

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
WESTERN ZONE BENCH AT PUNE  
INTERIM APPLICATION 102 OF 2021  
IN  
APPLICATION NO. 105 OF 2019**

In the matter of

Mr. Tanaji Balasaheb Gambhire

... Applicant

Versus

The Principal Secretary-DoE &Ors.

... Respondents

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNL,  
WESTERN ZONE BENCH AT PUNE  
INTERLOCUTORY APPLICATION NO.102 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 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.102 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 Original Applicant has filed the captioned Interlocutory Application No.102 of 2021 under Section 19(4) (b) of NGT Act, 2010 for production of documents and public record.
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. The original applicant states that it is well settled principle of law that the discovery of the document is a discretionary relief. Any party claiming discovery of document of an opponent to approach Court with clean hands. In the instant case, the Original Applicant has approached the Court with unclean hands and for the following reasons, the IA No.102 of 2011 deserves to be dismissed:

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. The Applicant has filed the captioned Application seeking

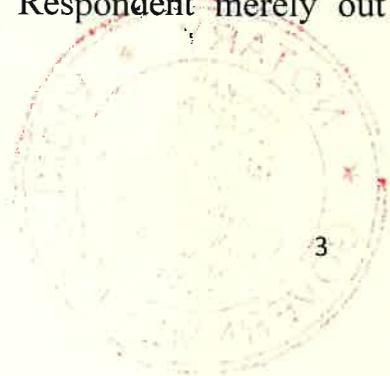


various public documents relating to the construction activities of the said projects.

b) The Hon'ble Apex Court in *Civil Appeal No.2407-2412 of 2021 State of Uttar Pradesh ors Vs. Uday Education and Welfare Trust & Ors.*

has held that the *bonafides* and credentials of a person approaching the National Green Tribunal ought to be examined prior to entertaining any Application and/or Appeal. In the present case, the Original Applicant has not only based his entire application on misplaced facts but after realising the same is now attempting to seek production of documents at the behest of the answering respondent as and by way of fishing mechanism, in the form of the present IA.

c) The answering Respondent states that the IA deserves to be dismissed as the same amount to fishing. It is well settled law that a party approaching this Hon'ble Tribunal under sections 14 and 15 of the NGT Act ought to place on record reasons and documents which show that there is a violation of any of the law mentioned under Schedule -I of the NGT Act and that there is substantial question relating to environment which arises out of the implementation of the enactment certified in Schedule I of the NGT Act. In the present case, the Original Applicant on being unable to make out even *prima-facie* case which demands any interference of this Hon'ble Tribunal, by way of IA 102 of 2021 is seeking production of documents at the behest of the answering Respondent merely out of desperation to maintain the



Original Application. Therefore, it is stated that on this count alone the IA NO.102 of 2021 deserves to be dismissed.

- d) Without prejudice to what is stated hereinabove, it is trite that at the time of directing any party to produce document, the Hon'ble Court ought to examine whether it is impossible for the party praying for production of document to obtain the said document. In the instant case, a bare perusal of I A No.102 of 2021 shows that all the documents sought to be produced by the Original Applicant, at the behest of the answering Respondent are public document and/or documents which are already available in the public domain. Therefore, the documents are easily available and/or accessible to the Original Applicant and this Hon'ble Tribunal ought not to grant any relief in IA No.102 of 2021.
- e) In light of the facts stated hereinabove and keeping in mind the fact that at the time of granting an order for production of document, this Hon'ble Tribunal ought to examine the *bonafides* and credentials of the Applicant in mind, it is stated that the IA deserves to be dismissed.

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

Advocates for Respondent No.11

Before me,





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-97/2023*

**15 JUN 2023**

