources of drinking water has to receive highest priority. Such discharge results in scarcity of drinking water for all living beings apart from degradation of environment and damage to public health."* The Hon'ble Supreme Court vide order dated 22.02.2017 in *Paryavaran Suraksha Vs. Union of India* had fixed a three-year deadline for waste water treatment systems and the same have been monitored by this Hon'ble Tribunal. The Hon'ble Tribunal further noted that, *"Discharge of sewage in drains leading to rivers, lakes, sea or in water bodies and lands has led to serious damage to environment and public health and needs to be addressed on war footing, using indigenous technology wherever viable or such other technology."*

33. On the subject of extension of timeline for setting up requisite STP and supplementary directions, the Hon'ble Supreme Court in its recent order dated 20.03.2023 in M.A. No. 356 of 2023 in Writ Petition (Civil) No. 375 of 2012 *Paryavaran Suraksha Vs. Union of India*, allowing the extension of timeline for setting up STP has observed that, *"As noted*



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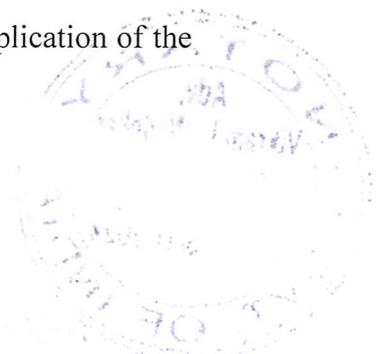
earlier vide judgment dated 22.02.2017, the Hon'ble Supreme Court fixed deadline of three years for commissioning such plants, which expired on 22.02.2020. After such expiry, further three years have expired and still gaps have been continued. The State of UP approached Hon'ble Supreme Court for extension of time. Thereupon, it was observed by the Hon'ble Supreme Court that apart from setting up of STPs, maintenance and performance of such STPs was also required to be duly scrutinized and monitored. The issue is of utmost concern. Untreated sewage waste discharging to rivers and drains pollutes sources of water upon which survival of population and bio-diversity depends. Accordingly, the Hon'ble Supreme Court issued supplementary directions to that effect with the further observation that any extension of time could be considered by this Tribunal on the basis of material placed before it showing bonafide steps taken to comply with the order of the Hon'ble Supreme Court and genuine hindrances, if any."

34. The Respondent No.1 states that the said Project is in compliance of the aforementioned directions and guidelines issued by the Hon'ble Supreme Court and Hon'ble Tribunal. The Respondent No.1 further states and submits that the said Project is absolutely necessary and an alternative solution till the STP are sanctioned and being set up. The sewage in the Lendi Nala can be effectively treated after the said Project is completed. Furthermore, the suspension of the said Projected will cause great irreparable loss and harm to the environment as well as the public. Hence, the completion of the said Project is necessary and indispensable in the interest of the environment and in common public interest.

35. In the light of aforementioned reasons, the captioned Application of the Applicant may kindly be dismissed with costs.



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All the above stated contents in para no. 1 to 25 are true and correct to the best of my knowledge and information. Solemnly affirmed on this 3rd day of October, 2023 at Shrigonda. - 3 OCT 2023

I know the Affiant


Advocate


Affiant

(Mr. Pramod Dorajkar)

BEFORE ME

Solemnly affirmed before me
by Pramod Dorajkar *Adv. office*
who is identified before me *Shrigonda*
by T. Shrigonda *Shrigonda*
whom I personally know *Ahmednagar*

BEFORE ME

Victory
3/10/23
Vikram L. Wadekar
Advocate & Notary Public
Govt of India
Ahmednagar

Noted & Registered.
at Sr. No. 804/2023
Dated 3.10.2023

- 3 OCT 2023

