



**BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE
EXECUTION APPLICATION NO.08/2023(WZ)**

Yogesh Manmohan DeshpandeApplicant

Versus

The Principal Secretary,
Environment Department & Ors.Respondents

**AFFIDAVIT IN REPLY ON BEHALF OF
RESPONDENT NO. 6 & 7 PUNE MUNICIPAL
CORPORATION (PMC).**

I, K.H. Lakhami, Age: 54 years,

Executive Engineer (Building Permission Department
Zone 5), Pune Municipal Corporation do state on
solemn affirmation as under:

- (1) I say and submit that I am working as
Executive Engineer, Building Permission
Department in Pune Municipal Corporation
(Henceforth referred as "**PMC**" for the sake of
brevity) and I am authorized to file this Affidavit
before the Hon'ble National Green Tribunal on
behalf of Respondent No. 6 & 7 PMC.

(2) At the outset, I deny all the contentions and/or statements and/or allegations contained in the present Execution Application to the extent those are contrary to and/or inconsistent with what is stated in the present Affidavit in Reply. Nothing contained in the Execution Application, should be 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 say and submit that I have perused the documents brought on record and on the basis of these documents, I placed this Affidavit in Reply.

(4) I say and submit that the Original Application 15 of 2021 Yogesh Manmohan Deshpande Vs The Principal Secretary, Environment Department, Govt. of Maharashtra & Ors. was filed by the applicant having "*Grievance in this application is against setting up of STP tanks in the basement*



of the building in M/s Rohan Kritika Co-operative Housing Society, Pune developed by M/s Rohan Builders and Developers Pvt. Ltd. and certain other violations mentioned below:-.....”

(5) I say and submit that this Hon'ble Tribunal Principal Bench was pleased to dispose of Original Application 15 of 2021 Yogesh Manmohan Deshpande Vs The Principal Secretary, Environment Department, Govt. of Maharashtra & Ors. on 01/07/2021 with direction, “we are of the view that a joint Committee comprising nominees of State PCB, Pune Municipal Corporation (PMC) and District Magistrate, Pune needs to visit the site and on verification of the allegations, take remedial action in exercise of their statutory powers, following due process. In particular, location of the STP may be examined and if it is found that the location is not appropriate, the same may be relocated and/or safeguards adopted to prevent any nuisance to the inhabitants. In case of



shifting of site, suitable measures for sewage management during such stop gap arrangements need to be ensured. SEIAA may explore means to address such issues at the initial stages itself in future”

(6) I say and submit that compliance of above order of this Hon'ble Tribunal, the Joint Committee comprising of answering respondent PMC, District Magistrate and MPCB visited the site in question on 03/08/2023 and carried out inspection. Accordingly, the Joint Committee Report was filed before this Hon'ble Tribunal. Joint Committee Report starts from page no. 189 to 366 of the Paper Book.

(7) I say and submit that Joint Committee after visiting the site came to a conclusion which is as follows:-

“5.0 Conclusions:

a. From the granted EC and Architect certificate dated 17.01 .2022 it is observed that PP has not changed the scope of the project by increasing Total Built up area. However, it is



- observed that PP has changed the configuration of FSI & Non-FSI.
- b. Society has provided two bore wells, not obtained CGWA NOC for the same.
- c. Society has not renewed consent after 31.01.2022, which shall be renewed on regular basis."

(8) I say and submit that the layout of survey no. 117(A) & 117(B), final plot no. 538/A was sanctioned by this office vide commencement no. CC/2857/12, dated 29.12.2012. The said Layout has been sanctioned on the basis of Development Control and Promotion Regulations (DC rules). Factors such as ventilation, Marginal distances, open space etc. are considered & issued the revised sanction as per requirements of a Project Proponent. Reference-(1) Layout plan CC/2857/12, dated 29.12.2012 (Annexure 1).

(9) I say and submit that as per D.C. rule and as per request from Architect of the said project, this office has granted the permission for use of residential zone instead of commercial zone. The Municipal Commissioner has issued zone

conversion permission vide resolution no.6/102, dated 25/06/2012. The approved zone conversion charges had been paid by the developer. Reference- 1. Zone conversion approval & Its payment challan (Annexure 2).

(10) I say and submit as per the revised sanction plan CC/1119/18, dated 19/07/2018, the distance between two building are kept 6m at applicable wings buildings as per DC rules. Clause No. 17.2.4 & 18.12. The Chief fire officer issued final fire No Objection Certificate FB/8432, 26.10.2016, FB/11606, dated 31.03.2017, FB/2012, dated-13.08.2018 Reference- Revised plan cc/1119/18, dated 19/07/2018. (Annexure 3). Fire Office, PMC NOC's (Annexure 9).

(11) I say and submit that the environment clearance & consent to establish were taken by the developer. The revision of sanction plan & commencement certificate to the said project was approved by this office as per DCPR norms.



The Developer has right to revise the Approved Plan as per his requirements.

(12) I say and submit that Layout of the said property has been sanctioned by this office on the basis of EC clearance submitted by the project Proponent.

(13) I say and submit that this office had sanctioned the proposed Built up area (FSI & Non FSI area) mentioned in the Environmental clearance as per DC Rules.

(14) I say and submit that as per revised sanction plan CC/1119/18 of the said project, this office had verified & issued the final occupation certificate OCC/1205/18 date 21.12.2018, OCC/0716/18, 31:08.2018, OCC/1144/17, 25/09/2017. Reference- Revised sanction plan CC/1118/18, dated - 19/07/2018. (Annexure 3) Full Occupation Certificate. OCC/1205/18 date 21.12.2018, OCC/0716/18, 31.08.2018, OCC/1144/17, 25/09/2017. (Annexure 4).

(15) I say and submit that with reference to the revised sanction plan CC/1119/18, dated 19/07/2018, Permissible coverage area (50%) for net plot area 21,259 m² is 10,629.52 & The proposed coverage area was 9119.22 m² hence proposed coverage area 9119.22 m² is less than permissible coverage area of 10629.52 m² and is within the permissible limit Reference- Revised sanction plan cc/1118/18, dated- 19/07/2018. (Annexure 3).

(16) I say and submit that with reference to the revised sanction plan CC/1119/18 dated 19/07/2018, 7.5m marginal distances are provided to facilitate the fire tender movement around the building premises, which is as per the DC rules clause no 17.2.3 A&B. The Chief fire officer issued final fire No Objection Certificate FB/8432, 26.10.2016, FB/11606, dated 31.03.2017, FB/2012, dated-13.08.2018 Reference- Revised sanction plan CC/1119/18 dated 19/07/2018 (Annexure 3). DC rule clause



no 17.2.3 A&B (Annexure5). 3) Fire Office, PMC
NOC's (Annexure 9).

(17) I say and submit that This office has sanctioned
the layout of said plot after providing
recreational open space 10% on net plot area as
per DC rule clause no 15.3.1 (Annexure 5a).

(18) I say and submit that as per Tree Authority
Department, Sinhgad Road ward office letter
outward no. 3295, dated 04/10/2018, PP had
conserved 442 trees in the said plot. Hence final
NOC is issued. Reference- Tree Authority
Department, Sinhgad Road ward office outward
no. 3295, dated 04/10/2018 (Annexure 6).

(19) I say and submit that with reference to the
revised sanctioned plan CC/1118/18, dated
19/07/2018, total parking for 4 wheeler is
proposed 726 nos. against the permissible
parking by DC rule 2017-607. DC rule 2017 part
6, clause 20.1, it is clearly mentioned that
parking area is to be provided as par permissible
parking area. Proposed 4 wheeler parking is



within permissible limit of DC rule 2017.

Reference-

1. Revised sanction plan CC/1118/18, dated 19/07/2018 2018 (Annexure3).

2. DC rule 2017 clause no.20.1 2018 (Annexure 7).

(20) I say and submit that as per DC rule 2017, clause no. 17.2.4 & 18.12 the distance between two buildings are provided as 6m & the same is verified during the joint site visit. Some buildings are inter connected, as per DC rule provisions Reference- DC rule-2017-clause no.17.2.4 & 18.12 (Annexure 8).

(21) I say and submit that layout and Revised plans was sanctioned by this office on the basis of provisional Tree Authority NOC. On the basis of Tree Authority department terms and condition, PP had conserved 442 trees in the said plot. Hence final NOC was issued by the Tree Authority Department, Sinhgad Road ward office vide outward no. 3295, dated 04/10/2018.



Reference- Tree Authority Department, Sinhgad Road ward office outward no. 3295, dated 04/10/2018 (Annexure 6).

(22) I say and submit that PP has provided Rain water harvesting system at the said project, the Rain water harvesting NOC is attached herewith for perusal. Reference- Ms. McLin Consultants Pvt. Ltd. Certificate No. - 22/03/2017 (Annexure 10).

(23) I say and submit that Approach Road is provided around the periphery of the layout as per DC rule clause no 17.2.3 A&B. The Fire Department had given No Objection Certificate FB/8432, 26.10.2016, FB/11606, dated 31.03.2017, FB/2012, dated-13.08.2018 to the PP after checking all fire norms and its Requirements. Reference- 1. Fire Office, PMC NOC's (Annexure 9).

(24) I say and submit that Adequate Ramp Slope is provided as per DC rule.

- (25) I say and submit that Marginal distances are provided as per the DC rules clause no 17.2.3 A&B. Reference- DC rules clause no 17.2.3 A&B (Annexure 5).
- (26) I say and submit that Service/Cargo lift is provided by the PP.
- (27) The aforementioned project falls under the PMC limits. PMC is the local authority within the definition of Maharashtra Municipal Corporation Act, 1949 and as such is the Authority granting Building Permissions under Maharashtra Regional and Town Planning Act, 1966.
- (28) I say and submit that the Project Plans are sanctioned on the application made under section 44 of Maharashtra Regional and Town Planning Act, 1966 through a licensed Architect, thereafter proposals are sanctioned under section 45 Maharashtra Regional and Town Planning Act, 1966.
- (29) I say and submit that once a construction is completed 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 permissions are in place and grants Occupation Certificate there are specific times in the Rules.

- (30) I say and submit that as per the DC Rules, 2017 which were relevant at the time of completion of the project there is no restriction/guidelines for the location of the STP. Hereto marked and annexed is copy of regulation for waste water recycling under DC Rules, 2017.

Pune

Date: 22/01/2025



Respondent No. 6 & 7

Pune Municipal
Corporation
कार्यकारी अभियंता
बांधकाम विकास विभाग झो.क्र.
पुणे महानगरपालिका



VERIFICATION

I, K. H. Lakhani, Age: 54,

Executive Engineer, Building Permission Department

Zone 5, PMC authorized signatory for PMC do hereby state on solemn affirmation that what is stated forgoing Para's is true and correct to my own knowledge and belief.

Solemnly affirmed at Pune

This 23 day of January, 2025



Rgarg

Adv. for Respondent No. 6 & 7

Respondent No. 6 & 7
कार्यकारी अभियंता
बांधकाम विकास विभाग झो.क्र. ,
पुणे महानगरपालिका

BEFORE ME

SANJAY TUKARAM PATANKAR
NOTARY, GOVT. OF INDIA
PUNE DIST. MAHARASHTRA
Regd. No 19365 Exp. Dt. 10/02/2025

23 JAN 2025



18.8.2 Size of Public Garage. The size of a public garage shall be calculated based on the number of vehicles to be parked.

18.8.3 Height of private Garage :-The minimum and maximum height of garage shall be 2.4 mt. and 2.75 mt. respectively.

18.8.4 Plinth of private Garage :-The plinth of garage located at ground level shall not be less than 15 cm. above the surrounding ground level.

18.8.5 Set back of Private Garage :-

The garage shall setback behind the building line for the street / road on to which the plot abut, and shall not be located affecting the access ways to the building. If the garage is not set-back as aforesaid, the Planning Authority may require the owner or occupier of the garage to discontinue use, of premises or to take such other measures as the Planning Authority may consider necessary in order to prevent danger or obstruction to traffic along the street.

18.8.6 Location of Garage in case of Corner Site:

When the site fronts on two streets, the location of a garage (in a corner plot) (if provided within the marginal distances) shall be on diagonally opposite the point of intersections.

18.9 Roofs

The roof of a building shall be so constructed or framed as to permit effective drainage of the rain water there from by means of sufficient rain water pipes of adequate size, wherever required, so arranged, jointed and fixed as to ensure that the rain water is carried away from the building without causing dampness in any part of the walls or foundations of the building or those of an adjacent building.

The Municipal Commissioner may require rain water pipes to be connected to a storm water drain through a covered channel formed beneath the public footpath or in any other approved manner, if not used for rain water harvesting

Rainwater pipes shall be affixed to the outside of the walls of the building or in recesses or cut formed in such walls.

Top Terrace of a building shall not be sub-divided and it shall have only common access. However, intermediate terraces may be allowed to be attached with flat.

18.10 Basement

One or more basements may be permissible for following uses and shall be constructed after leaving the prescribed set-back / required front open space / required front margin, and prescribed building lines

- a) storage of household or other goods or ordinarily non-combustible material;
- b) strong rooms, bank lockers, safe deposit vaults, radio/laser therapy unit, mortuary and medical allied uses, etc.
- c) air-conditioning equipments and other machines used for services and utilities of the building;
- d) parking spaces;
- e) D.G. set room, meter room and Electric substation (which will conform to required safety requirements);
- f) Effluent Treatment Plant, suction tank, pump room;

g) users strictly ancillary to the Principal user.

Provided that the users mentioned at (a) & (b) above shall be permitted only by counting in F.S.I. subject to the following conditions:

- i) All requirements regarding access, safety (including fire safety), ventilations, etc. shall be complied with.
- ii) All the planning standards (particularly as regarding parking) should be strictly adhered to. The basement shall not be used for residential purpose.
- iii) Users other than (a) and (b) shall not be counted in FSI.

Provided that,

- i) If the basement is proposed flushing to average surrounding ground level, then such basement can be extended in side and rear margins upto 3 mt. from the plot boundary. If the basement is proposed to be constructed below podium then marginal distances shall be as that of podium.
- ii) Multilevel basements may be permitted if the basement is used for parking. The ramps of minimum 3.0 m. width for entry and exit of vehicles separately shall be provided. In case of bonafide hardship, the Municipal Commissioner may allow only one ramp with not less than 6.0 m. in width.

The basement shall have the following requirements -

- (i) Every basement shall be in every part at least 2.4 mt. in height from the floor to the underside of the roof slab or ceiling soffit of beam.
- (ii) Adequate ventilation shall be provided for the basement with a ventilation area not less than 2.5% of the area of the basement. The standard of ventilation shall be the same as required by the particular occupancy according to these regulations. Any deficiency may be met by providing additional adequate mechanical ventilation in the form of blowers, exhaust fans, air conditioning systems etc.
- (iii) The minimum height of the ceiling of any basement shall ordinarily be 0.9 mt. and maximum shall be 1.2 mt. above the average surrounding ground level. However it does not apply to the mechanically ventilated basements. In such cases, basement may also be allowed flushing to the average ground level.
- (iv) Adequate arrangement shall be made such that surface drainage does not enter the basement.
- (v) The walls and floor of the basement shall be water-tight and be so designed that the effect of the surrounding soil and moisture, if any, is taken into account in design and adequate damp proofing treatment is given; and
- (f) The access to the basement shall be separate from the main and alternate staircase providing access and exit from higher floors. Where the staircase is continuous the same shall be of enclosed type serving as a fire separation from the basement floor and higher floors. Open ramps shall be permitted if they are constructed within the building line subject to the provision of (iv) above.

18.11 Ramp

A) Non Vehicular Ramp-

All the requirements of stairways in Regulation No 18.27 shall apply mutatis mutandis to non-vehicular ramp. In addition, the following requirement shall be complied with.

- a) Ramps with a slope of not steeper than 1 in 10 may be substituted for and shall comply with all the applicable requirements of required stairways as to enclosure, capacity and limited



a roof area of 100 sq.m.

- vi) Rain Water Harvesting structures shall be sited as not to endanger the stability of building or earthwork. The structure shall be designed such that no dampness is caused in any part of the walls or foundation of the building or those of an adjacent building.
- vii) The water so collected/recharged shall as far as possible be used for non-drinking and non-cooking purpose. Provided that when the rain water in exceptional circumstances will be utilised for drinking and/or cooking purpose, it shall be ensured that proper filter arrangement and the separate outlet for bypassing the first rain water has been provided. Provided further that, it will be ensured that for such use, proper disinfectants and the water purification arrangements have been made.

35.0 REGULATION FOR WASTE WATER RECYCLING

35.1 Type of Waste Water

The Waste Water is of following types:--

Black Water.- means Waste Water from W.C. Urinals and M.S.W.

(ii) Grey Water.-means Waste Water from Bathrooms, Sinks, Shower and Wash Areas etc.

(iii) Apart from Residential Waste Water, Waste Water generated from Industrial, Medical, Commercial and Waste generated from Garbage shall also be treated as per the guidelines given by the Maharashtra Pollution Control Board.

35.2 APPLICABILITY

These Regulations shall be applicable to all Developments/ Redevelopments/part Developments for the uses as mention under (C-1) to (C-6) shall have the provision for treatment, recycling and reuse of Waste Water. The applicant shall along with his application for obtaining necessary layout approval/ building permission shall submit a plan showing the location of Waste Water Treatment Plant, furnishing details of calculations, references, implementation, etc. This Plan shall accompany with the applicant's commitment to monitor the system periodically from the date of occupation of the respective building.

35.3 REGULATIONS

35.3.1 (C-1) For Layout Approval/Building Permission

- (i) In case of Residential layouts, area admeasuring 10000 sq.m. or more, in addition to 10 % open space, prescribed in the bye- laws, a separate space for Waste Water Treatment and Recycling Plant should be proposed in the layout.
- (ii) On the layout Plan, all Drainage lines, Chambers, Plumbing lines should be marked in different colour and submit the layout for approval to the Municipal Corporation.
- (iii) The Recycled Water shall be used for Gardening, Car Washing, Toilet Flushing, Irrigation, etc. and in no case for drinking, bathing, washing utensils, clothes, etc
- (iv) In the Estimate of Waste Water Recycling Plant only provision for basic civil work and required machinery will be proposed by the Municipal Corporation other than these provisions, additional machinery, plumbing, Water tank pipe, landscape should be provided by Owner or Developer on his Own Cost.
- (v) A clause must be included by the Owner/ Developer in the purchase agreement that the purchaser, Owner of the Premises/Organization or Society of the purchasers shall ensure that:





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- a. The Recycled Water is tested every six months either in Municipal Laboratory or in the laboratory approved by Municipal Corporation or by State Government and the result of which shall be made accessible to the Competent Authority/ EHO of the respective Ward Office.
- b. Any recommendation from testing laboratory for any form of corrective measures that are needed to be adopted shall be compiled. Copy of any such recommendation and necessary action taken shall also be sent by the testing laboratories to the Competent Authority/ EHO of respective Wards.
- c. Maintenance of Recycling Plant should be done by the Developer or Housing Society or Owner.

35.3.2 (C-2) Group Housing/Apartment Building

In case of Group Housing if the area admeasuring 4000 sq.m. and above or if consumption of Water is 20,000 litres per day or if a multi-storeyed building where there are 20 or more tenements then Waste Water Recycling Plant as mentioned in (C-1) above should be constructed.

35.3.3 (C-3) Educational, Industrial, Commercial, Government, Semi-Government Organizations, Hotels, Lodgings etc.

For all above buildings having built-up area 1500 sq.m. or more or if Water consumption is 20,000 litre per day whichever is minimum, then provision for Waste Water Treatment Plant as mentioned in (C-1) is applicable.

35.3.4 (C-4) Hospitals

Those Hospitals having 40 or more beds, Waste Water Recycling Plant as mentioned in (C-1) is applicable.

35.3.5 (C-5) Vehicle Servicing Garages

All Vehicle servicing garages shall ensure that the Waste Water generated through washing of vehicles is treated and recycled back for the same use as mentioned in (C-1)

35.3.6 (C-6) Other Hazardous uses

All other Establishments/ Buildings where chances of Waste Water generated containing harmful chemicals, toxins are likely and where such water cannot be directly led into municipal sewers, the concerned Competent Authority may direct the Owners, users of such Establishments, Buildings to treat their Waste Water as per the directions laid in (C-1)

35.4 INCENTIVE

- i. The Owner/Developer/Society setting up and agreeing to periodically maintain such Waste Water Treatment and Recycling Plant entirely through their own expenditure shall be eligible for an incentive in the form of fiscal benefits in Property Tax to the extent of 5% to Tenement holder/Society.

35.5 Penalty Clause

- (i) Any person / Owner / Developer / Organization / Society violating the provisions of these bye-laws, he shall be fined Rs.2,500/- on the day of detection and if the violation continues, then he shall be fined Rs.100/- for every day as concrete action after written Notice from Municipal Corporation.
- (ii) If any person / Owner /Developer / Organization / Society fails to operate as determined by the Authorised Officer of the Municipal Corporation and from the observations of test results and/or





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physical verification) the Recycling plant, then he will be charged a penalty of Rs.300/- per day and disconnection of Water connection also.

36.0 SOLID WASTE MANAGEMENT

It shall be mandatory for:

- i) Housing complexes, Commercial establishments, hostels, hospitals having aggregate built-up area more than 4,000 sq.m. or more.
- ii) All three star or higher category hotels.

to establish a dedicated Solid waste management system to treat 100% wet waste being generated in such buildings.

The treatment of wet waste shall be done through an organic waste composters/ vermiculture pits or other similar technologies of suitable capacity installed through reputed vendors.

The disposal of dry waste, e-waste, hazardous waste shall be carried out through authorised recyclers or any other system as specified by the Municipal Commissioner.

37.0 INCENTIVE FOR GREEN BUILDINGS

The municipal corporation shall strive to promote green building concepts within the municipal area. In order to do so it may empanel agencies of repute as listed/ recognised by the State / Central Government. The following incentives shall be provided for green rated buildings.

- i) Green buildings shall be entitled for incentive FSI as below.
 - GRIHA Three star / IGBC Silver or equivalent rating – 3% incentive FSI on basic FSI.
 - GRIHA Four star / IGBC Gold or equivalent rating – 5% incentive FSI on basic FSI.
 - GRIHA Five star / IGBC Platinum or equivalent rating – 7% incentive FSI on basic FSI.

Provided, achieving minimum GRIHA Three star / IGBC Silver or equivalent rating for construction projects shall be mandatory for all buildings belonging to Government, Semi-Government, local bodies and public sector undertakings.
- ii) Incentive FSI will be awarded after pre-certification from the empanelled agency. This FSI shall be exclusive of the limits specified in this DCPR.
- iii) In case that the developer fails to achieve committed rating as per pre-certification at the time of final occupancy, a penalty shall be imposed at the rate 2 times of the land cost as per ASR for the incentive FSI for the rating not achieved.

