

BEFORE THE NATIONAL GREEN TRIBUNAL,  
WESTERN ZONE BENCH, PUNE

O.A. NO. 29 OF 2022 (WZ)



Shashikant Vitthal Kamble Applicant

Versus

Union of India & Ors Respondents

**AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT**  
**NO. 12, 13 and 14 PUNE MUNICIPAL CORPORATION**  
**(PMC).**

I, Shreekant Sudam Vaydande, Age:55 years, the Executive Engineer (Bldg. Department Zone 3), Pune Municipal Corporation do state on solemn affirmation as under:

1. It is submitted that I am working as Executive Engineer, Building Dept. in Pune Municipal Corporation (Henceforth referred as "PMC" for the sake of brevity) and I am authorized to file an affidavit before the Hon'ble National Green Tribunal on behalf of Respondent No. 12, 13 & 14, the PMC.

2. At the outset, I deny all the contentions and/or statements and/or allegations contained in the present Original Application to the extent those are contrary to and/or inconsistent with what is stated in the present Reply Affidavit. Nothing contained in the Original Application, should deemed to be admitted by the PMC for want of specific traverse unless the same has been specifically admitted herein below. I crave leave of this Hon'ble Tribunal to file Additional Affidavits as and when the occasion so arises.
3. I have perused the documents brought on record and have understood the contents of the OA on the basis of documents and information available in relation to the said issue, I am filing this present Affidavit in Reply to oppose the grant of any reliefs to the Applicant as prayed for in the present Application.
4. It is submitted that the present Original Application is filed relating to a residential and commercial building

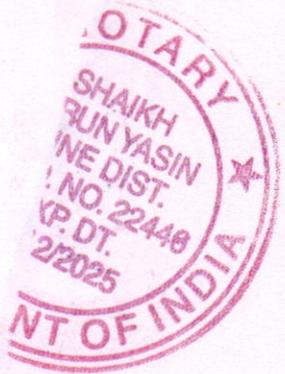


project namely, "Isle Royale" located at S no. 24, Village Bavdhan, Taluka Mulshi, Pune which is in the limits of the answering Respondent. The prayers sought in present OA are as below:-

*(a) that kindly directions for stopping the illegal construction which is still continued and carried by the Project Proponent (Respondent No.15) in contravention to the Environment Clearance Permission and the Respondent No. 15 shall not be granted any permission till the disposal of this case of the dispute before this Hon'ble National Green Tribunal.*

*(b) that kindly directions be provided for demolishing the illegal construction be given to the appropriate government authorities after perusal of the factual report and analysis made by the committee which will be constituted and appointed for the inspection in this present matter and direct to constitute the same.*

*(c) that kindly directions be provided to the government authorities and committee to make a plan for the restitution of environment.*



- (d) that kindly impose heavy environment compensation on the Respondent No. 15.
- (e) that kindly directions be provided for constituting an eligible and responsible third party committee for the inspection and examination of the illegal construction and the environmental damaged caused by the Respondent No. 12 and the detailed factual report and analysis be submitted before this Hon'ble National Green Tribunal.
- (f) that kindly directions be provided to the all Respondents to submit the entire record and proceeding retained by them with regards to the said project.
- (g) that kindly directions be provided to the appropriate government authority that no third party transactions like selling or buying of properties in the said project of the Respondent No. 15 shall be allowed and to stop with immediate effect and shall not be granted till the disposal of this case before this Hon'ble National Green Tribunal.



*(h) the Applicant with the prior permission of the Hon'ble National Green Tribunal, be allowed and permitted to amend its application upon knowledge of the illegal acts or new crucial fact, if any, are found by the Applicant after filing of this Original Application and which are necessary to be brought on record.*

*(i) any other just and equitable order be passed in the interest of justice as may deem fit and proper.*

5. I say and submit that essentially all the reliefs as prayed for the Original Application are against Respondent No. 15 and no relief is sought for against Respondent No. 12, 13 and 14.

6. It is submitted that that Section 14 of the National Green Tribunal Act, 2010 provides limitation for 6 months from the date when the cause of action first arose with in which the OA (Original Application) ought to have filed. It is submitted that vide Commencement Certificate No. CC/1352 dated 12/07/2011, project was sanctioned.



Therefore u/sec 14 of NGT Act, limitation period for filing the present OA expired on 13/01/2012.

7. It is submitted that Sections 15 of the National Green Tribunal Act, 2010, provides limitation for a period of 05 years from the date of cause of action arose, which too would expire in the year 2016, while the present OA is filed in the year 2022.

8. Hence as per Sec. 14 and 15 NGT Act, Limitation period, to raise dispute relating to the said project, already expired so the present matter is hopelessly barred on the ground of Limitation.

**9. Project in Question**

“Isle Royale” located at S no. 24, Village Bavdhan, Taluka Mulshi, Pune is a Residential and Commercial Project. PMC has already provided the details and status of the project to the joint committee which is annexed

with the Joint Committee Report at page no. 424 to 436 of the paper book.

10. It is submitted that PMC is a local authority within the definition of Maharashtra Municipal Corporation Act, 1949 and as such is the appropriate authority under the MRTP Act for the purposes of granting permissions under MRTP Act. PMC has no role in either granting or monitoring conditions of Environmental Clearance under the EIA Notification of 2016.

11. It is submitted that the Plans are sanctioned on the application made under sec. 44 of MRTP Act. 1966 through a licensed Architect, thereafter proposals are sanctioned under sec 45 of MRTP Act. In 2014 Environment Department Govt of Maharashtra also made it mandatory that EC will be granted only after sanctioning of the Plans. Earlier EC was granted on conceptual plans and after 2014 is granted only after sanctioning of Plans from the Planning Authority.



12. It is submitted that once a construction is complete Licensed Architect submits a Completion Certificate to PMC certifying that all the conditions are fulfilled and the building is ready for occupation. On receiving the Completion Certificate PMC verifies all the permissions are in place and grants Occupation Certificate there are specific times in the Rules.

13. Relevant Rules regarding plinth checking, completion certificate and Occupancy certificate in DC Rules, 2017 are reproduced below:-

***Rule 7.4 Checking of Plinth/Column up to Plinth Level***

*– The owner shall give notice in prescribed form given in Appendix G to the Authority after the completion of work up to plinth level with a view to enable the Authority to ensure that the work is carried out in accordance with the sanctioned plans. The Authority shall carry out inspection within seven days from the receipt of such notice and give permission, for carrying out further*



*construction work as per sanctioned plans in prescribed ProForma given in appendix H. Within the above period if the permission is not refused, the permission shall be deemed to have been given*



**Rule 7.5 Deviation During Construction** – *If during the construction of building any departure which is not of a substantial nature from the sanctioned Plan is intended to be made by way of addition which does not violate any provisions regarding general building requirements structural stability and fire safety requirements of the rules alteration may be made and sanction of the authority shall be obtained immediately and in any case before application for occupation certificate and the procedure laid down for original plans shall apply to all such amended plans except the building permission fee. Provided further that if any such alterations are likely to result in increasing the number of tenements, the built-over area/FSI or change in the marginal opens spaces or the height of the building. No such alterations shall be*

*carried unless sanction to the amended plans is first obtained.*

**Rule 7.6 Completion Certificate** –*The owner through the licensed architect, engineer, structural engineer, as the case may be who has supervised the constructions, shall give notice to the Authority regarding completion of work described in the building permission. The completion certificate shall be submitted in the prescribed form by four sets of completion Plan. One of the sets, duly certified as Completion Plan shall be returned to the owner along with the issue of full occupancy certificate (see rule NO.7.7)*

**Rule 7.7 Occupancy Certificate** –*The Authority, on receipt of the completion certificate, shall inspect the work and sanction or refuse an occupancy certificate in the Pro Forma given in Appendix K within 21 days from the date of receipt of completion certificate, after which period it shall be deemed to have been approved by the*



*Authority for occupation provided the building has been constructed as per the sanction plans. Where the occupancy Certificate is refused, the various reasons shall be quoted for rejection, at the first instance itself.*

**Rule 7.7.1 Part Occupancy Certificate** - Upon the request of the holder of the building permission the Authority may issue a part occupancy certificate for a building or part thereof, before completion of the entire work as per building or part thereof, before completion of the entire work as per building permission provided sufficient precautionary measures are taken by the holder of the building permission to ensure public safety and health safety, The part occupancy certificate shall be given by Authority subject to the owner indemnifying the authority as per the Pro Forma given in Appendix.1

7.7.2 In the case of building identified in rule No. 6.2.6.1 the work shall also be subject to the inspection of the Chief Fire Officer, Pune Fire Brigade and the occupancy certificate shall be issued by the Authority only after the



*clearance from the Chief Fire officer regarding the completion of the work from the fire protection point of view.*

14. It is submitted that Environment Clearance was granted for said project to the extent of 25,109.03 sq. meter on 21/10/2011.

15. It is submitted that from 2011 time to time the said plans in said project was revised by PMC as per the applications of Project Proponent. All the said sanctions/revisions are granted by the PMC as per the provisions under Development Control Rules and Maharashtra Regional and Town Planning Act, 1966.

16. It is submitted that after following due procedure and on ensuring that the Project Proponent **has obtained Environment Clearance**, PMC has granted Occupation Certificate (OC) to the units in the said project. It is submitted that corporation merely being a local authority



cannot be in any way held responsible for Environmental Violations.

17.I say that the Applicant has made frivolous, baseless and unsubstantiated allegations against the Respondents more particularly in para 34 and 35 of the Original Application and thus the above captioned OA ought to be dismissed by the Hon'ble NGT.

18.PMC has strictly abided with the DC Rules, Maharashtra Regional and Town Planning Act, 1966 and Maharashtra Provincial Municipal Corporation Act, 1949 and has granted all the permissions accordingly.



*Vayadade*  
 कार्यकारी अभियंता  
 Respondent No. 12, 13 & 14  
 ज्ञान क्र. 3  
 पुणे महानगरपालिका  
 बांधकाम विकास विभाग



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VERIFICATION

I, Shreekant Sudam Vaydande,, Age: 55, Executive Engineer, Bldg. Department Zone 3, PMC authorized signatory for PMC do hereby state on solemn affirmation that what is stated forgoing Paras is true and correct to my own knowledge and belief.

Solemnly affirmed at Pune

This 6<sup>th</sup> day of February, 2024



*Rgarg*

Adv. for Respondent No. 12, 13 & 14

*Vaydande S.*

Respondent No. 12, 13 & 14  
कार्यकारी अभियंता  
अन क्र. 3  
पुणे महानगरपालिका  
बांधकाम विकास विभाग

NOTED & REGISTERED AT  
Sr. No. 369124 Dt. 6 FEB 2024  
ADV. SHAIKH HARUN YASIN

BEFORE ME

*Harun Yasin*

SHAIKH HARUN YASIN  
ADVOCATE & NOTARY  
GOVT. OF INDIA  
48, Mitha Nagar, Kondhwa Kd., Pune-48

6 FEB 2024

