

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
WESTERN ZONE BENCH AT PUNE  
INTERIM APPLICATION 101 OF 2021  
IN  
APPLICATION NO. 105 OF 2019**

In the matter of

Mr. Tanaji Balasaheb Gambhire

... Applicant

Versus

The Principal Secretary-DoE &Ors.

... Respondents

**INDEX**

<b>SR.NO.</b>	<b>PARTICULARS</b>	<b>PAGE NO.</b>
1.	Affidavit in Reply on behalf of Respondent No.11 to IA 101 of 2021.	1285-1290



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNL,  
WESTERN ZONE BENCH AT PUNE  
INTERLOCUTORY APPLICATION NO.101 OF 2021  
IN  
ORIGINAL APPLICATION NO.105 OF 2019**

Mr. Tanaji Balasaheb Gambhire	... Applicant
Versus	
The Principal Secretary-DoE &Ors.	... Respondents

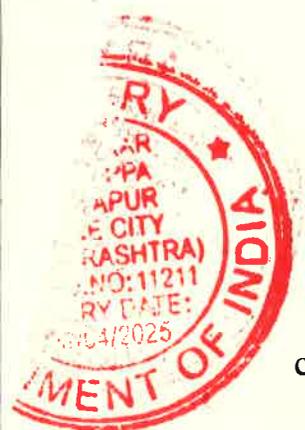
**AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO.11**

I, Srinivas K. Iyer, the Constituted Attorney of Respondent No.11, having my office address at Nyati Unitree, CTS No. 1995 (B+C) + 1996B, Yerwada, Pune 411006 do hereby solemnly affirm and state as under:

1. The Applicant in the captioned Interlocutory Application No.101 of 2021 is the Original Applicant, who has filed the Original Application No.105 of 2019, thereby alleging various environmental violations with respect to the construction carried out by the Respondent No.11.
2. The Applicant has filed the captioned Original Application thereby seeking directions against the Joint Committee to carry out site inspection in the presence of the Applicant.
3. At the outset it is stated that I, the Constituted Attorney of the Respondent No.11 have perused the captioned Interlocutory Application. I state that I am duly competent, able and authorised to depose the present Affidavit-in-Reply. I state that I have perused the records available with the offices of the Respondent No.11 with respect to the subject matter of the captioned Interlocutory Application and have made myself aware of the relevant facts and circumstances. I state that even

otherwise I am personally aware of the facts and circumstances relating to the subject matter of the present Interlocutory Application.

4. At the further outset I deny all that is stated in the captioned Interlocutory Application unless categorically admitted in the following paragraphs. I state that nothing contained in the Interlocutory Application be deemed to have been admitted on behalf of the Answering Respondent merely for want of a specific traverse. I say that the present Affidavit in reply is being filed in present Interlocutory Application in addition to the Affidavit in Reply filed by the Respondent No.11 to the Original Application No.105 of 2019, the content of the Affidavit in Reply ought to be considered to be reproduced in verbatim in the present Affidavit in Reply and is not being repeated to avoid replication. I crave leave to file a further, more detailed Affidavit in Reply, if circumstances so warrant.
5. I state that the Interlocutory Application filed by the Original Applicant deserves to be dismissed for the following reasons;
  - a) The Applicant has filed by the Original Application alleging various environmental violation in respect of Four independent projects constructed by the Respondent No.11 under the name and style of "Nyati Eternity -I", Nyati Eternity-II, Nyati Eternity-III and Nyati Eternity-IV.
  - b) This Hon'ble Tribunal vide order dated 5<sup>th</sup> January 2021, passed an order to constitute a Joint Committee comprising of SIEAA (Maharashtra), Maharashtra Pollution Control Board, Pune Municipal



Corporation and The Collector of Pune to carry out a joint inspection and submit its report with respect to the allegations made in the captioned Original Application.

- c) In furtherance of such appointment, the Joint Committee has conducted a site inspection on 9<sup>th</sup> August 2021 and has subsequently filed a joint committee Report on 6<sup>th</sup> September 2021.
- d) The Joint Committee through the Joint Committee report has placed on record the true, correct and relevant facts which are necessary for adjudication of the original Application No.105 of 2019 and which will provide assistance to this Hon'ble Tribunal. It is well established that the Joint Committee is set up for fact finding exercises in matters which are complex, technical, time consuming and often requires the committees to conduct site inspection, the committee does not perse adjudicate disputes, which is the function of this Hon'ble Tribunal. Thus, once the committee gives its finding on facts, it is open for the parties to file their objections to such committee report. It is pertinent to note at this juncture that the original Applicant has already filed his objection to the joint committee report. Therefore, there is no question of conducting an inspection in the presence of the Applicant and/or adjudicating upon the objections raised by the Applicant, as prayed for in the present IA.
- e) It is further well settled principle of law that NGT cannot delegate its adjudicatory duties to such expert committees and can only constitute such committees for carrying out fact finding exercises. Therefore, the

parties are permitted to file their respective objection to the Joint Committee Report and the same shall be adjudicated by this Hon'ble Tribunal. Thus, in these circumstances there is absolutely no question of carrying out a fresh Joint Committee inspection in the presence of the Original Applicant. At the cost of repetition, it stated that an expert committee can be appointed only for the purposes of fact finding and are not permitted to adjudicate on any of the environmental issues. This being the situation, it is apparent that there is no requirement of the presence of the original applicant and/or considering the opinion of the original applicant, as the role of the expert committee is strictly restricted to fact finding functions and does not involve any adjudication after considering the opinions of the parties.

- f) Without prejudice to what is stated hereinabove, it appears that the original applicant has filed the captioned application in the form of a fishing activity, wherein the original applicant as such has nothing concrete to place on record to prove that the Respondent No.11 has carried out any kind of environmental violations with respect to the construction as alleged in the Original Application. Further it is pertinent to note that by way of the present Interlocutory Application, the applicant has irresponsibly and casually made allegations against the Joint Committee Report (which is based on the evidence produced therein), without the Applicant producing anything on record to support such allegations. Thus, the act on behalf of the Applicant is purely a fishing mechanism, wherein the Applicants have failed to



produce anything on record to show that there is any environmental violations committed by the Respondent No.11 and are indulging in filing of such frivolous Interlocutory Applications in order to mislead this Hon'ble Tribunal and obtain wrongful orders.

- g) Therefore, once the expert Joint Committee has constituted by this Hon'ble Tribunal has filed its report, the only remedy available to the original applicant is to file their objections to the same and present their case before this Hon'ble Tribunal for adjudication. It is absolutely inconceivable that the original applicant can make such frivolous applications thereby seeking directions from this Hon'ble Tribunal to direct the Joint Committee to carry out the site inspection in the presence of the original applicant and/or include their grievance and/or opinions in the Joint Committee Report.

6. In these premises, it abundantly clear that the Applicant has failed to make out any case for grant of any kind of reliefs in the captioned Interlocutory Application and the Interlocutory Application deserves to be dismissed.

Solemnly affirmed at Mumbai Pune )

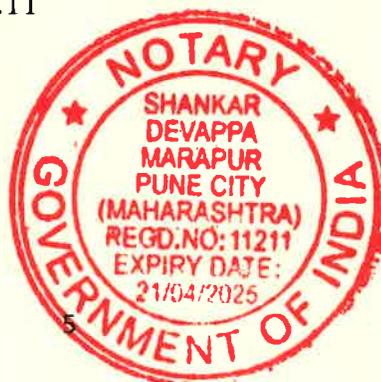
Dated this 15<sup>th</sup> day of June 2023 )



Respondent No.11

Before me,

Advocates for Respondent No.11



VERIFICATION

I, Srinivas K. Iyer, the Constituted Attorney of Respondent No.11 abovenamed having my address at Nyati Unitree, CTS No. 1995 (B+C) + 1996B, Yerwada, Pune 411006 do hereby solemnly affirm and declare that everything stated in the foregoing paragraphs is true to my knowledge and is based on legal advice and I believe the same to be true and correct.

Solemnly affirmed at ~~Mumbai~~ *Pune* )

On this 15<sup>th</sup> day of June 2023 )

Respondent No.11

Advocate for Respondent No.11

Before me



**BEFORE ME**  
*Shankar D. Marapur*  
**Shankar D. Marapur**  
**NOTARY**  
**GOVT OF INDIA**

**Noted & Registered**  
**at.Sr.No.N.96/2023**



**15 JUN 2023**

