

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCE, PUNE

Original Application No. 41/2023(WZ)

Arun Nathuram Gaikwad

... Applicant

Versus

The Secretary, Environment

Department of the Government of

Maharashtra and Ors

... Respondents

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 4

I, Jitendra Vitthalsing Pardeshi, Adult, Occupation - Service as Superintendent of Gardens and tree officer of Brihanmumbai Municipal Corporation, having office at 2nd Floor, Superintendent Of Gardens Office, Penguin Building, Veermata Jijabai Bhosale Udyaan, Byculla (East), Mumbai 400027; do hereby state on solemn affirmation as under:-

1. I say that I have perused the copy of the application and compilation filed by the applicant and I have also perused the office records. I have made myself conversant with the facts of the case and am able to depose on behalf of the Respondent No. 4. I am filing this affidavit in reply thereto.



2. I say that, the Applicant have made this Respondent party for the following reason -

"Respondent No. 4 is the Superintendent of Garden and Tree Officer.

He holds a statutory duty to ensure that the requisite number of trees are planted in a layout, as prescribed under the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975. It is necessary that he invokes this statutory powers to ensure that the requisite 15,262 trees of heavy foliage, broad leaves and wide canopy are duly planted in this Area Development Project."

3. I say that, in the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (hereinafter referred to as "said Act") the "Urban Area" is defined as under -

*"Urban area" means a municipal corporation area for which a municipal corporation is constituted under the Bombay Municipal Corporation Act, the Bombay Provincial Municipal Corporation Act, 1949 or the City of Nagpur Corporation Act, 1948, or a municipal area for which a Municipal Council is constituted under the *Maharashtra Municipalities Act, 1965, and includes a notified area for which a Special Planning Authority is constituted or appointed under section 40 of the Maharashtra Regional and Town Planning Act, 1966 or an area designated as the site for a new town for which a Development*




Authority is constituted under section 113 of the Maharashtra Regional and Town Planning Act, 1966."

4. I say that, as per the notification dated 16/11/2010 of the Town Planning And Valuation Department of the Maharashtra State, the Mumbai Metropolitan Region Development Authority as the Special Planning Authority for the area situated in 'F' (North) ward of the Municipal Corporation of Greater Mumbai, for development for Wadala Truck Terminal, ISBT and other complimentary activities, amenities and infrastructure facilities as Wadala.
5. When an authority approaches to BMC tree Authority then the permission for removal of trees and orders for compensatory trees are given following due procedure as per provisions of Maharashtra Urban Areas Tree Act 1975. At planning stage BMC tree Authority has no role in deciding number of plantation
6. I say that, since the Mumbai Metropolitan Region Development Authority is appointed as a Special Planning Authority, it has authority to exercise power under the said Act.
7. I say that, there is no cause of action against this Respondent. In these circumstances, it is respectfully submitted that the application is misconceived and the applicant is not entitled to any relief claimed and therefore this Respondent prays that application be dismissed against this Respondent.



8. This Respondent craves leave to add, alter or amend the aforesaid averments as and when necessary.

Date: 04.02.2025
Mumbai


Advocate for Respondent
Adv. Abhay Wankale


Respondent No. 4
Brihanmumbai Municipal Corporation
Supdt. of Garbage



VERIFICATION

I, Jitendra Vitthalsing Pardeshi, Adult, Occupation - Service as Superintendent of Gardens and tree officer of Brihanmumbai Municipal Corporation, having office at 2nd Floor, Superintendent Of Gardens Office, Penguin Building, Veermata Jijabai Bhosale Udyaan, Byculla (East), Mumbai 400027; do hereby state on solemn affirmation that what is stated in above paras are true and correct to my own knowledge and belief.

Solemnly Affirmed at Mumbai)

This day of 14th January, 2024)

Deponent

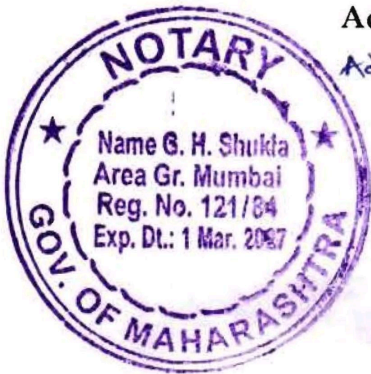
Respondent No. 4

Brihanmumbai Municipal Corporation

Supdt. of Gardens

Advocate for Respondent

Adv. Abhay Wawale



BEFORE ME

G. H. SHUKLA
NOTARY GREATER MUMBAI
Jagdamba Bhavan, Ground Floor
Garpatrao Kadam Marg, Lower Parel
MUMBAI - 400 013

- 4 FEB 2025

NOTED & REGISTERED

Sr. No. 75142 Page No. 53
Book No. 30 Date - 4 FEB 2025

