

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE**

Original Application No.29/2019(WZ)

I.A. No.29/2019(WZ), I.A. No.94/2019(WZ) and

I.A. No.18/2020(WZ)

Tanaji Balasaheb Gambhire

... Appellant

v/s

The Principal Secretary,
Environment Department & Ors.

.... Respondents



**Affidavit in Reply on behalf of Respondent Nos.4 & 5 i.e.
Maharashtra Pollution Control Board**

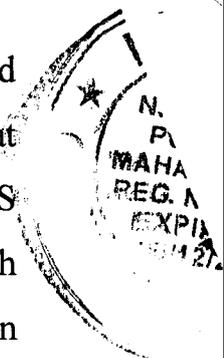
I, Nitin Shinde, Age – 58 years, Occupation – Service, the Sub-Regional Officer of the Maharashtra Pollution Control Board at Pune-I having my office address at 2nd Floor, Jog Centre, Wakdewadi, Pune – 411003, do hereby state on solemn affirmation as under : –

I am filing this Affidavit in Reply on behalf of the Respondent Nos. 4 & 5 in compliance of the Order dtd. 30/11/2023 passed by this Hon'ble Tribunal, as under:

1. I say and submit that the State Level Environment Impact Assessment Authority (SEIAA), Environment and Climate Change Department, Government of Maharashtra vide letter dated 11/10/2023 granted Environment Clearance to

Respondent No.11-Project Proponent for the proposed expansion of commercial project "Nyati Unitree" situated at Survey No.103/129B, CTS No.1995, S.No.103/129C, CTS No.1995 and CTS No.1996B, Yerwada, Dist: Pune, with certain terms and conditions, wherein, one of the condition is that "Maharashtra Pollution Control Board to ensure that, action has been initiated against the PP under Section 15 (read with Section 19) of the Environment (Protection) Act, 1986 for violation of provisions of EIA Notification, 2006."

2. I say and submit that the Respondent No.11-Project Proponent vide letter dated 23/11/2023 informed that they have submitted a Bank Guarantee of Rs.2,84,63,000/- in favour of Respondent Board and penalty amount of Rs.2,10,89,000/- in favour of SEIAA.
3. I say and submit that Respondent No.11-PP has made an application for grant of Consent to Establish on 17/07/2019 and Consent to Operate on 14/08/2019 to the Respondent Board, which were placed before the Consent Committee Meeting held on 06/02/2020, wherein, it was decided to issue refusal with stop work order, as the Respondent No.11-PP has started construction activities prior to obtain Environment Clearance and Consent to Establish/Operate from the Respondent-Board. However, in the meantime, the Hon'ble Supreme Court of India in the matter of Special Leave Petition (C) bearing No. 23143/2019 filed by M/s. Credai Pune Metro against the Union of India & Ors vide order dated 20/09/2019 held that "No coercive steps shall be





taken.”, wherein, Respondent No.11-PP is the Respondent No.211. Therefore, it was decided in the Consent Committee Meeting held on 26/05/2020 that “Not to take any coercive steps till further orders.” A copy of the Order dated 20/09/2019 passed by the Hon’ble Supreme Court of India is enclosed herewith and marked as an **Annexure-‘I’**

4. I say and submit that the Hon’ble Supreme Court of India in Writ Petition (Civil) bearing No.1394/2023 filed by Vanshakti v/s Union of India & Ors., vide order dated. 02/01/2024 granted stay of operation of the Memorandum dated 07/07/2021 regarding Standard Operating Procedure (SoP) for identification & handling of violation cases under EIA Notification 2006 issued by the Ministry of Environment, Forest and Climate Change, Government of India. A copy of the Order dated 02/01/2024 passed by the Hon’ble Supreme Court of India is enclosed herewith and marked as an **Annexure-‘II’**.



I say & submit that accordingly, the Ministry of Environment, Forest & climate Change, Govt. of India has issued Office Memorandum dated 08/01/2024 regarding stay imposed by the Hon’ble Supreme Court with reference to the SOP dated 07/07/2021. A copy of the said Office Memorandum dated 08/01/2024 is enclosed herewith & marked as an **Annexure-III**

6. I say and submit that in view of the Order dated 02/01/2024 passed by the Hon’ble Supreme Court of India, the Respondent Board vide letter dated 24/01/2024 requested to

SEIAA to guide in the matter regarding initiation of the action u/s 15 read with Section 19 of the Environment (Protection) Act, 1986 for violation of the provision of EIA Notification, 2006. A copy of the letter dated 24/01/2024 issued by Respondent Board is enclosed herewith and marked as an Annexure-‘IV’.

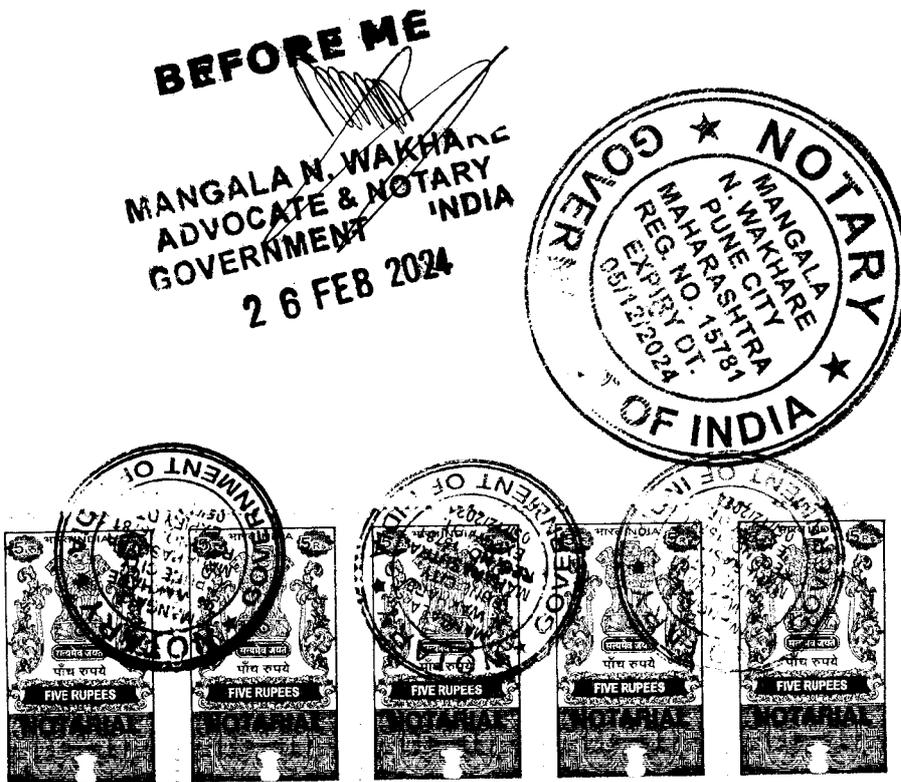
Solemnly affirmed on this **26 FEB 2024** day of February, 2024 at Pune.

I know the affiant

For and on behalf of Maharashtra Pollution Control Board i.e. Respondent Nos. 4 & 5.

ADVOCATE

Nitin Shinde
26/02/24
(Nitin Shinde)
Sub-Regional Officer,
MPCB Pune -I



S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Annexure I

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 32134/2019

(Arising out of impugned final judgment and order dated 29-03-2019 in WPL No. 954/2019 passed by the High Court Of Judicature At Bombay)

CREDAI PUNE METRO

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.136818/2019-CONDONATION OF DELAY IN FILING and IA No.136816/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.136815/2019-PERMISSION TO FILE PETITION (SLP/TP/WP/..))

Date : 20-09-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s)

Mr. Sidharth Dave, Sr. Adv.
Mr. Shyam Divan, Sr. Adv.
Mr. Amol Chitale, Adv.
Mrs. Pragya Baghel, AOR
Ms. Ranjeeta Rohatgi, Adv.
Mr. Abhishek Thakral, Adv.
Mr. Saket Mone, Adv.
Mr. Subit Chakrabarti, Adv.
Mr. Abhishek Salian, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Permission to file special leave petition is granted.

We have heard Mr. Sidharth Dave and Mr. Shyam Divan, learned senior counsel appearing on behalf of the petitioner.

Delay condoned.

Issue notice.

Validity unknown

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MADHU BALA
Date: 2019.09.20
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Reason:

In the meantime, no coercive steps shall be taken.

Tag with SLP(C)No. 10078 of 2019.

(MADHU BALA)
COURT MASTER (SH)

(NISHA TRIPATHI)
BRANCH OFFICER

REVISED

ITEM NO.56

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 1394/2023

VANASHAKTI

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(IA No. 257416/2023 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 02-02-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s)

Mr. Gopal Sankaranarayanan, Sr. Adv.
Mr. Vanshdeep Dalmia, AOR
Ms. Anisha Jian, Adv.
Mr. Sarthak Dora, Adv.
Ms. Trisha Chandran, Adv.

For Respondent(s)

Mr. Tushar Mehta, Solicitor General
Ms. Aishwarya Bhati, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Mr. Ketan Paul, Adv.
Ms. Ruchi Kohli, Adv.
Ms. Swarupama Chaturvedi, Adv.
Mr. Rajat Nair, Adv.

Mr. Puneet Bali, Sr. Adv.
Mr. Akhil Anand, Adv.
Mr. Samit Shukla, Adv.
Mr. Himanshu Vij, Adv.
Ms. Saakshi Saboo, Adv.
Mr. Anuj Salva, Adv.
M/S. D.S.k. Legal, AOR

Mr. T. V. S. Raghavendra Sreyas, AOR
Mr. Naveen Hegde, Adv.
Mr. A Yogeswaran, Adv.
Ms. B Poongkhulali, Adv.
Mr. Siddharth Vasudev, Adv.

Mr. Vanshdeep Dalmia, AOR

Validity unknown

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Deepak Singh
Date: 2024.02.05
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Reason:

Mr. Anisha Jain, Adv.
Mr. Sarthak Dosa, Adv.

Mr. Guru Krishna Kumar, Sr. Adv.
Mr. Saket Mone, Adv.
Ms. Anshula Vijay Kumar Grover, AOR
Mr. Abhishek Salian, Adv.
Ms. Nitika Grover, Adv.
Mr. Devansh, Adv.

Mr. Atmaram Nadkarni, Sr. Adv.
Mr. Kunal Mimani, AOR
Mr. Samit Shukla, Adv.
Mr. Kunal Vajani, Adv.
Ms. Sakshi Saboo, Adv.
Mr. Anuj Savla, Adv.
Mr. Shubhang Tandon, Adv.
Ms. Shraddha Chiramia, Adv.

UPON hearing the counsel the Court made the following
O R D E R

I.A. Nos. 25197, 25309 and 25150 of 2024

1. The application (IA No. 25150 of 2024) for intervention is allowed.
2. The applicant(s) approached this Court seeking modifications/alterations of the order dated 02nd January, 2024.
3. Vide order dated 2nd January, 2024, we had granted stay of operation of the Office Memoranda dated 07th July, 2021 and 28th January, 2022 issued by the Ministry of Environment, Forest and Climate Change.
4. Mr. A.N.S. Nadkarni and Mr. Puneet Bali, learned senior counsels appearing for the applicant(s) submit that though their projects had acquired environmental clearances much prior to the Office Memoranda dated 07th July, 2021 and only certain modifications/alterations are required therein, the

same cannot be considered in view of the order dated 2nd January, 2024.

5. We clarify that our orders dated 02nd January, 2024 would not come in the way of the competent authorities in considering the proposals for modifications/alterations in the Environmental Clearances if area of such projects had any valid environmental clearances prior to 07th July, 2021.

6. Needless to state that such applications for modification/alteration would be considered by the competent authorities strictly in accordance with law as it existed prior to 07th July, 2021.

7. We further clarify that our order should not be construed as having stayed any proceedings before any High Courts touching the subject matter of the Office Memoranda, referred to above.

8. The applications are, accordingly, disposed of.

I.A. Nos. 13975, 16527, 21877, 21878 and 24981 of 2024

1. Mr. Gopal Sankaranarayanan, learned senior counsel appearing for the petitioner-Vanashakti seeks four weeks' time to file reply affidavit to these applications.

2. List these applications alongwith main matter after four weeks.

(DEEPAK SINGH)
COURT MASTER (SH)

(ANJU KAPOOR)
COURT MASTER (NSH)

F. No. IA3-3/4/2024-IA.III [E 230791]
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

Indira Paryavaran Bhawan
Aliganj, Jorbagh Road
New Delhi-110 003

Dated: 8th January, 2024

OFFICE MEMORANDUM

Sub: Stay imposed by Hon'ble Supreme Court with reference to the SOP dated 7th July 2021 and OM dated 28th January 2022 - reg.

The Ministry issued a Standard Operating Procedure (SOP) dated 7th July 2021 bearing the file number 22-21/2020-IA.III, for identification and handling of violation cases under EIA Notification 2006 in compliance to order of the Hon'ble National Green Tribunal in Appeal No. 34/2020 (WZ) titled Tanaji B. Gambhire Vs Chief Secretary, Government of Maharashtra.

2. The SoP was challenged in the Madurai Bench of the High Court of Madras in the matter W.P.(MD) No. 11757 of 2021 titled Fatima Vs Union of India and was interim stayed vide order dated 15th July 2021.

3. Subsequently, in the Order dated 9th December 2021 in the matter of Civil Appeal Nos. 7576-7577 of 2021 in Electrosteel Steels Limited Vs Union of India and Ors., the Hon'ble Supreme Court of India *inter-alia* observed the following:

"93. The interim order passed by the Madras High Court appears to be misconceived. However, this Court is not hearing an appeal from that interim order. The interim stay passed by the Madras High Court can have no application to operation of the Standard Operating Procedure to projects in territories beyond the territorial jurisdiction of Madras High Court. Moreover, final decision may have been taken in accordance with the Orders/Rules prevailing prior to 7th July, 2021."

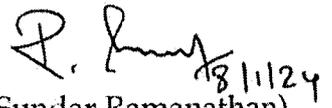
4. In this regard, the Ministry issued an OM dated 28th January, 2022 for circulating the above order of the Hon'ble Supreme Court to all the EACs and SEIAAs/SEACs. In view of the above observations of the Hon'ble Supreme Court, violation proposals

pertaining to all the States except the State of Tamil Nadu were being appraised at the Central level and the respective SEIAAs/SEACs.

5. However, the Hon'ble Supreme Court in W.P.(C) No. 1394/2023 titled Vanashakti vs. Union of India, has stayed the operation of both the Office Memoranda dated 7th July 2021 and dated 28th January 2022 issued by this Ministry.

6. The copy of the order which is self-explanatory is enclosed herewith for necessary action.

7. This is issued with the approval of the competent authority.


(Sundar Ramanathan)
Scientist E

Encl: As above.

To

1. Chairperson/ Member Secretaries of all Expert Appraisal Committees
2. Chairperson/Member Secretaries of all SEIAAs/SEACs
3. All Officers of IA Division

Copy for information to

1. PS to Hon'ble MEF&CC
2. PS to Hon'ble MoS, EF&CC
3. PPS to Secretary, EF&CC
4. PPS to AS (TK)/JS (SKB)
5. Website, MoEF&CC /Guard file

MAHARASHTRA POLLUTION CONTROL BOARD

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Sion Matunga Scheme
Road No. 8, Infant of Sion
Cercal, Sion (E),
Mumbai - 400 022.

No.MPCB/JD(WPC)/B- 240124 - FTS - 0086

Date: 24/01/2024

To,
The Member Secretary,
State Environment Impact Assessment Authority (SEIAA),
217, Environment & Climate Change Dept,
Mantralay, Mumbai.

Sub: - Request to guide regarding stay granted by the Hon'ble Supreme Court of India with reference to the SOP dated 7th July 2021 & OM dated 28th January 2022 Reg.....

- Ref: 1. Standard Operating Procedures (SOP) issued by MoEF & CC dated 07th July 2021.
2. Office Memorandum issued by MoEF & CC dated 28th January 2022
3. Hon'ble Supreme Court order dtd 02.01.2024 in W.P.(C) No 1394/2023 titled Vanashakti vs. Union of India.
4. Office Memorandum issued by MoEF & CC dated 8th January 2024

.....

Sir,

The Ministry of Environment, Forest and Climate Change, Govt. of India in its Notification dated 14.03.2017 provides that the State Pollution Control Board under Section 19 of the Environment (Protection) Act, 1986 will take action against the project proponents in cases of violation. In this context, the MoEF & CC, GoI vide Office Memorandum dated 07.07.2021 has issued Standard Operating System (SoP) for identification and handling of violation cases under EIA Notification, 2006.

Now, the Hon'ble Supreme Court of India has passed an order dtd.02.01.2024 in W.P.(C) No 1394/2023 titled Vanashakti vs. Union of India and stayed the operation of the Office Memorandum dated 07th July 2021 and 28th January 2022 issued by the Ministry of Environment, Forest and Climate Change, Govt. of India. Accordingly, the MoEF & CC, GoI has issued Office Memorandum dtd 08.01.2024.

In view of above, you are requested to guide in the matter regarding initiation of action U/s 15 read with Section 19 of Environment (Protection Act) 1986 for violation of provisions of EIA Notification 2006.

This is issued with the approval of the Member Secretary of the Board.

Yours faithfully,

(Dr.J. B. Sangewar)
Joint Director(WPC)

Copy submitted to:

1. Hon'ble Chairman, MPC Board, Mumbai.
2. Hon'ble Member Secretary, MPC Board, Mumbai.