



BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERNZONE BENCH, PUNE

INTERLOCATORY APPLICATION NO. 160 OF 2023

AND

INTERLOCATORY APPLICATION NO. 171 OF 2023

IN MISCELLANEOUS APPLICATION NO. 09 OF 2023

Vinod Kashinath Patkar and Others) ...Applicants
Versus
The State of Maharashtra and Others) ...Respondents

AFFIDAVIT IN REPLAY ON BEHALF OF THE RESPONDENT NO.6

I, Shri Subhash Macchindra Bhagade, Age -51 years, Additional District Magistrate Palghar, address Collector office Palghar, Village-Kolgaon, Taluka and District-Palghar, State-Maharashtra, do hereby state under solemn affirmation as under:

1. I say that I am duly authorised by the Respondent No. 6 to sworn and file present affidavit based on the record of the Collector office Palghar. I say that I am filing present affidavit to oppose the application for delay condonation, interim reliefs and Misc. Application, I say that I reserve rights to file Additional reply to oppose application for interim reliefs and Misc. Application, if required, after decision of present application for delay condonation.
2. At the outset, I deny all the allegations, averments and insinuations levelled by the applicant in the application for delay condonation to the extent contrary to the contents of this affidavit in reply. Nothing in said application may deemed to be admitted by Respondent No. 6, unless the same is expressly admitted herein. Anything that remained to deal with or traverse may not be treated as an admission on my part by implications or otherwise.
3. I say that the entire exercise taken by the applicants futile exercise, as follows:
 - (a) I say that as per the letter dated 28th October 2021 received from the Dy. Conservator of Forest, Jawhar, it was informed that the Village Harosale and Village: Balivali are located in the Eco-sensitive Zone. Accordingly, this office has cancelled 3 fireworks possession and sale in shop licence, 1 issued in Village Harsole and 2 issued in Balivali village. I say that said licenses were canceled in the exercise of powers under the provisions of the Explosive Act and Rules made therein. I say that report in respect of the other 2 villages i.e. Wada and Desai was then awaited and hence this office could not take any steps for 16 fireworks possession and sale in shop license granted in said 2 villages.
 - (b) I say that OA No. 78 of 2020 was listed before this Hon'ble Tribunal on 6.4.2023. I say that while the hearing was in progress, Respondent No. 6 received a report from the Dy. Conservator of Forest, Jawhar, wherein it was informed the villages wada and

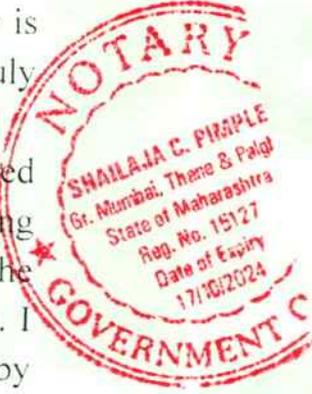
desai are located in within eco sensitive zone this fact was brought to the notice Hon'ble Tribunal during the hearing and it was submitted that fireworks shops licenses issued in these villages would be cancelled. Accordingly 8 license issued in village wada and desai each were cancelled as the provision of explosive rule 2008.

- (c) I say that Respondent No. 6 has taken action to cancel Fireworks shops licenses in the exercise of powers under Section 118(5) of the Explosive Act, 2008, and submitted the report dated 21.04.2023 to this Hon'ble Tribunal. Said action was taken based on the report received from the office of the Dy. Conservator of Forest, Jawhar as stated above. I say that the application to recall the order dated 6.4.2023 is a *futile* exercise. Even if said order is assumed to be recalled, no purpose will be solved and licenses duly canceled by Respondent No. 6 cannot be restored.
4. At the further outset, I say that the Applicants have not approached this Hon'ble Tribunal with clean hands. It is trite that for seeking indulgence of the Hon'ble Tribunal to condone the delay, the applicants must bring true facts on the record and seek indulgence. I say that the applicants got knowledge of the action taken by Respondent No. 6 way back on 22nd November 2022. Merely because service was not effectuated on the Applicants, the order dated 6th April 2023 cannot be interfered with, especially when the Applicants admits that they were aware of said proceedings since 22nd November 2022. Hence, present application is without substance, devoid of merits and same may be rejected with cost.
5. Without prejudice to aforesaid submissions, I say that Misc. Application for recall of the ex-parte order can be made within period of 30 days from the date of the order (6.4.2023). After expiry of said 30 days, the delay cannot be condoned. I say that entries in the prohibitory activities in the eco-sensitive zone Notification must be given purposive construction. I say that the use of the fireworks encompassed sale and stock, as there cannot be 'use' without 'sale' and there cannot be 'sale' without 'stock'. Hence, the entire stand of the Applicants in their argument canvassed are farce, and the present application be dismissed with cost.

I say that whatever is stated hereinabove is true and correct to the best of my knowledge and belief and I believe the same to be true and correct.


(Subhash M. Bhagade)

Additional District Magistrate
Palghar
For Respondent No. 6



Dated this 20th Day of September 2023

At: Palghar

VERIFICATION

I, Shri Subhash Macchindra Bhagade, Age-51 years, Additional District Magistrate Palghar, address Collector office Palghar, Village-Kolgaon, Taluka and District-Palghar, do hereby state under solemn affirmation that whatever is stated herein above is true and correct to the best of my knowledge and belief and I believe same to be true and correct.

(Subhash M. Bhagade)
Additional District Magistrate
Palghar
For Respondent No. 6

Dated this 20th Day of September 2023
At: Palghar

BEFORE ME



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