

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
MISCELLANEOUS APPLICATION NO. 5 OF 2024
IN
EXECUTION APPLICATION NO. 12 OF 2022
IN
ORIGINAL APPLICATION NO. 80 OF 2020**

Vanashakti & Anr. ...Applicants

IN THE MATTER BETWEEN

Vanashakti & Anr. ...Orig. Applicants

Vs.

State of Maharashtra and Others. ...Respondents

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Mumbai
19/07/24

Adv. For Respondents 3 to 5



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**AFFIDAVIT IN REPLY ON BEHALF OF
RESPONDENT NOS. 3 TO 5**

I Vijay Balkrushn Shikhre, Indian Inhabitant, being the authorised representative of Respondent Nos. 3 to 5, having their office at the cause title mentioned in the Application, do hereby solemnly affirm and state as under:

1. I am conversant with the facts and circumstances of the present case and am authorised and able to depose to the



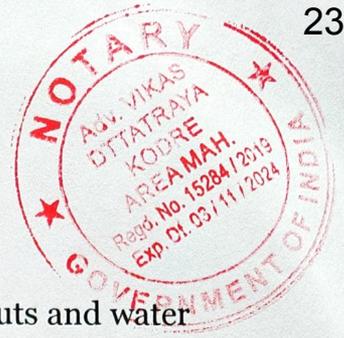
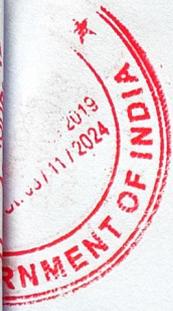
same. I have read a copy of the Application and the Affidavit of the Petitioner in support thereof. I am filing the present Affidavit in Reply to oppose the Application, grant of any reliefs and or interim orders. I say that nothing contained in the said Application and in the Affidavit in Support thereof should be deemed to be admitted by these Respondents by reasons of *non-traverse* or otherwise, save and except what is expressly admitted herein. I deny all the statements, submissions, contentions, allegations and averments contained therein that are contrary to and/or inconsistent with what is stated herein. I crave leave to file a further Affidavit, if and when the need arises and as I am advised to do so.

2. At the outset, I say that the Petitioner is not entitled to any reliefs and that no reliefs ought to be granted in favour of the Petitioner for the reasons mentioned hereinafter, each of which is without prejudice to one another and in the alternative to the rest.

3. At the further outset these Respondents have to state that most of the contentions raised by the Applicants



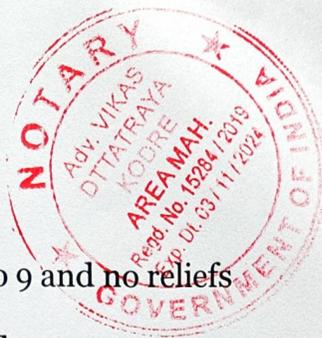
regarding formulating policies is redundant as the existing rules and regulations as described hereinbelow already provide for the issues raised in the present MA. Furthermore, it is important to note and point out here that a meeting was conducted on 14/06/2024 under the Chairmanship of Joint Secretary (Inland Fisheries), Department of Fisheries, Govt. of India for reviewing the course of action to be taken in respect of the present Original Application. It is pertinent to note that the during this meeting one concept Note submitted by ICAR- CIFRI was discussed which proposed to carry out an indepth longterm environmental impact assessment study of cage culture. This longterm EIA study to be conducted by ICAR- CIFRI would cost around Rs. 70 Lakhs and the proposed period of study is 18 months. Also, this study can be undertaken over multiple cage culture installations in different reservoirs. After detailed deliberations and discussions, it was decided that MPCB shall sanction the study to ICAR- CIFRI and the study is to be completed at the earliest through CIFRI. The Fisheries Department, Govt. of Maharashtra is directed to ensure strict compliance of the



guidelines issued by the NFDB including on inputs and water quality parameters as well as to organise outreach programmes to sensitise the fishermen on use of chemicals, pharmaceuticals, quality feed, manure etc. by taking help of electronic media and local language bulletins for extensive awareness and capacity building and NFDB has been directed to extend all the support and facilities as and when required.

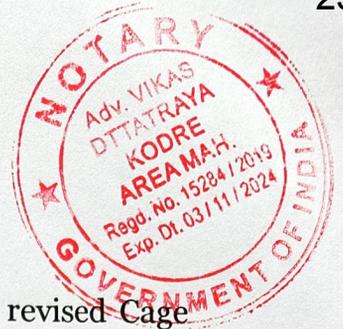
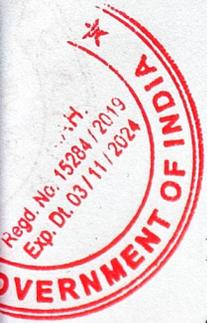
4. The Respondents are replying to the allegations contained in the Application parawise as follows:

- a) At the outset, the respondents repeat, reiterate and confirm all that has been hereinabove stated and deny everything contrary thereto or inconsistent therewith.
- b) With reference to averments contained in paragraph 1 to 3 of the Application the Respondents state that what is stated therein is a matter of record and these Respondents crave leave to refer to and rely upon the documents therein referred to for their true meaning and correct interpretation. However, it is vehemently denied that these Respondents have caused or led to any gross misuse and exploitation of environmental resources in Vadiwale Dam. Furthermore, the present MA



seeks directions against Respondent Nos. 6 to 9 and no reliefs are particularly sought against these Respondents.

- c) With reference to averments contained in paragraph 4 it is pertinent to point out that according to National Fisheries Development Board (NFDB) guidelines, cage culture activities should be done in oligotrophic or mesotrophic water bodies and Vadiwale Lake is one such oligotrophic lake. Furthermore, cage culture projects are never chemical intensive type of aquaculture projects. As a matter of fact, like all living beings, fishes cannot survive in chemical intensive or polluted waters. Therefore, it is vehemently denied that cage culture uses sophisticated chemicals as alleged or otherwise. As a matter of fact, cage culture is no different from traditional inland fishing except for the fact that the fishes are grown in cages/ contained space so that the loss of fishes due to other predators is reduced and the catch of all the fishes is assured in a large water body.
- d) With reference to averments contained in paragraphs 5 to 6i of the Application these Respondents state that leasing of lakes for fishing purposes is governed by Government

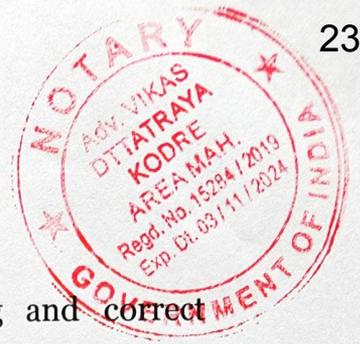


Resolution dated 30.06.2017 tank lease and a revised Cage culture policy has been passed by way of Government Resolution dated 26/08/2021 to regulate the cage culture activity. The Vadiwale reservoir has been handed over to the Fisheries Department by the irrigation Department which constructed this reservoir and hence these respondents have all the rights to handover the subject reservoir for fishing activities as per the aforementioned two G.R.s. Furthermore, Valavanti Fisheries Co- operative Society Ltd. is registered as per law with the Fisheries Department and its members comprise of all the Tribal Fishermen the area who were otherwise carrying out the traditional fishing activities in the subject lake. This Society is carrying out fish cage culture as per the aforementioned applicable G.R. and apart from installing the cages, nothing unnatural is added to the water.

e) With reference to averments contained in paragraph 6ii of the Application the Respondents state that, in compliance with the Order dated 31/05/2021 passed by this Tribunal, Bharadwaj Pagare has been shifted to Nashik by an Order dated 14/03/2022 passed by the Respondent No. 4.



- f) With reference to averments contained in paragraph 6iii of the Application the Respondents state that, State Government has already passed Inland Fisheries Act, 1960, Cage Culture G.R. dated 18/01/2023 and G.R. dated 03/07/2019 for leasing Freshwater Reservoirs. Therefore, there is no need to formulate any other legislation to control aquaculture activities as alleged or otherwise.
- g) With reference to averments contained in paragraph 6iv and 6v of the Application the Respondents state that, while the statement made therein are undeniable, the abovementioned rules and regulations passed by the State Government abide by Articles 21,32,48(a), 51(a)(g) of the Constitution of Indian and as a matter of fact in doing so, these Rules and regulations are creating a source of livelihood for the tribals in the surrounding areas.
- h) With reference to averments contained in paragraphs 7 to 10 of the Application the Respondents state that, the Respondents state that what is stated therein is a matter of record and crave leave to refer to and rely upon the documents

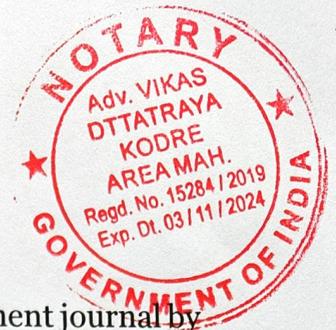
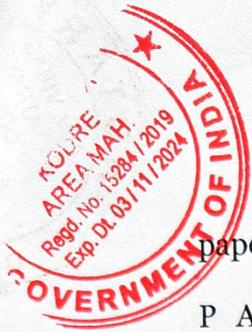


therein referred to for their true meaning and correct interpretation.

i) With reference to averments contained in paragraph 11 and 12 of the Application the Respondents state that, the Parameters tested by CPCB should be compared with other reservoirs where cage culture activities are not carried out and only then the suggestions would be meaningful for making valid recommendations by making valid comparisons.

j) With reference to averments contained in paragraph 12i of the Application the Respondents state that, Fisheries Department has already passed a G.R. dated 26/08/2021 being Revised Cage Culture by taking reference of Central Ministry guidelines for responsible farming of Tilapia in India. The said G.R. specifies at rule no. 2 the sustainable number and area of cage culture to be installed and at rule no. 11 it mentions the type of species of fish suitable for such cage culture. Therefore, the rules and regulations are already in place and are being implemented.

k) With reference to averments contained in paragraph 12ii of the Application the Respondents state that, according to a



paper published in the Current World Environment journal by

P Anusaya Devi, P. Padmavathy, A. Shrinivasan and P. Jawahar the study on Environmental Impact of cage culture unit in Poondi Reservoir clearly showed that small cage farming in the reservoir does not have any major environmental impacts on the water and sediment quality. Therefore, there is no need to conduct another study as contended by the Applicants or otherwise.

1) With reference to averments contained in paragraph 12iii of the Application the Respondents state that, the G.R. dated 26/08/2021 in its Appendix no. 1 at clause F. 15 and 12 include permitting the use of feed and medicine and other precautionary measures while permitting the cage culture. Therefore, the precautionary measures which the Applicants seek these Respondents to implement are already being implemented.



- m) With reference to averments contained in paragraph 12A of the Application the Respondents state that, in order to address the contents of this para, amendments to the decision of the Government
- n) With reference to averments contained in paragraph 12B to E of the Application the Respondents state that, the G.R. dated 26/08/2021 covers these points already in its clause 6. As far as sinking feed is concerned, the training for management of sinking feed is already being given at the office of Assistant Commissioner of Fisheries at Pune for awareness of cage culture and standard practices to those who are interested in implementing cage culture.
- o) With reference to averments contained in paragraph 12F of the Application the Respondents state that, there is no cage culture project which contains toilets and discharge management. According to the rule no. 17 of Revised Cage Culture G.R. dated 26/08/2021, toilets shall have discharge management ensuring that no discharge leads to the lake/ reservoir/ land and permission from the Water Resource Department is mandatory.



- p) With reference to contents of paragraph 13 to 20 of the Application the Respondents repeat and reiterate what is stated hereinabove. However, it is pointed out that under Pradhan Mantri Matsya Sampada Yojana, the Asst. Commissioner of Fisheries at Pune has sanctioned 11 cage culture projects in Andhrakhore Dam. However, it is pertinent to point out here that there is no dam by the name of Kodbade in Pune District. It is also important to state and point out that the Respondent NO. 3 had sanctioned Mr. Panchagre's cage culture at Vadivale Dam on 28/01/2022.
- q) With reference to contents of paragraph 21 of the Application the Respondents state that Vadivale lake is a completely fresh water reservoir and cage culture activities do not promote acts where the eggs of aquaculture fish to escape into the local reservoirs thereby becoming a threat of invasive species.
- r) With reference to contents of paragraph 22 of the Application the Respondents state that the Respondent No. 3 sanctioned Mr. Panchagre's cage culture installation at



Vadivale dam on 28/01/2023. However as per the instructions of MPCB the Fisheries Department gave a notice dated 19/06/2024 to Mr. Panchagre qua Vadivale dam and another notice dated 18/06/2024 qua Adnrakhore Dam for urgently stopping the cage culture activities in lieu of the Order passed by this Tribunal in the present OA.

s) With reference to averments contained in paragraphs 23 to 24iv of the Application the Respondents state, repeat and reiterate what is stated hereinabove and deny everything contrary thereto.

Therefore, in premises, circumstances and submissions hereinabove, these Respondent submit that the present Application is frivolous in nature and deserves to be dismissed forthwith with costs.

Advocate for Respondent.

Respondent No. 5

REGIONAL BY.COMMISSIONER OF FISHERIES
PUNE



VERIFICATION

I Vijay Balkrushn Shikhre , age 44 years, Indian Inhabitant Regional Deputy Commissioner of fisheries of Pune. Respondent no. 5 and authorized representative of respondent no. 3 & 4 having my address at Govt. Fish seed farm Sr. No. 15, Pune Solapur Highway, Hadapsar, Pune -28, do hereby state and solemnly declare that what is stated in para no. 3 is true to my own knowledge information and legal advice and I believe the same to be true.

Solemnly Declared at Pune

On this 19th day of July 2024.

) V. Shikhre

) Respondent No. 5

REGIONAL DY.COMMISSIONER OF FISHERIES
PUNE

Identify by me

Advocate for Respondent.

BEFORE ME
Adv. VIKAS D. KODRE
NOTARY GOVT. OF INDIA
S.No. 51/4, Shri Swami Samarth Kunj,
Kirtane Baug, Mundhwa, Pune-36.

Before Me

NOTED AND REGISTERED
AT SERIAL NUMBER 3456/2024

19 JUL 2024



Minutes of the meeting held under the Chairmanship of Joint Secretary (Inland Fisheries), Department of Fisheries, Govt. of India to review the NGT Original Application No. 80 of 2020 titled as Vanashakti & Anr. Vs State of Maharashtra & Ors, relating to unregulated activities of aquaculture and fishery in water bodies carrying fresh water in the State of Maharashtra on 14.06.2024.

A Meeting on the NGT Original Application No. 80 of 2020 titled as Vanashakti & Anr. Vs State of Maharashtra & Ors, relating to unregulated activities of aquaculture and fishery in water bodies carrying fresh water in the State of Maharashtra was held under the Chairmanship of Joint Secretary (IF) on 14.06.2024 through video conference. The list of officers participated in the meeting is annexed.

2. At the outset, Joint Secretary (IF) welcomed all participants and provided an overview of the meeting. He then invited Deputy Director (AQ), to continue the discussion with the progress made on the directives of Hon'ble NGT on the unregulated activities of aquaculture and fishery in water bodies carrying fresh water in the State of Maharashtra.

3. Deputy Director (AQ) initiated the presentation with the brief background on the Hon'ble NGT orders dated 31.05. 2021 and informed that Hon'ble NGT in the said order constituted a six member expert committee to examine i) whether the use of chemicals in aquaculture activities in water bodies (other than those covered by the Coastal Aquaculture Authority Act, 2005) if any, ii) to examine the modalities to ensure protection of environment in the process of aquaculture activities in water bodies (other than those covered by the Coastal Aquaculture Authority Act, 2005) by use of modern techniques, particularly use of chemicals, if any and iii) to study the existing Consent Regime under the water act and whether there is need to introduce any changes.

4. During the presentation, Deputy Director (AQ) also informed the initiatives taken by the expert committee as a follow up to the Hon'ble NGT orders. The committee met through VC on 13.08.2021 to deliberate on way forward for compliance of the Hon'ble NGT order and the subsequent meeting on 13.05.2022. The committee also visited the cage aquaculture in Vadiwale Lake, Village Valavanti Kamshet, Taluka- Maval, District-Pune and pond aquaculture at Village khandashi, Taluka- Maval District- Pune and took the water sampling. A report in this regard was prepared with recommendation by the expert committee based on the preliminary examination and information collected.

5. Based on the report submitted by the committee, an order was passed by the Hon'ble NGT on 27.02.2023 with certain direction: (i) MoEF& CC shall consider bringing the cage aquaculture under the Environment Impact Assessment Regime, particularly in view of the fact that huge pollution is found to have been caused due to this activity in the Vadiwale Lake. (ii) As regards the cage aquaculture activity to be brought under consent regime, necessary steps shall be taken by the Central Pollution Control Board (CPCB) as well as Maharashtra Pollution Control Board (MPCB) within three months and for that, if any study is required as suggested by the Committee, the same may be got conducted in the meantime.

6. The chair was appraised that the ICAR-CIFRI has submitted one concept Note to carry out the study to CPCB. The next hearing proposed is on 25th July, 2024.



7. Regional Director, CPCB in this regard informed that CPCB and MPCB are in touch with ICAR-CIFRI and conducted preliminary discussion on the Concept Note Submitted by ICAR-CIFRI. He informed that the expenditure proposed by ICAR-CIFRI was Rs. 70 Lakh and time period proposed was 18 months. The Regional Director further clarified that the decision on the consent regime for these activities may be reviewed based on the findings of this study.

8. The representative from MPCB in this regard informed that the proposal submitted by CIFRI is in the advance stage for consideration by audit section and it has been forwarded to the Member Secretary for further sanction/consideration.

9. Senior Executive Director (SED), National Fisheries Development Board (NFDB), Hyderabad suggested that most of the open water are being used for irrigation and aquaculture purpose. The cage culture being done in clusters may expect any issues, however, when single fishermen is the beneficiary, the consent regime will really a challenge for them. The inputs used in the reservoir cage culture should be critically examined and the awareness may be developed to the producers and all the stakeholders for taking the collective effort in this regard.

10. Joint Secretary (IF) suggested that pending the study to be conducted, Government of Maharashtra to ensure strict compliance of the guidelines issued by NFDB for the cage culture in inland open water bodies and may prescribe the precautionary measures while permitting aquaculture in reservoir/ lake as well as in the existing permitted cage aquaculture. There should be some check points on the deterioration of water quality if any in the cage culture. The aquaculture practices also should follow some standards and outreach programmes to be conducted for the fishers/fish farmers for a sustainable development of the sector.

11. After the detailed deliberations and discussion, the following actions/decisions emerged:

- i. Maharashtra Pollution Control Board (MPCB) to sanction the study to ICAR-CIFRI at the earliest.
- ii. The study by CIFRI may be completed and the report submitted within one year, with observation of at least one crop cycle.
- iii. Department of Fisheries, Government of Maharashtra to ensure strict compliance of the guidelines issued by the NFDB including on inputs and water quality parameters.
- iv. Department of Fisheries, Government of Maharashtra to organize outreach programmes to sensitize the fishers/ fish farmers including on use of chemicals, pharmaceuticals, quality feed, manure etc. They may also take help of print and electronic media along with bulletins in local language for extensive awareness and capacity building.
- v. NFDB will handhold and extend the facilities/support as and when required.

The meeting ended with vote of thanks to the Chair.

MMD



Annexure

List of Participants

1.	Shri Sagar Mehra, Joint Secretary (IF), Department of Fisheries, Ministry of Fisheries, Animal Husbandry and Dairying, Government of India	-In Chair
2.	Dr. L. Narasimha Murthy Senior Executive Directors National Fisheries Development Board, Hyderabad	
3.	Dr. Nilesh Anil Pawar, Deputy Director, Department of Fisheries, Ministry of Fisheries, Animal Husbandry and Dairying, Government of India	
4.	Shri Sudhansu Shekhar Mishra, Assistant Director, Department of Fisheries, Ministry of Fisheries, Animal Husbandry and Dairying, Government of India	
5.	Shri P. K. Gupta, Scientist F & DH, IPC-VI & VII Central Pollution Control Board, HO, Delhi	
6.	Shri Pratik D. Bharne, Regional Director & Scientist E, Central Pollution Control Board, Regional Directorate, Pune	
7.	Shri Nishchal C. Scientist E, CPCB, Regional Directorate, Pune	
8.	Dr. J.B. Sangewar Joint Director (Water), Maharashtra Pollution Control Board, HQ, Mumbai	
9.	Dr Suhas Prakash Kamble, Central Inland Fisheries Research Institute, Ahmedabad	
10.	Shri Ravi Andhale, Regional Officer, MPCB, Pune	
11.	Shri V. V. Killedar, Sub-Regional Officer-II, MPCB, Pune	
12.	Ms Archana Shinde Assistant Commissioner Fisheries, Department of Fisheries, Government of Maharashtra, Pune	


True Copy

I am not a member of the Advocates Welfare Fund. Therefore a stamp of Rs.2/- is not affixed herewith.

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VAKALATNAMA

To,
The Registrar,
National Green Tribunal,
Pune Bench, Western Zone,
Pune.

Sir,

I, Vijay B. Shikhre, the authorised signatory of Respondent Nos. 3 to 5 in the above matter, for and on behalf of Respondent Nos. 3 to 5 do hereby appoint Mr. Akshay Pradeep Jadhav, Advocate High Court, Bombay having office address at 1601A, Gundecha Altura LBS Road, Kanjur Marg (West),

Mumbai – 400 042, to act, appear and plead on my behalf in the above matter.

In witness whereof I have set and subscribed my hands to this writing.

Dated this 19th day of July, 2024



Respondent Nos. 3 to 5

Accepted,



Akshay Pradeep Jadhav,
Advocate for the Intervener/ Applicant,
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Kanjur Marg (West), Mumbai – 400 042
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Bar Council Regn No. MAH/4128/2007