

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE
APPEAL U/S. 16 (H) R/W S. 20 OF NGT ACT, 2010, RULE NO.
24 OF NGT (P & P) RULES, 2011
INTERLOCUTORY APPLICATION NO. 204 OF 2024 (WZ)
IN
APPEAL NO. 140 OF 2024 (WZ)

Tanaji Balasaheb Gambhire ... Applicant

Vs.

Union of India & Ors. ... Respondents

AFFIDAVIT IN REPLY TO THE INTERLOCUTORY
APPLICATION ON BEHALF OF RESPONDENT NO. 9

I, Tushad Behram Dubash, Adult of Mumbai, Indian Inhabitant, having my office at Darabshaw House, Shoorji Vallabhdas Road, Ballard Estate, Mumbai- 400 001 the authorized representative of the Respondent No. 9, do hereby solemnly affirm and state as under:-

1. I have perused a copy of the above Interlocutory Application ("***the said Application***") for delay condonation and the Appeal No. 140 of 2024 (WZ) ("***the said Appeal***") and I am acquainted with the facts and circumstances of the present case, and based thereon, as well as on going through the documents and papers relating to the present matter and based on legal advice received, I am making the present Affidavit in Reply to the said Application.



2. At the outset, the Respondent No. 9 denies each and every statement, averment, allegation, contention and/or submission contained in the said Application and the said Appeal which is contrary to and/or inconsistent with what is stated herein. Nothing contained in the said Application and the said Appeal should be deemed to have been admitted for want of specific denials unless the same has been specifically admitted by the Respondent No. 9.
3. At the further outset, the inordinate and gross delay was intentional/deliberate and absolutely no sufficient cause has been shown for condoning the delay caused in filing the said Appeal.
4. Before providing a paragraph wise response to the said Application, the Respondent No. 9 would like to make the certain important submissions pertaining to the conduct and approach of the Applicant, which are as follows:

a. Suppression of facts:

- i. It is submitted that the facts mentioned in paragraph 4.1 to 4.3 of the said Application do not show the correct picture of what transpired, prior to the filing of the said Appeal. The Applicant has concealed certain crucial facts leading to the filing of the said Appeal and the said Application. It appears from the



annexures to the said Application that the Applicant had before filing the present Appeal, tried to e-file an appeal on 09th March, 2024 (which was also barred by limitation) which was allotted dairy number 2704138001722024 by the e-filing system of the Hon'ble Tribunal. The Applicant purposely filed a defective appeal to procure the dairy number by merely uploading the Environment Clearance dated 09.02.2024 on 09th March, 2024. Thereafter, on 11th March, 2024 a three page memo of appeal (unsigned), without annexures, facts, grounds etc. was filed by the Applicant.

- ii. Because the said Appeal was defectively e-filed the Registry on 13th March, 2024 raised objections to the e-filing done by the Applicant and called upon him to upload a complete appeal memo along with annexures within 7 days. The Applicant failed to comply with the objections raised by the Registry, as a result, on 29.04.2024 the said appeal bearing dairy number 2704138001722024 was listed for consideration of the report of the Registry. After perusal of the report of the Registry and understanding the mischief of the Applicant, this Hon'ble Tribunal criticized the erroneous practice adopted by the



Applicant. It has been specifically observed in the order dated 29.04.2024 passed by this Hon'ble Court that the Applicant had filed only a copy of the Environment Clearance and did not file a proper memo of appeal only to claim the period of limitation by getting a dairy number, instead of actually filing the case. The said appeal dairy number 2704138001722024 was rejected and directions were passed to file a fresh appeal in accordance with the provisions of NGT Rules, if he so choses. A copy of the order dated 29th April, 2024 of this Hon'ble Court is also annexed to the said Application at page no. 1402.

iii. It is submitted that the Applicant, an Advocate by profession, has deceitfully tried to circumvent the provisions of section 16 of the NGT Act, 2010 by filing Environment Clearance dated 09.02.2024 instead of the appeal memo and the annexures and the incidental documents as per the procedure laid down by the Hon'ble Tribunal. This conduct of the Applicant, which has also been criticized by the Hon'ble Tribunal, clearly exposes the misuse of machinery/processes of this Hon'ble Tribunal.

iv. Instead of providing the correct and proper details of the facts leading to the filing of the Appeal and the Application, the



Applicant chose to present incomplete facts to mislead this Hon'ble Tribunal. The Applicant is an Advocate by profession and has been regularly practicing before this Hon'ble Tribunal and as an officer of the Hon'ble Tribunal he is duty bound to present true, correct and complete facts before this Hon'ble Tribunal.

b. **Perjury**

- i. It is further submitted that, the Applicant has not only suppressed the relevant facts leading to the filing of the matter, but has resorted to making various false and frivolous statements on oath to mislead this Hon'ble Tribunal. It is submitted that in paragraph nos. 5.2 & 5.3 of the said Application, the Applicant has stated that the delay of 59 days in filing the said Appeal was caused due to personal difficulty of serious health issues faced by him and priorities in family which had to be attended urgently. However, during the said 59 days starting from 09th March, 2024 to 07th May, 2024, when the Applicant apparently claims to be very ill & having serious health issues and had priorities in family, the Applicant has regularly appeared before this Hon'ble Tribunal in various



other matters. The copies of all the orders downloaded from the website of this Hon'ble Tribunal between 09th March, 2024 to 29th April, 2024 are annexed hereto and marked as '**Annexures A to A13**'.

- ii. It is shocking and surprising that the Applicant, being an Advocate by profession and an officer of this Hon'ble Tribunal has indulged in the act of perjury by resorting to such false, bogus and misleading statements on oath. From a bare perusal of the said orders the false statement made by the Applicant about having serious health issues and priorities in family is exposed and it amply clear that the Applicant was regularly attending to the matters, in person and as a Counsel, before this Hon'ble Tribunal.
 - iii. It will not be out of context to state that the said Application and the said Appeal is filed by the Applicant with a sole intention of harassing and causing hindrances to the ongoing project of the Respondent No. 9, for reasons best known to him.
5. In view of the above, it is most humbly submitted that the facts mentioned in Paragraph 4 and the grounds mentioned in Paragraph 5.2 of the said Application are misleading and have been presented by the



Applicant to have the delay condoned by misleading this Hon'ble Tribunal. The facts and grounds for condoning the delay, mentioned in the said Application are belied by the annexures produced on record along with the said Application, including the order of this Hon'ble Tribunal passed on 29th April, 2024 and the orders annexed to this Reply. Accordingly, it is most humbly submitted that the said Application and the said Appeal filed by the Applicant should be dismissed with heavy costs.

6. I shall now deal with the said Application and provide the paragraph wise response to the same.
 - a. So far as paragraph 1 is concerned, the said paragraph does not merit a reply.
 - b. So far as paragraph 2 is concerned, the Appeal Memo filed in Appeal Dairy No. 2704138001722024 and the Appeal Memo filed in the said Appeal are completely different. Therefore, it is incorrect to say that the Applicant has re-filed the Appeal. The memo of appeal filed in the said Appeal has completely different facts, grounds and prayers. It is denied that the delay in filing the said Appeal is unintentional. Despite knowing that the Appeal Dairy No. 2704138001722024 was defectively filed by the Applicant and



despite receiving communication from the Registry to re-file the appeal, the Applicant paid no heed to the same and is now seeking to condone delay of 59 days for filing said Appeal.

- c. So far as paragraph 3 is concerned, the Respondent No. 9 denies each and every statement, averment, allegation, contention and/or submission in the said Appeal, Synopsis and List of Dates. The Respondent No. 9 craves leave to file a detailed reply to the said Appeal, in the event the said Application is allowed by this Hon'ble Tribunal.
- d. So far as paragraphs 4.1 to 4.3 are concerned, the Respondent No. 9 denies the contentions raised and the submissions made in the said paragraphs. Respondent No. 9 repeats and reiterates what is stated in paragraphs 3 (a) (i) to 3 (a) (iv) above. It is further submit that the Applicant has suppressed crucial facts and has not presented the correct and complete facts leading to the filing of the said Appeal and the said Application.
- e. So far as paragraph no. 5.1 is concerned, the contentions raised and the submissions made in the said paragraphs are denied in toto. It is denied that the said Appeal has been re-filed by the Applicant. The appeal filed on 09.03.2024 is completely different from the said



Appeal. It is denied that the then there is an unintentional delay in filing the Appeal. It is denied that the Applicant has made out a good case for condonation of unintentional delay in the interest of justice.

- f. So far as paragraph nos. 5.2 & 5.3 are concerned, the contentions raised in the said paragraph are denied in toto. The Respondent No. 9 repeats and reiterates what is stated in paragraph 3 (b) (i) to 3 (b) (iii) stated above. It is submitted that the Applicant has perjured himself while filing the said Application by making false statements in the said Application. It is also denied that there was any sought of confusion in numbering or due to upgradation of the NGT website as alleged or at all.
- g. So far as paragraph no. 5.4 is concerned, the contentions raised and the submissions made in the said paragraph is denied in toto. It is denied that the uploading of the EC on Parivesh web portal cannot be treated as communication to the public at large. The said web portal grants access to public at large and the EC upload date is the date required to be considered for the purpose of limitation i.e. 09.02.2024. It is an admitted position by the Applicant that he was aware about the Environment Clearances since 17.02.2024, despite



that he failed to comply with the provisions of Section 16 of the NGT Act, 2010.

h. So far as paragraph nos. 5.5 to 5.8 are concerned, all the contentions

raised and submissions made in the said paragraph are denied in toto.

It is denied that the delay caused in this matter is very genuine and

there is no intentional disobedience or ignorance. It is denied that the

delay need to be condoned in the interest of or in the larger interest

of environmental justice. The Respondent No. 9 has not caused any

damage to environment and has complied with all the rules,

regulations, terms and conditions as set out in the Environment

Clearance & expansion Environment Clearance granted by the

SEIAA from time to time. It is further denied that the delay caused

in documentation and default of uploading the Appeal in the Form

of 'complete petition' as sought by the Registry in previous dairy

number becomes redundant and therefore, this Hon'ble Tribunal has

granted liberty to file Appeal under the principle of natural justice.

The liberty granted to the Applicant by the Hon'ble NGT is to file

the Appeal as per the relevant provisions of the NGT rules and not

under the principle of natural justice. As per the NGT rules and

provisions of NGT Act, 2010, the said appeal ought to have been




filed in the correct form and within a period of 30 days by the Applicant which he has miserably failed to do.

7. In view of the above, the prayers sought in paragraph 6 of the said Application should not be granted by this Hon'ble Tribunal as the Applicant has perjured himself and he has miserably failed to justify the delay caused in filing the said Appeal. In view of the above, it is most humbly submitted that the said Application and the said Appeal should be dismissed with heavy costs.

Dated this 04th day of December, 2024

Advocate for Respondent No. 9


Authorized Signatory
For Duville Estates Pvt. Ltd.
(Respondent No. 9)



VERIFICATION

I, Tushad Behram Dubash, aged about 40 years, do hereby state that I have verified the facts mentioned hereinabove are true and correct to the best of my personal knowledge. I have not suppressed any relevant material facts known to me. I have submitted this based on legal advice. I am hereby submitting it after verification, on solemn affirmation and oath.

Place: Mumbai
Date: 04/12/2024

Tushad B. Dubash



Authorized Signatory
For Duville Estates Pvt. Ltd.
(Respondent No. 9)

Identified by:
Advocate: Raghunath Mahabal
Reg. No. : MAH/349/2012



BEFORE ME

Raghunath Mahabal
PUBLIC AND THE
ADVOCATE AND NOTARY
F-2, Under Garden, G3
Ward-11, 1st Road,
Op. Dabai Honey School,
Mumbai - 400 004

Sr. No. 237 Reg. No. 31
Page No. 13 Dt. 4/12/2024

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ANNEXURE - A



Item No.7

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Execution Application No.17/2023(WZ)
In
Original Application No.34/2020(WZ)**

Tanaji Balasaheb Gambhire

.....Applicant

Versus

Union of India & Ors.

....Respondent(s)

Date of hearing: 13.03.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Applicant-in-person
Respondent(s) : Mr. Rahul Garg, Advocate for R-1/MoEF&CC,
R-9 & 10/PMC and R-14/CPCB
Mr. Aniruddha Kulkarni, Advocate for R-3/Env. Deptt.,
R-4/SEIAA & R-5/SEAC-III
Ms. Manasi Joshi, Advocate for R-6 & 7/MPCB
Ms. Supriya Dangare, Advocate for R-11/WRD
Mr. D. T. Devale, Advocate for R-13/PP

ORDER

1. From the side of the execution applicant, the execution applicant has appeared in-person and has filed service affidavit, as per which service of notice upon all the respondents is found to be sufficient.
2. From the side of respondent No.1 – MoEF&CC, respondent No. 9 – Pune Municipal Corporation, respondent No.10 – Prashant Waghmare, City Engineer, PMC and respondent No.14 – CPCB, learned counsel Mr. Rahul Garg has appeared, who submits that he has filed status report on behalf of respondent Nos.1 & 14. The same is taken on record. A copy of the same is said to have been served upon the execution applicant, who



seeks some time to file rejoinder against the same, for which we allow two weeks' time for the same.

3. From the side of respondent No.3 - Principal Secretary, Environment Department, respondent No.4 - SEIAA, respondent No. 5 - SEAC-III and respondent No.8- Secretary, Urban Development Department, learned counsel Mr. Aniruddha Kulkarni has appeared and says that these respondents are formal parties and that he would not be filing the reply-affidavit. We fail to understand as to why he says that he would not like to file reply affidavit on behalf of respondent No.4 - SEIAA when the respondent No.4 was one of the Members of the Joint Committee. Therefore, we grant two weeks' time to him to file reply affidavit, if so desired.

4. From the side of respondent Nos. 6 & 7 - MPCB, learned counsel Ms. Manasi Joshi has appeared, who has filed reply affidavit dated 26.02.2024, wherein an amount of Rs.14,10,50,000/- has been assessed to be an EDC to be levied from the respondent No.13- M/s. Padmavati Associates/Project Proponent. A copy of this reply affidavit is said to have been served upon the execution applicant, who seeks some time to file rejoinder against the same, for which we allow two weeks' time for the same.

5. From the side of respondent No.11 - Chief Engineer, Khadakwasla Irrigation Division, learned counsel Ms. Supriya Dangare has appeared, who submits that she does not want to file reply affidavit.

6. From the side of respondent No.13-M/s. Padmavati Associates/Project Proponent, learned counsel Mr. D.T. Devale has appeared, who submits that no service of notice has been effected upon the respondent No.13, to which we responded that on paper, we have

found the service of notice to be sufficient upon the respondent No.13 and in case, he wants to represent respondent No.13, he may file his Vakalatnama, for which we allow three weeks' time to file Vakalatnama as well as reply affidavit.

7. The reply affidavits filed by the respondent No.1- MoEF&CC and respondent Nos.6 & 7-MPCB have not been served upon the respondent No.13. Therefore, we direct that a copy of the same be served upon the learned counsel for respondent No.13 within a period of two days by way of abandon precaution so that no further adjournment would be required on this count and we direct the respondent No.13 to file rejoinder to the same, if so required, within three weeks thereafter.

8. From the affidavit filed from the side of respondent Nos.6 & 7-MPCB, it is made clear by the learned counsel representing these respondents that the amount of Rs.14,10,50,000/- has been assessed for violation of the Consent to Establish and Consent to Operate as well as non-obtaining prior EC because the execution applicant wanted to know for what purposes, the said amount of EDC has been quantified.

9. In the same affidavit dated 26.02.2024, from the side of respondent Nos.6 & 7- MPCB, it is also made clear that the Joint Committee has requested to the IIT, Powai, Bombay to prepare Action Plan for restoration of the environment.

10. We would like to know from the learned counsel for respondent Nos.6 & 7- MPCB as to what request has been made, particularly, in view of the fact that how the Action Plan for restoration of the environment is comprehended when she does not find any assessment to have been made with respect to the damage caused to the environment which needs



to be restored. We expect that the respondent Nos.6 & 7- MPCB would throw light on this point by filing an additional affidavit.

11. The execution applicant is also directed to submit reply in this regard as to what restoration is required to be done and in what manner, the same would be ordered to be done.

12. We notice this fact also to be objectionable that the Judgment, which this Tribunal had delivered, was dated 24.02.2022 for compliance of directions, while in pursuance of that, notice has been issued to the respondent No.13 on 16.02.2024 only after the present EA was filed, much after the period prescribed in the said Judgment of one month, within which the compliance was directed to be done. Let a clarification be submitted by the MPCB in this regard by way of filing an additional affidavit.

13. Learned counsel Mr. Rahul Garg representing the respondent No.1-MoEF&CC has read out para nos.4 to 6 of the affidavit filed by them in order to convince this Tribunal that these paragraphs should be treated to have been complied with the direction given in para no.10 of the Judgment dated 24.02.2022 passed in Original Application No.34/2020(WZ), by which it was directed that the concerned authorities would lay down standards for disposal of sewage effluent and existence of sewerage system in housing societies including those not requiring EC to enforce the water and air quality standards and clarify that even if EC is not required, consent mechanism is not dispensed with.

14. It is apprised by the learned counsel for respondent No.1 through reading the above affidavit that the STP Discharge Standards were challenged by one Shri Nitin Shankar Deshpande before the NGT in Application No.1069 of 2018, in which the Tribunal vide order dated

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ANNEXURE - A1

Item No.8

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Execution Application No.18/2023(WZ)

In

Appeal No.32/2020(WZ)

Tanaji B. Gambhire

.....Applicant

Versus

Chief Secretary, Government of Maharashtra & Ors.

....Respondent(s)

Date of hearing: 13.03.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Applicant-in-person
Respondent(s) : Mr. Aniruddha Kulkarni, Advocate for R-2/Env. Deptt.,
R-3/SEIAA, R-4/SEAC & R-11/CPCB
Ms. Manasi Joshi, Advocate for R-6/MPCB
Mr. Rahul Garg, Advocate for R-7 & 8/PMC
Mr. Abhishek Salian, Advocate h/f Mr. Saket Mone,
Advocate for R-10-M/s. Goel Ganga

ORDER

1. From the side of the execution applicant, applicant has appeared in-person.
2. From the side of respondent No.2 – Environment Department, respondent No. 3 – SEIAA, respondent No. 4 – SEAC-III and respondent No. 11 – CPCB, learned counsel Mr. Aniruddha Kulkarni has appeared, who prays for three weeks' time to be allowed to file reply affidavit. The said time is allowed with a direction that a copy of the same shall be served upon all other parties, who may file rejoinder affidavit against the same, if any, within one week thereafter.



3. From the side of respondent No.6 - MPCB, learned counsel Ms. Manasi Joshi has appeared, who submits that reply affidavit has already been filed, wherein it is mentioned that respondent No.10-M/s. Goel Ganga India Pvt. Ltd./Project Proponent has paid an amount of Rs.10 Crores towards Environmental Damage Compensation (EDC), in compliance with this Tribunal's order dated 22.09.2023. As decided by the Joint Committee, the respondent No.6 - MPCB has requested vide e-mails dated 29.12.2023 and 02.01.2024 to the IIT, Powai, Bombay to prepare Action Plan for restoration of the environment, from where a letter dated 03.01.2024 has been received regarding confirmation of the same.

4. Orally, it is submitted by the learned counsel for respondent No.6 - MPCB that a sum of Rs.62.05 lakhs is being demanded by the IIT, Powai, Bombay for preparation of the Action Plan. It appears to us to be an exorbitant rate for such a work. Therefore, we direct the learned counsel for respondent No.6 to place before us all the details, as to who had been approached in the IIT, Powai, Bombay for preparation of the same and what request was made to them so that we can analyse whether the said amount would be worth spending only for the purpose of study and not for actual work of restoration to the environment. In this regard, an additional affidavit shall be submitted before us by the respondent No.6 within two weeks.

5. From the side of respondent No.7 - Pune Municipal Corporation and for respondent No.8 - Prashant Waghmare, City Engineer, PMC, learned counsel Mr. Rahul Garg has appeared, who submits that he does not want to file reply affidavit as there was no direction given in the appeal against these respondents.



6. From the side of respondent No.10- M/s. Goel Ganga India Pvt. Ltd. through its Director, learned counsel Mr. Abhishek Salian holding brief of learned counsel Mr. Saket Mone has appeared, who prays for three weeks' time to be allowed to file reply affidavit. The said time is allowed with a direction that a copy of the same shall be served upon all other parties, who may file rejoinder affidavit against the same, if any, within one week thereafter.

Put up this matter for further consideration on 12.07.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

March 13, 2024
Execution Application No.18/2023(WZ) In
Appeal No.32/2020(WZ)
P.Kr



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ANNEXURE-A2

Item No.12

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Original Application No.83/2023 (WZ)
I.A. No.136/2023(WZ)**

Dr. Vinaykumar Vitthalrao Jathar

.....Applicant

Versus

Shrigonda Municipal Parishad & Ors.

....Respondent(s)

Date of hearing: 14.03.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Tanaji Gambhire, Advocate along-with
Mr. Vijay Mhaske, Advocate

Respondent(s) : Mr. Anirudh Valsangkar, Advocate along-with
Ms. Sai Behere, Ms. Namita, Mr. Madhukar Mokashi,
Advocates for R-1/SMC
Ms. Swati Pandit Vaidya, Advocate for R-2 & 3
Mr. Aniruddha Kulkarni, Advocate for R-5/UDD

ORDER

1. Heard the arguments of learned counsel Mr. Tanaji Gambhire representing applicant as well as learned counsel Mr. Anirudh Valsangkar representing respondent No.1-Shrigonda Municipal Council; learned counsel Ms. Swati Pandit Vaidya representing respondent No.2-Collector of Ahmednagar and respondent No.3-Maharashtra Jeevan Pradikaran, Ahmednagar; and learned counsel Mr. Aniruddha Kulkarni representing respondent No.5-Urban Development Department were also present

2. Arguments concluded. We reserve this matter for Judgment.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

P.Kr



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ANNEXURE - A3

Item No.8

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Original Application No.22/2023(WZ)
I.A. No.65/2023(WZ), I.A. No.185/2023(WZ) &
I.A. No.06/2024(WZ)**

Amol Abhimanyu Shinde & Ors.

.....Applicant(s)

Versus

MPCB & Ors.

....Respondent(s)

Date of hearing: 15.03.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Tanaji Gambhire, Advocate along-with
Mr. Vijay Mhaske, Advocate

Respondent(s) : Ms. Manasi Joshi, Advocate for R-1/MPCB
Mr. A.J. Pathak, Advocate for R-2/CGWA
Mr. Shivraj P. Kadam Jahagirdar, Advocate for R-5
Mr. Soumitra Gokhale, Advocate for R-8/PP
Mr. Rushiraj S. Kulkarni, Advocate for R-9
Mr. Vaibhav Jathar, Advocate in I.A. No.185/2023

ORDER

I.A. No.06/2024(WZ)

1. By this I.A., applicants have prayed for implementation of Mr. Ravindra Anghale, Regional Officer, Maharashtra Pollution Control Board (MPCB), Pune as one of the respondents in the present application because it is alleged that the said Officer has abused the process of law in collusion with the respondent No. 8-M/s. Akash Dairy Farm and respondent No.9-M/s. Rheansh Foods. The CTO, which has been granted to the Project Proponent, has been granted without granting of CTE for establishment of the industry, in contravention of the law itself. Therefore, the said CTO dated 16.11.2023 (which is found to be on the



subject 'Grant of Renewal of Consent under Red/SSI Category' is valid up to 30.11.2025) has been granted with ulterior motive and mala fide intention to help the Project Proponent. The area, where the said CTO has been granted, is a residential zone where such kind of project cannot be permitted, as per the law laid down by the Hon'ble Supreme Court and the National Green Tribunal.

2. The reply affidavit dated 13.03.2024 against this I.A. has been filed by Mr. Ravindra Andhale, wherein it is submitted that the units of Project Proponent fall in Red Category and there is no siting criteria for non-erection of Milk Industry since ETP is in place. Earlier, on 16/03/2023 the Officials of the Respondent's Board at Pune had carried out a site visit and issued proposed directions to the Project Proponents i.e. respondent Nos.8 & 9 and on 12/05/2023, the Respondent Board had issued Interim Directions to the said respondents to strictly comply with the directions and to submit Bank Guarantees. The MPC Board has also assessed Environment Compensation against the Project Proponents- Respondent Nos.8 & 9.

3. It is further submitted in this affidavit by Mr. Ravindra Andhale that on the basis of MPCB's Circular dated 12/07/2022, on 05/08/2023, both the Project Proponents have paid penal charges of Rs.4,95,000/- and Rs.1,26,739/- respectively, subsequent to which the Consent to Operate has been granted. Therefore, there is no necessity to implead him as one of the respondents in the present application.

4. The learned counsel for applicants has argued that this Officer has acted in favour of respondent Nos.8 & 9/Project Proponents deliberately. The CTO, which has been granted to the Project Proponents, has been granted when the matter is pending for hearing before this Tribunal and



therefore, it was a bounden duty of the said Officer to apprise this Tribunal by appearing that he had granted the CTO, on the date when it was granted. The learned counsel for applicants further argued that because of the conduct showing bias towards the respondent Nos.8 & 9, the said Officer may be impleaded as one of the respondents in his individual capacity and should be held guilty of abuse of power.

5. We are not in agreement with the view expressed by the learned counsel for applicants because in our knowledge, there is a procedure put in place by the MPCB for consideration of the CTO and the respondent Nos.8 & 9 had moved the application for Consent to Operate on 27.04.2023, which was under consideration at the time of filing the reply affidavit by the respondent No.1 on 30.08.2023.

6. Looking to the fact that the application for CTO was under process and this Tribunal had not passed any order staying the said process, we do not find any fault on the part of the said Officer in processing the same. Even if the said Officer is not impleaded by name, we have ample power, after having heard the arguments finally in this matter, to make adverse observation against the said Officer, in case we come to the conclusion that there was any bias shown by him towards the Project Proponents.

7. In view of above, we dispose of this I.A. accordingly.

I.A. No.185/2023(WZ)

8. This I.A. has been filed by Mr. Kishor Vasant Karale, who prays for his impleadment as one of the respondents in the present application. The ground, on the basis of which his impleadment is being sought, is stated to be that the applicant is owning the residential plot adjacent to



the dairy plant of the respondent Nos.8 & 9 and that any order, which would be passed in this matter, may affect him adversely. Therefore, he should be impleaded as one of the respondents in the present application.

9. After having heard the argument at some length of time, learned counsel Mr. Vaibhav Jathar appearing for Intervenor in I.A. No.185/2023(WZ) submits that he is not pressing this I.A.

10. Accordingly, we dispose of I.A. No.185/2023(WZ) as not pressed.

Original Application No.22/2023(WZ)

11. From the side of respondent No.5-Manchar Nagar Panchayat, learned counsel Mr. Shivraj P. Kadam Jahagirdar has appeared, who prays for four weeks' time to be allowed to file reply affidavit. The said time is allowed with a direction that a copy of the same shall be served upon all other parties, who may file objection against the same, if any, within one week.

12. We direct the Registry to list main matter along-with pending I.A. for final hearing on 02.08.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

March 15, 2024
Original Application No.22/2023(WZ)
I.A. No.65/2023(WZ), I.A. No.185/2023(WZ) &
I.A. No.06/2024(WZ)
P.Kr



1439

ANNEXURE - A4

Item No.7

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.02/2020(WZ)

Vaibhav Tapkir & Anr.

.....Applicant(s)

Versus

Ms. Tanish Associates & Ors.

....Respondent(s)

Date of hearing: 02.04.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Tanaji Gambhire, Advocate along-with
Ms. Kajal Mandge, Advocate

Respondent(s) : Mr. Saurabh Kulkarni, Advocate for R-1/PP
Ms. Pooja Natu, Advocate h/f Ms. Manasi Joshi, Advocate
for R-2/MPCB
Mr. D. T. Devale, Advocate for R-3/Tahsildar, Khed &
R-5/PMRDA
Ms. S.B. Vaidya Pandit, Advocate for R-4
Mr. Rahul Garg, Advocate for R-6/MoEF&CC
Mr. Aniruddha Kulkarni, Advocate for R-7/SEIAA

ORDER

1. From the side of applicants, learned counsel Mr. Tanaji Gambhire has appeared.
2. From the side of respondent No.1-Tanish Associates through their Partners, learned counsel Mr. Saurabh Kulkarni has appeared, who submits that reply affidavit has already been filed.
3. From the side of respondent No.2-MPCB, learned counsel Ms. Ms. Pooja Natu holding brief of learned counsel Manasi Joshi has appeared, who submits that reply affidavit has already been filed.



4. From the side of respondent No.3- Tehsildar, Taluka- Khed and for respondent No.5- PMRDA, learned counsel Mr. D. T. Devale has appeared, who submits that reply affidavit has already been filed.

5. From the side of respondent No.6-MoEF&CC, learned counsel Mr. Rahul Garg has appeared, who submits that reply affidavit is ready but three days' additional time is required to file the same. We allow the said time by way of last opportunity.

6. From the side of respondent No.7-SEIAA, learned counsel Mr. Aniruddha Kulkarni has appeared, who submits that the term of SEIAA is over because of which it is not in existence and it is likely to be constituted by the end of this month, hence an adjournment has been prayed to be granted to file reply affidavit. But later on, he submits that since the respondent No.6-MoEF&CC is going to file reply affidavit, the filing of reply affidavit from the side of respondent No.7-SEIAA may not be needed.

Put up this matter for further consideration on 22.07.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 02, 2024
Original Application No.02/2020(WZ)
P.Kr



1441

ANNEXURE - A5

Item No.8

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Appeal No.23/2023(WZ)
I.A. No.09/2024(WZ)**

Protection of Environment and Public Service Committee

.....Appellant

Versus

Union of India & Ors.

....Respondent(s)

Date of hearing: 02.04.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Appellant : Mr. Tanaji Gambhire, Advocate along-with
Ms. Kajal Mandge, Advocate

Respondent(s) : Mr. Rahul Garg, Advocate for R-1/MoEF&CC
Mr. Aniruddha S. Kulkarni, Advocate for R-2/Env. Deptt.,
R-3/SEIAA & R-4/MCZMA
Ms. Pooja Natu, Advocate h/f Ms. Manasi Joshi, Advocate
for R-5 & 6/MPCB
Mr. N.R. Bubna, Advocate for R-8 & 9/MBMC
Mr. Mr. Saket Mone, Advocate along-with
Mr. Abhishek Salian, Advocate for R-11/PP

ORDER

1. From the side of appellant, learned counsel Mr. Tanaji Gambhire has appeared.
2. From the side of respondent No.2-State Environment Department, for respondent No.3-SEIAA-Maharashtra and for respondent No.4-Maharashtra Coastal Zone Management Authority (MCZMA), learned counsel Mr. Aniruddha S. Kulkarni has appeared, who submits that the term of SEIAA is over because of which it is not in existence and it is likely to be constituted by the end of this month, hence an adjournment has been prayed to be granted to file reply affidavit. We allow two months' time for the same.



3. From the side of respondent No.1-MoEF&CC, learned counsel Mr. Rahul Garg has appeared, who submits that he does not want to file reply affidavit as EC was granted in this matter by the respondent No.3-SEIAA-Maharashtra.
4. From the side of respondent Nos.5 & 6-MPCB, learned counsel Ms. Ms. Pooja Natu holding brief of learned counsel Manasi Joshi has appeared, who submits that reply affidavit has already been filed.
5. From the side of respondent No.8-Mira Bhayander Municipal Corporation through Municipal Commissioner and for respondent No.9-Mira Bhayander Municipal Corporation through Assistant Director Town Planning, learned Counsel Mr. N.R. Bubna has appeared, who prays for additional four weeks' time to be allowed to file reply affidavit. The said time is allowed by way of last opportunity.
6. None has appeared from the side of respondent No.10-The Collector of Thane.
7. From the side of respondent No.11-M/s. Eversmile Properties Pvt. Ltd., learned Counsel Mr. Saket Mone has appeared, who prays for additional four weeks' time to be allowed to file reply affidavit. The said time is allowed by way of last opportunity.
8. In compliance with our previous order dated 18.09.2023 in para no.2, the learned counsel for appellant has filed service affidavit dated 20.09.2023.

Put up this matter for further consideration on 19.07.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 02, 2024
Appeal No.23/2023(WZ)
I.A. No.09/2024(WZ)
P.Kr



1443

ANNEXURE - A6

Item No. 1

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

[Through Physical Hearing (With Hybrid Option)]

ORIGINAL APPLICATION NO.69 OF 2024 (WZ)

Vishal Shantaram Darwatkar

.... Applicant

Versus

Union of India & Ors.

.... Respondents

Date of hearing : 04.04.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Tanaji Gambhire, Advocate alongwith Mr. Vijay Mhaske
And Ms. Kajal Mandage, Advocates

ORDER

1. This Original Application has been filed, alleging that respondent No.10 - M/s Paramount Properties - Project Proponent has raised construction of residential building on Survey No.19/1 to 19/4A/2, 19/4B/2, 20/4/1, 20/4/2, 20/5B and 20/5C, situated at Katraj-Kondhwa road, village Katraj, Taluka Haveli, District Pune, without obtaining prior Environmental Clearance (EC), Consent to Establish (CTE) and Consent to Operate (CTO) despite the fact that total built-up area (TBUA) exceeded 20,000 sq.mtrs. Therefore, it is prayed that the illegal structure at the said site be ordered to be demolished. It is also alleged that the Project Proponent has raised this construction by reducing/narrowing the width of the natural water body from 7.5 mtrs - 10 mtrs to 1.5 mtrs - 2 mtrs. and covered the said water body with slabs and thereby has blocked the water course.

[NPJ]



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2. The damages to the tune of Rs.98 crores is also prayed to be realized from the Project Proponent for violation of CTE and CTO and illegal ground water extraction from bore-well.
3. Considering the averments made in the application, prima facie substantial question of adverse impact on the environment is made out. Therefore, we admit this application and direct the Registry to issue notices to the respondents, returnable within four weeks.
4. The applicant is directed to provide copies of the Original Application and annexures thereto to the respondents, within a week.
5. The applicant is also directed to take necessary steps for service upon the respondents by both ways and also through available e-mail.
6. We expect that from the side of respondent No.5 – PMC, while they would be filing reply-affidavit, it would be made clear by them that at which point of time the construction made by the Project Proponent exceeded 20,000 sq.mtrs. That date should be brought on record in their reply-affidavit.
7. Put up this matter for next consideration on 07.05.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 04, 2024
O.A. No.69/2024 (WZ)
npj

[NPJ]

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1445

ANNEXURE - A7

Item No.7

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

[Through Physical Hearing (With Hybrid Option)]

**EXECUTION APPLICATION NO.08 OF 2023 (WZ)
IN
ORIGINAL APPLICATION NO.15 OF 2021 (WZ)**

Yogesh Manmohan Deshpande

.... Applicant

Versus

The Principal Secretary, Environment
Department & Ors.

.... Respondents

Date of hearing : 08.04.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Tanaji Tambhire, Advocate along with Mr. Vijay
Mhaske, Advocate

Respondents : Mr. Aniruddha Kulkarni, Advocate for R-1, R-2 and R-3
Ms. Manasi Joshi, Advocate for R-4 and R-5
Mr. Rahul Garg, Advocate for R-6 and R-7
Mr. Maitreya Ghorpade, Advocate for R-9

ORDER

1. From the side of the execution applicant, learned counsel Mr. Tanaji Gambhire has appeared.
2. The respondent Nos.4 and 5 – MPCB, which is nodal agency of the Joint Committee, has submitted its report (annexed at pages 189 to 366 of the paper-book), wherein it is alleged by the learned counsel for the applicant that concealment is made as regards total built-up area and number of buildings. Therefore, we direct the learned counsel for the applicant to file objection against the said report within two weeks.
3. Learned counsel for the applicant wanted us to have objections to the said Joint Committee report from respondent Nos.1 to 10. But we are of the view that it would be appropriate to have objections against the

[NPJ]



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Joint Committee report from the applicant first and thereafter only, we would proceed.

4. The service-affidavit has been filed, as per which the service on all respondents is sufficient.

5. From the side of respondent Nos.1 to 3, learned counsel Mr. Aniruddha Kulkarni has appeared and says that he would not be filing reply.

6. From the side of respondent Nos.4 and 5-MPCB, learned counsel Ms. Manasi Joshi has appeared and states that the reply-affidavit has been filed.

7. From the side of respondent Nos.6 and 7-PMC, learned counsel Mr. Rahul Garg has appeared and says that he would be filing the reply only after the going through the objections against the Joint Committee report to be filed by the applicant.

8. From the side of respondent No.9 - M/s Rohan Builders and Developers Pvt.Ltd., learned counsel Mr. Maitreya Ghorpade has appeared.

9. At this stage, learned counsel for the applicant submits that in the Joint Committee report, it has come that there are two bore-wells and without taking prior permission from Central Ground Water Authority (CGWA), extraction has been done, hence the said Authority (CGWA) is required to be impleaded in this matter. We direct learned counsel for the applicant to implead Central Ground Water Authority as respondent No.11 in the present proceeding. On impleadment of the said Authority, the Registry is directed to issue notice to the said Authority, returnable within four weeks. The learned counsel for the applicant shall serve copy of the Execution Application and annexures thereto to the newly added respondent No.11/CGWA.



10. The applicant is also directed to take necessary steps for service upon respondent No.11 by both ways and also through available e-mail.

11. Put up this matter for next consideration on 24.07.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 08, 2024
E.A. No.08/2023 (WZ)
npj



1448

ANNEXURE - A8

Item No.9

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Original Application No.01/2024(WZ)
I.A. No.02/2024(WZ) & I.A. No.65/2024(WZ)**

Vishal Shantaram Darwatkar

.....Applicant

Versus

Union of India, through Secretary, MoEF&CC & Ors.

....Respondent(s)

Date of hearing: 09.04.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Tanaji Gambhire, Advocate along-with
Mr. Vijay Mhaske Advocate

Respondent(s) : Mr. Pushkal Mishra, Advocate for R-1/MoEF&CC
Mr. A. J. Pathak, Advocate for R-2/CGWA
Mr. Aniruddha Kulkarni, Advocate for R-3/SEIAA
Ms. Manasi Joshi, Advocate for R-4/MPCB
Mr. Rahul Garg, Advocate for R-6 & 7/PMC
Ms. Supriya Dangare, Advocate for R-9/PP
Mr. Saurabh Kulkarni, Advocate for R-10/PP

ORDER

I.A. No.65/2024(WZ)

1. From the side of applicant, learned counsel Mr. Tanaji Gambhire has appeared before us, who has pressed for I.A. No.65/2024(WZ) to be taken up today, whereby impleadment of "Ganga Ishanya 'C' Co-Operative Housing Society Ltd." is prayed in the present Original Application for the reasons mentioned in para nos.5 & 6 of the said I.A.

2. We find that since the Society has been formed and the builder has already handed over the possession because of which the said Society appears to be a necessary party in the present Original Application and



moreover, there is no objection filed against this I.A. by any of the respondents, we allow this I.A. and direct the applicant to implead the said Society as respondent No.11 in the present Original Application and file an amended memo of parties on record.

I.A. No.65/2024(WZ) stands disposed of accordingly.

Original Application No.01/2024(WZ)

3. Service affidavit has been filed by the applicant, as per which service of notice upon all the respondents is found to be sufficient.

4. From the side of respondent No.1- MoEF&CC, learned counsel Mr. Pushkal Mishra has appeared, who submits that he has already filed reply affidavit. A copy of the same is stated to have not been received by the learned counsel for applicant as well as learned counsel for all other respondents. Therefore, we direct the learned counsel for respondent No.1 to serve a copy of the same upon the learned counsel for all other parties through e-mail.

5. From the side of respondent No.2- Central Ground Water Authority, learned counsel Mr. A. J. Pathak has appeared, who prays for four weeks' time to be allowed to file reply affidavit. The said time is allowed.

6. From the side of respondent No.3- SEIAA- Maharashtra, learned counsel Mr. Aniruddha Kulkarni has appeared, who submits that the term of SEIAA is over and the same is to be reconstituted very soon, but he would go through the reply affidavit filed by the respondent No.1- MoEF&CC and if any requirement is there to file the reply affidavit, the same would be considered to file the same.



7. From the side of respondent No.4- MPCB, learned counsel Ms. Manasi Joshi has appeared, who submits that she has already filed reply affidavit.

8. From the side of respondent Nos.6 & 7- PMC, learned counsel Mr. Rahul Garg has appeared, who prays for four weeks' time to be allowed to file reply affidavit. The said time is allowed.

9. From the side of respondent No.9- Ganga Ishanya Co-Operative Housing Society Ltd., learned counsel Ms. Supriya Dangare has appeared, who submits that reply affidavit is ready and would be filing within two days. The same is allowed.

10. From the side of respondent No.10-M/s. Mahanagar Reality/Project Proponent, learned counsel Mr. Saurabh Kulkarni has appeared, who prays for four weeks' time to be allowed to file reply affidavit. The said time is allowed.

Put up this matter for further consideration on 08.07.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 09, 2024
Original Application No.01/2024(WZ)
I.A. No.02/2024(WZ) & I.A. No.65/2024(WZ)
P.Kr



1451

ANNEXURE - A9

Item No.11

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

[Through Physical Hearing (With Hybrid Option)]

**INTERLOCUTORY APPLICATION (I.A.) NO.233 OF 2023 (WZ)
IN
APPEAL NO.34 OF 2023 (WZ)**

Tanaji Balasaheb Gambhire

.... Applicant/
Appellant

Versus

MoEF&CC & Ors.

.... Respondents

Date of hearing : 10.04.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Applicant-in-person present

Respondents : Mr. Rahul Garg, Advocate for R-1 and R-5
Mr. Aniruddha Kulkarni, Advocate for R-2 and R-3
Ms. Manasi Joshi, Advocate for R-4
Mr. Abhishek Salian, Advocate for R-9

ORDER

1. One Interim Application (I.A.) has been moved by respondent No.9, which has not been registered by the Registry finding the same to be defective on account of several documents to be not legible but hard copy of the same has been supplied to us during course of hearing and the same is taken on record. The learned counsel for respondent No.9 states that the hard copy of the I.A. along with documents is presented before this Tribunal and soft copy of the same has been e-filed. We do not find any document to have been e-filed and made available to us by the Registry. We direct the Registry to register this I.A. Copy of the I.A. has

[NPJ]



Page 1 of 2

been served on the applicant, who may file objections thereto within two weeks.

2. Today, the matter was listed for disposal of delay condonation application i.e. I.A. No.233/2023, for which notices were issued. The applicant/appellant prays for issuance of notices on the main appeal as well simultaneously so that the objections/reply-affidavits against the same may be filed by the respondents and may be considered by this Tribunal at the earliest. The appellant is also pressing another I.A. No.234/2023 which has been filed by the appellant, wherein prayer for grant of interim relief has been made to the effect that operation of the Environmental Clearance (EC) dated 11.10.2023 granted by SEIAA in favour of respondent No.9 be stayed. A copy of this I.A. has been served on all other parties. Therefore, we direct the respondents to file the objections on this I.A. within two weeks from the date of uploading of this order.

3. We direct the Registry to issue notice in appeal, returnable within four weeks, to the respondents, except respondent No.1, 2, 3, 4, 5 and 9, for whom respective counsel are representing today and waive service of notice for these respondents.

4. Put up this matter for hearing and disposal of delay condonation application i.e. I.A. No.233/2023 and unnumbered I.A. filed by respondent No.9, on 19.07.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 10, 2024
I.A. No.233/2023 (WZ)
npj

[NPJ]

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ANNEXURE-A10

Item No.7

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.59/2019(WZ)

Mr. Sakharam Asaram Kale & Anr.

.....Applicant(s)

Versus

Regional Officer, MPCB & Ors.

....Respondent(s)

Date of hearing: 22.04.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Tanaji Gambhire, Advocate along-with
Mr. Vijay Mhaske, Advocate
Respondent(s) : Ms. Manasi Joshi, Advocate for R-1/MPCB
Mr. S. S. Ladda, Advocate for R-2 to R-4/NHAI
Mr. R.B. Mahabal, Advocate for R-5/PP
Mr. Aniruddha Kulkarni, Advocate for R-6/SEIAA
Mr. D.M. Gupte, Advocate for R-7/PCCF

ORDER

1. From the side of applicants, learned counsel Mr. Tanaji Gambhire has appeared.
2. From the side of respondent No.7- Principal Chief Conservator of Forests, Nagpur, Maharashtra, learned counsel Mr. D.M. Gupte has appeared, who submits that reply affidavit is ready and the same would be filed within two days. We allow the said time with a direction that a copy of the same shall be served upon all other parties.
3. By our previous order dated 30.01.2024, we had directed the Registry to serve copies of two letters dated 06.09.2023 and 25.07.2023 received from the Principal Chief Conservator of Forests, Maharashtra State, Nagpur i.e. respondent No.7 upon all other parties, regarding



which, the Registry has informed us that these letters have already been served through e-mail dated 05.02.2024 upon all other parties on their official e-mail address. But despite that, the learned counsel Mr. S. S. Ladda representing respondent Nos.2 to 4-NHAI submits that he has not received copies of those letters. Therefore, we direct the Registry to serve the same again to him as well as the learned counsel for applicants through e-mail.

4. From the side of respondent No.1 – MPCB, learned counsel Ms. Manasi Joshi has appeared, who submits that reply affidavit has already been filed, wherein calculation of environmental damage compensation has been given, regarding which objection dated 26.06.2023 from the side of respondent No.5-M/s Modern Road Makers Pvt. has already been filed.

5. Against the reply affidavit of respondent Nos.2 to 4-NHAI, rejoinder affidavit was to be filed from the side of learned counsel for applicants, which has not been filed till now and he prays for four weeks' time to be allowed to file the same. We allow the said time.

Put up this matter for final hearing on 08.08.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 22, 2024
Original Application No.59/2019(WZ)
P.Kr

1455

ANNEXURE - AII

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

[Through Physical Hearing (With Hybrid Option)]

ORIGINAL APPLICATION NO.19 OF 2020 (WZ)

Sayed Mohammed Sabir Usman

.... Applicant

Versus

Central Pollution Control Board & Ors.

.... Respondents

Date of hearing : 26.04.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

**ORDER
(In Chamber)**

1. Copies of the orders dated 17.05.2023 and 11.08.2023, passed by the Hon'ble Supreme Court in Civil Appeal No.3697 of 2023, which were communicated to the Registry of this Tribunal on 28.08.2023, have been placed before us today.
2. A perusal of above two orders of the Hon'ble Supreme Court would indicate that the said appeal was preferred against the judgment and order dated 31.03.2023 passed by us in Original Application No.19 of 2020.
3. On 17.05.2023, the Hon'ble Supreme Court has passed the following order:

"Issue notice, returnable in the month of October 2023.

In the meanwhile, the appellant will deposit an amount of Rs.70,00,000/- (Rupees seventy lakhs only) in this Court in two equal installments. The first installment of Rs.35,00,000/- (Rupees thirty five lakhs only) will be deposited on or before 15.07.2023 and the second installment will be deposited on or before 15.09.2023. The first installment will be disbursed and paid to the legal representatives of the deceased and the injured workers in proportion to the amount quantified by the National Green Tribunal,

[NPJ]

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Western Zone Bench, Pune, Maharashtra. This payment will be accounted for and taken into consideration while computing the compensation payable under the Workmen's Compensation Act, 1923 or any other statutory enactment.

The appellant will file a copy of the order(s) passed by the Labour Commissioner/Labour Court awarding compensation to the legal representatives of the deceased and the injured workers.

List for final hearing and disposal in the month of October 2023."

4. The order passed by the Hon'ble Supreme Court on 11.08.2023 in this matter (in I.A. No.148065/2023) is quoted hereunder:

"The application is allowed and the appellant/appellant – M/s Ank Pharma Pvt. Ltd. Is permitted to deposit the first installment of Rs.35,00,000/- (rupees thirty five lakhs only) within a period of ten days from today.

The deposit will be made with the National Green Tribunal (NGT), Western Zone Bench, Pune, Maharashtra, and the amount deposited will be disbursed and paid to the legal representatives of the deceased and injured workers, in proportion to the amount quantified by the NGT.

Learned counsel for the appellant/applicant – M/S. Ank Pharma Pvt. Ltd. States that the three demand drafts have been prepared in the name of the Registrar, Supreme Court of India, New Delhi. The drafts will be re-drawn/modified so that the amount is deposited with the NGT within a period of ten days from today.

The appellant/applicant – M/S. Ank Pharma Pvt. Ltd. Will ensure compliance of the directions given in the order dated 17.05.2023 regarding payment of the second installment.

The application is disposed of in the above terms."

5. It appears from perusal of the above two orders passed by the Hon'ble Supreme Court that Civil Appeal No.3697/2023 preferred against the order of this Tribunal dated 31.03.2023 in Original Application No.19/2020 is under consideration and in the meantime, the above



[NPJ]

mentioned two interim orders have been passed by the Hon'ble Supreme Court, which need to be complied with expeditiously.

6. We also note that the Registry of this Tribunal ought to have placed the abovesaid two orders before us immediately after they were received by it on 28.08.2023. Be that as it may, we have to ensure that the compliance of those two orders of the Hon'ble Supreme Court is made at our end immediately.

7. It appears that initially, a sum of Rs.70,00,000/- (rupees seventy lakhs) was ordered to be deposited by M/s Ank Pharma Pvt. Ltd. - respondent No.8 in O.A. in two installments. The first installment of Rs.35,00,000/- (rupees thirty five lakhs) was directed to be deposited before 15.07.2023 and the second installment was directed to be deposited before 15.09.2023. It was further directed by order dated 17.05.2023 that the first installment will be disbursed and paid to the legal representatives of the deceased and the injured workers in proportion to the amount quantified by the National Green Tribunal, Western Zone Bench, Pune. Further it was directed that this payment will be accounted for and taken into consideration while computing the compensation payable under the Workmen's Compensation Act, 1923 or any other statutory enactment. It was further directed to the appellant/ respondent No.8 that it shall file a copy of the order(s) passed by the Labour Commissioner/Labour Court awarding compensation to the legal representatives of the deceased and the injured workers. Thereafter, the Hon'ble Supreme Court passed an order on 11.08.2023 in the said matter, permitting the appellant/respondent No.8 to deposit the first installment of Rs.35,00,000/- (rupees thirty five lakhs) within a period of ten days from the date of passing of the order by the Hon'ble Supreme Court i.e. 11.08.2023. It was directed that the deposit will be made with the National Green Tribunal (NGT), Western Zone Bench, Pune and the



amount deposited will be disbursed and paid to the legal representatives of the deceased and injured workers, in proportion to the amount quantified by the NGT. It is further recorded in the said order that since the learned counsel for the appellant/applicant – M/S. Ank Pharma Pvt. Ltd. Stated that the three demand drafts had been prepared in the name of the Registrar, Supreme Court of India, New Delhi, the drafts will be re-drawn/modified so that the amount is deposited with the NGT within a period of ten days from the date of passing of the said order. It was further directed that the appellant/respondent No.8 shall ensure compliance of the directions given in the order dated 17.05.2023 regarding payment of the second installment and with these directions, I.A. No.148065/2023 was disposed of.

8. In order to ensure compliance of the above orders of the Hon'ble Supreme Court, the Registry of this Tribunal has informed that on 18.08.2023, learned counsel Mr. Prashant Bhatt, representing respondent No.8 – M/s Ank Pharma Pvt. Ltd. had deposited Demand Draft bearing No.002508 dated 14.08.2023, drawn on Saraswat Co-operative Bank for an amount of Rs.35,00,000/- (rupees thirty five lakhs), towards first installment directed to be deposited by the Hon'ble Supreme Court, which appears to have been forwarded to the Principal Bench of this Tribunal vide learned Registrar's letter dated 19.08.2023. So also said learned counsel Mr. Prashant Bhatt, representing respondent No.8 has deposited another Demand Draft bearing No.002515 dated 11.09.2023, drawn on Saraswat Co-operative Bank for an amount of Rs.35,00,000/- (rupees thirty five lakhs), towards second installment of the amount directed to be deposited by the Hon'ble Supreme Court, which appears to have been forwarded to the Principal Bench of this Tribunal vide learned Registrar's letter dated 14.09.2023.



9. We enquired from the learned Registrar that when there was direction issued by the Hon'ble Supreme Court that the amount shall be deposited with the NGT, Western Zone Bench, Pune, why the same was forwarded to the Principal Bench of NGT, it has been orally informed that in the bank account held by the NGT, Western Zone Bench, only such amount can be credited which meets out the administrative expenses and not the kind of amounts received in the cases like the case in hand, pertaining to a particular case.

10. We have not been shown any written order in that regard. We find that if that procedure is treated to be the correct one, then after the calculation is made of the amount which is to be disbursed by us, which would be ordered to be paid to the legal representatives of the deceased as well as injured workers in accordance with the calculations made by us, would be passed on to the Principal Bench of this Tribunal for making the payment accordingly.

11. A perusal of our judgment dated 31.03.2023 passed in O.A. NO.19/2020 would show that in paragraph No.33, we have given a table showing the amount to be paid to the legal representatives of eight deceased persons and the amount at the rate of Rs.5,00,000/- (rupees five lakhs) per person who had received grievous injury and Rs.2.5 lakh to the person who had received minor injury. As regards the payment to be made to the injured persons, who had received grievous injuries and minor injuries, no details in that regard were submitted before us at the time when we passed the order on 31.03.2023. Therefore, we direct respondent No.8/Project Proponent to place before us the names and other details of those injured persons and kind of injuries they suffered/sustained and whether any payment has already been made to them and if yes, what was the amount thereof, on 29.04.2024.



12. In accordance with the orders of the Hon'ble Supreme Court, we further direct learned counsel for respondent No.8/Project Proponent to place before us the orders passed by the Labour Commissioner/Labour Court awarding compensation to the legal representatives of the deceased so that the said amount will be accounted for by us while making final calculation. This shall be submitted before us on 29.04.2024.

13. Put up this matter for next consideration on 29.04.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 26, 2024
O.A. No.19/2020 (WZ)
npj

[NPJ]



1461

ANNEXURE - A12

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Original Application No.83/2023(WZ)
I.A. No.136/2023(WZ)**

IN THE MATTER OF:

DR. VINAYKUMAR VITHALRAO JATHAR

R/o: Bankar Nagar, Besides Tehsil Office,
Taluka: Shrigonda, District: Ahmednagar,
413 701(MH).

.....Applicant

Versus

1. **SHRIGONDA MUNICIPAL COUNCIL, SHRIGONDA**
Through Chief Officer,
Taluka: Shrigonda, District: Ahmednagar,
413 701(MH).
2. **COLLECTOR OF AHMEDNAGAR,**
District Collector Office, Ahmednagar,
414 001(MH).
3. **MAHARASHTRA JEEVAN PRADIKARAN,**
Ahmednagar Division,
through Executive Engineer, Near Tarakpur
Bas Stand, Ahmednagar- 414 001 (MH).
4. **DY. SUPERINTENDENT OF LAND RECORDS**
Bhumi Abhilekh Office Shrigonda,
Near Tehsil Office, Taluka: Shrigonda,
District: Ahmednagar- 413 701(MH).
5. **THE SECRETARY, URBAN DEVELOPMENT DEPT.**
Government of Maharashtra,
4th Floor, Annex Building,
Mantralaya, Mumbai-400 032.
6. **MR. M. G. MANE**
R/o: Vishwashanti Colony, Pimple Saudagar,
Pune, District: Pune- 411 027.

.....Respondent(s)

Counsel for Applicant:

Mr. Tanaji Gambhire, Advocate along-with
Mr. Vijay Mhaske, Advocate

Counsel for Respondent(s):

O.A. No.83/2023(WZ) [I.A. No.136/2023(WZ)]

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Mr. Aniruddha Valsangkar, Advocate along-with
Ms. Sai Behere, Ms. Namita, Mr. Madhukar Mokashi,
Advocates for R-1/SMC
Ms. Swati Pandit Vaidya, Advocate for R-2 & 3
Mr. Aniruddha Kulkarni, Advocate for R-5/UDD

PRESENT:

Hon'ble Mr. Justice Dinesh Kumar Singh (Judicial Member)
Hon'ble Dr. Vijay Kulkarni (Expert Member)

Reserved on : 14.03.2024
Pronounced on : 26.04.2024

JUDGMENT

1. This Original Application has been preferred with the prayers that the respondent No.1-Shrigonda Municipal Council-Project Proponent, which is a local authority, which has undertaken beautification project by the name "Lendi Nalah-Odha", involving the construction of "Retaining Wall on Natural Water Body" i.e. "Lendi Nalah" (Old Name: Bazar Tal-Percolation-Tank-Nalah) for an average length of 466.50 Mtrs. on Western Side and 485.00 Mtrs. on Eastern Side of the bank of the said Nalah, be restrained from undertaking the said project, as the same would adversely impact the flow of natural water body i.e. "Lendi Nalah".

2. In brief, the facts of this case are that beautification work of the project involves the construction of Retaining Wall, Nalah Channelization, Filtration Chamber, Cross Drainage Work etc. The respondent No.1-Shrigonda Municipal Council had issued first tender on 04.10.2022, which failed and thereafter, it issued 2nd tender on 07.12.2022, which was won by the respondent No.6-Mr. M. G. Mane, a Civil Contractor.

3. It is further mentioned in this application that on 14.03.1997, respondent No.5-Urban Development Department, Government of Maharashtra approved the development plan for the Shrigonda City and area under its jurisdiction. On 12.11.2020, Respondent No.1-Shrigonda



Municipal Council passed a resolution in its meeting for beatification of the said Nalah. On 31.03.2022, Respondent No.3- Maharashtra Jeevan Pradikaran, Ahmednagar Division issued technical sanction for the various works of beautification of this project. On 31.03.2022, Respondent No.1- Shrigonda Municipal Council issued the Estimate for the probable expenses to be incurred for the construction of "Retaining Wall" for "Lendi Nalah" to the tune of Rs.71,14,342/-.

4. It is further mentioned in this application that on 31.03.2022, Respondent No.1-Shrigonda Municipal Council also issued the Estimate for the construction of "Filtration Chamber" for "Lendi Nalah" to the tune of Rs.28,49,316/-; it also issued the Estimate for the construction of "Cross Drainage Work" for "Lendi Nalah" to the tune of Rs.42,27,425/-; and it issued the Estimate for the probable expenses for the construction of "Nalah Channelization" for "Lendi Nalah" to the tune of Rs. 74,99,811/-.

On 21.09.2022, Respondent No.2- Collector of Ahmednagar issued administrative sanction for the said work of "Lendi Nalah" to the tune of Rs.2,50,91,910/-. On 04.10.2022, Respondent No.1-Shrigonda Municipal Council processed e-tender for the said work of "Lendi Nalah" to the tune of Rs. 1,84,50,060/-.

5. It is further mentioned in this application that Google Earth Images would show that large area of the said water body was encroached. It is also mentioned that the Respondent No.1-Shrigonda Municipal Council had proposed the project for construction, development and beautification of "Lendi Lake/Percolation Tank" in the year of 2017-18 as well, which was also challenged before the Hon'ble High Court of Bombay, Bench at Aurangabad in Writ Petition No.12390/2018, which was then converted into Public Interest Litigation No.55 of 2019. Thereafter, the Hon'ble High Court had issued stay on the said project for construction, development



and beautification of "Lendi Lake/Percolation Tank" and various Orders were also passed in this matter, which are annexed as Annexure-A-14 (Colly).

6. It is further mentioned in this application that on 02.12.2020, Government of Maharashtra had approved the Regulations called as "Unified Development Control and Promotion Regulations for Maharashtra-2020" (in short to be referred as UDCPR-2020), which is annexed as Annexure-A-15. The entire project of beautification of "Lendi Nalah", which is a Natural Water Body, had been proposed without any consideration of any environmental study/aspect, which would have adverse impact on the said water body. Therefore, the present Original Application was filed on the grounds that the beautification project of "Natural Water Body-Lendi Nalah" (Old Name: Bazar Tal-Percolation Tank-Nalah) was nothing but non-sustainable development on account of narrowing/reducing the width of natural water body from 50 Mtrs. to 3 Mtrs., due to the construction of retaining wall without proper demarcation of actual size of the water body and also without any study on total water discharge from the "Lendi Lake"; the beautification project of "Natural Water Body-Lendi Nalah" was not required at all because there was need of sewage treatment facility for sewage water generated and discharged into the natural water body, which was finally merging into the "Sarawati River"; the Respondent No. 1-Shrigonda Municipal Council had not set up any sewage treatment facility and entire sewage generated was directly discharged into the various natural water bodies and the rivers passing through their jurisdiction; the said beautification project, which was undertaken by the Respondent No.1-Shrigonda Municipal Council, also proposed for the concretization of bed of the natural water body without any scientific study having been carried out for analyzing impact on natural water body and no remedial and mitigation measures have

O.A. No.83/2023(WZ) [I.A. No.136/2023(WZ)]



been proposed to check the adverse impact of this project on the "Lendi Odha". It is mentioned that the Respondent No.1-Shrigonda Municipal Council has not demarcated the prohibited buffer zone on both side of Lendi Odha, as mandated under the UDCPR-2020. Hence, above-mentioned prayers have been made. Besides, it is also prayed that Respondents be directed to demarcate the prohibited buffer zone and boundaries of the natural water body "Lendi Nalah-Odha" as per the Development Plan as well as the Unified Development Control and Promotion Regulations, 2020 (UDCPR-2020); and Work Order dated 20.04.2023 issued by the Respondent No.1 in favour of the Respondent No.6 be cancelled.

7. This matter was first considered by us on 31.05.2023 when we constituted a Joint Committee with a direction to visit the site and submit a factual and action taken report and also directed the Registry to issue notices to the respondents vide order dated 04.08.2023.

8. In compliance with the order dated 31.05.2023 of this Tribunal, the Joint Committee has submitted its report dated 03.08.2023, relevant part of which is quoted herein below:-

" With reference to the above mentioned subject, a meeting of the committee constituted by the order of Hon'ble National Green Tribunal, Western Zone, Pune had been called under the chairmanship of Collector Ahmednagar at collector office Ahmednagar on dt.19/08/2023 at 12:00 pm. The committee as per order consists of one member each from:

- i. The Shrigonda Municipal Council, Shrigonda;
- ii. The District Collector, Ahmednagar;
- iii. The Maharashtra Jeevan Pradhikaran, Ahmednagar; and
- iv. The Deputy Superintendent of Land Records, District: Ahmednagar

The Collector Ahmednagar found it necessary to include the Assistant Director of Town Planning and Valuation Department as well as the Executive Engineer of Irrigation Department in the team. So, these officers were invited.

Following officers were present at the meeting:

- i. The Collector Ahmednagar
- ii. Executive Engineer, Maharashtra Jeevan Pradhikaran, Ahmednagar
- iii. Deputy Engineer, Kukad Irrigation Sub-Division, Shrigonda
- iv. District Superintendent of Land Records, Ahmednagar
- v. Assistant Director, Department of Town Planning and Valuation, Ahmednagar
- vi. Chief Officer, Shrigonda Municipal Council, Shrigonda

As per the discussion held in the meeting and order of Hon'ble National Green Tribunal, a spot visit had been arranged on dt.28.08.2023 at 03:00 pm involving above mentioned committee members, applicant with his counsel and all other stakeholders. Before the actual spot visit, Collector Ahmednagar interacted with all the stakeholders about their concern and grievances about the proposed project



being carried out at Lendi Nalla, in a meeting held at Shrigonda Municipal Council Hall. Following theories have been put forward by the stakeholders through the discussion:

- i. Dr. Vinaykumar Jathar, Applicant through his Advocate Tanaji Gambhire raised the concern about non sustainable development of the project. His main concern is 50 meter wide water body i.e. Lendi Nalla is being reduced to 3 meter. Post construction of retaining wall, thereby reducing the Nalla size.
- ii. Shri. Manohar Pote, Councilor, Shrigonda Municipal Council and Smt. Sangram Dhodeke, Councilor, Shrigonda Municipal Council stated that it is first phase of the project. Residents living alongside the Nalla in Sasane Nagar, Siddharth Nagar, and Students of ZP School are facing problems related to health due to stagnation of sewage water. This project can help to reduce stagnation of sewage water by channelizing the drainage water flow.
- iii. Dr. Vinaykumar Jathar, Applicant through his Advocate Tanaji Gambhire stated that the width of the Lendi Nalla should not be reduced. Demarcation of Nalla, retaining wall be on the edges of Nalla, filtration chambers at regular intervals are other suggestions of the applicant.
- iv. In reply, Shri. Sanjaykumar Patwa, Architect & Consultant clarified that the deepening and desilting of Nalla is being done to regulate the flow of sewage water and to avoid the flood probability during rainy season. Direct exposure of sewage water in contact with soil produces acum layer reducing percolation capacity of contacted surface. To increase the percolation rate, deepening and normal excavation in Nalla bed is required. Traditional Filtration Chambers will help to reduce the contamination before releasing the water in Nalla. Further, as per UDCFR, 2020 Chapter-3 (General Land Development Requirements): 3.1 (Requirements of Site): 3.1.1 (Site not Eligible for Construction of Building): ii If the entire site is within a distance of 6 m. from the edge of water mark of a minor water course (like Nalla, canal), it is not a development/ construction of building within the range of Nalla. Despite, the project is to regulate the flow of water through Nalla, to avoid the stagnancy of sewage water.

Later, committee members, applicant with his counsel and all other stakeholders visited various spots of Lendi Nalla throughout Shrigonda Municipal Council area, inspected the Nalla and surrounding area extensively as required, discussed with the residents nearby, about the problems being faced by them.

The committee members submitted their opinions as follows:

1) Shrigonda Municipal Council Report: (Annexure-1)

Sr. No.	Points Raised by the Petitioner	Facts
A	The Beautification Project of 'Natural Water Body- Lendi Nalla' (Old Name: Bazar Tal-Percolation Tank- Nalla) is nothing but non-sustainable development on account of narrowing / reduction of the width of natural water body from 50 m. to 3 m. due to construction of retaining wall without proper demarcation of actual size of water body and any study on total water discharge from the "Lendi Lake (Old Name: Bazar Tal-Percolation Tank).	<ol style="list-style-type: none"> 1. Saying about reduction of the width of natural water body from 50 m. to 3 m., is a misleading statement. The Beautification Project of Lendi- Nalla primarily aims to avoid water contamination using filtration chambers and stagnancy of water by deepening the carriage width. 'Annexure - 1.1 & 1.2' 2. Average flow of sewage water is less than 3 meters. (Refers Photograph) 'Annexure - 1.3 & 1.4' 3. The purpose behind the construction of concrete retaining wall of 3 m. width is to avoid the soil, silt etc. from entering into the channel during the monsoon season and it will be easy to maintain (i.e. to remove soil, silt etc.) from 3 m. width channel. Also, height of retaining wall of 0.60 m., above from lower ground level, will not hinder the water to flow into the channel during rainy season. 4. A total 850.00 m. stretch of Lendi Nalla downstream to the percolation tank falls under the development area. In year 2012 -13, out of 850.00 m., 400.00 m. boundary wall was



		<p>freely constructed on both sides of the Nalla by Shrigonda Municipal Council to protect the Nalla. Remaining length of 450.00 m. of Nalla will be developed as and when fund is available.</p> <p>5. Shrigonda Municipal council is planning for mass plantation in next phase of project.</p> <p>6. Shrigonda Taluka is a rain shadow region. Average Annual Rainfall is 448.60 mm. It is a scanty precipitation region. Hence, the chances of flood during the rainy season are very low to none. During 4 months of monsoon season, rainwater flows through the Nalla and during the remaining 8 months, only domestic sewage water flows through Nalla.</p> <p>7. As most time of the year, only domestic sewage water flows through the Nalla, siltng in many places near Siddharth nagar, Sasane nagar resulted in stagnation of domestic sewage water, which created the problems related to health of nearby people. Water borne diseases such as Dengue, Malaria etc. are on the rise affecting the nearby residents. This Beautification Project will help to reduce these problems to the great extent. 'Annexure - 1.5, 1.5.v (video</p>
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		<p>evidence)'</p> <p>5. A letter by the Medical Superintendent, Rural Hospital, Shrigonda highlighted the fact that because of this stagnant domestic sewage water in Nalla, may result in high chances of vector borne diseases and water borne diseases. Further advice is to make arrangement so that water will flow continuously. 'Annexure - 1.6'</p>
B	<p>The Beautification Project of "Natural Water Body-Lendi Nalla" is not required at all and in actual there is need of sewage treatment facility of sewage water generated and discharged into this natural water body, which is finally merging into the "Saraswati River".</p>	<p>1) The Beautification Project of "Natural Water Body- Lendi Nalla" is required due to continues demand and complaints received through written, telephonic and oral way by resident of locality and people suffered by the nuisance of contaminated and stagnant water. Siddharth nagar, Sasane nagar is scheduled caste ward and Shrigonda Municipal Council is facing communal allegations too.</p> <p>2) For primarily relief to residents of Siddharthanagar and Sasane nagar, primary filtration of sewage water is necessary while discharging into Lendi-Nalla. This treatment is in a decentralized manner.</p> <p>3) Shrigonda Municipal Council needs Central Sewage Treatment Facility for which SMC is in follow up with state government.</p> <p>4) Shrigonda Municipal Council has</p>



		<p>already sent proposal of acquisition of land required for Centralize Sewage Treatment Plant to Hon'ble District Collector Ahmednagar and same has been forwarded to government of Maharashtra by them. 'Annexure - 1.7'</p> <p>5) Shrigonda Municipal Council is class 'C' municipal council. For commissioning central S.T.P. Approx. amount of Rs.150.00 cr is required. Nowadays we are not in a position to incur the amount.</p> <p>6) Central government through AMRUT Scheme has called for proposals of S.T.P. and we may expect some time for availing land, fund, and commissioning of central S.T.P.</p>
C	Shrigonda Municipal Council does not have sewage treatment facility and entire sewage generated is directly discharged into the various natural water bodies and rivers passing through their jurisdiction.	1) Discharging the sewage water directly in natural stream is very unhealthy and dangerous. Hence, Shrigonda Municipal Council has identified and spotted discharge locations causing nuisance and contamination to nearby area and proposed primary treatment to sewage water through filtration chambers which will reduce BOD and COD.
D	The Beautification Project of "Natural Water Body, Lendi Nalla" (Old Name: Bazar Tal-Percolation Tank-Nalla) undertaken by the Respondent	1) Shrigonda Municipal Council is not proposing the concretization of bed of the natural water body it has proposed <u>Gravel Bed</u> to increase percolation capacity of ground in

	<p>No. 1- Shrigonda Municipal Council is also proposing the concretization of bed of the natural water body and there is no scientific study carried out for computing impact on natural water body and thereby there is no remedial & mitigation measures for adverse impact of this project on the "Lendi Odha", therefore, this entire beautification project is illegal and waste of public money as this beautification project involves the illegal construction of "Retaining Wall, Nalla Channelization, Filtration Chamber, Cross Drainage Work".</p>	<p>contact. 'Annexure - 1.8'</p> <p>2) Lendi Nalla is a seasonal water stream. During the rest period of the year (approx. more than 8 months) only sewage water flows through Nalla.</p> <p>3) Lendi Nalla is not notified water body. 'Annexure - 1.9'</p> <p>4) There is no adverse impact of this project. Instead, it will enhance appearance, flow carrying capacity, reduce stagnancy of sewage water, thereby improving health of nearby residents.</p> <p>5) Total stations survey has been carried out. All levels have been worked out and deepening of 0.9 m. is designed for smooth water flow. 'Annexure - 1.1.0 & 1.1.1'</p>
E	Shrigonda Municipal Council have not applied their mind before proposing this beautification project on the said location, despite there being need of sewage treatment facility in their jurisdiction for stopping direct discharge of untreated sewer to the various natural water bodies passing through their jurisdiction including this Lendi Odha.	<p>1) This is not true to say Shrigonda Municipal Council has not applied their mind. Continuous complaints w.r.t. stagnant sewage water in Lendi Nalla, health issues of residents have to be addressed and resolved on urgent basis. People residing nearby are battling with various diseases through expenditure from their pocket.</p> <p>2) General body of Shrigonda Municipal Council has unanimously passed the resolution of the work. 'Annexure - 1.1.3'</p>
F	Shrigonda Municipal Council	1) Buffer zone is not marked on



	has not demarcated the prohibited buffer zone on both side of Lendi Nalla as mandated under Development Control Regulations UDCR 2020 and Respondent No. 1- Shrigonda Municipal Council has undertaken this project without application of mind and without giving heads for demarcation of such prohibited zone.	development plan and regional plan. This is a minor water stream which flows very rarely and is not a notified water stream. 'Annexure - 1.9'
G	The Beautification Project of "Natural Water Body Lendi Nalla" (Old Name: Bazar Tail-Percolation Tank-Nalla) ought to be carried out only with due diligence to the environmental issues related to the natural water body and only after scientific study on the area with remedial & mitigation measure on treatment of sewer generated from the area and solid waste treatment facility to be put under scientific operation	1) Lendi Nalla is a not a part of Solid Waste Treatment Facility.
H	The "General Description" on account of "preservation of boundaries & environment" given in the estimate of project work is totally bogus and misleading and there is no environmental protection	1) Shrigonda Municipal Council is keen to preserve natural boundaries of Nalla. It has already built 400.00 m. retaining wall on both banks of Nalla. 2) Upto some extent, filtration chambers will reduce contamination of water and in contact with natural

	explained due to this beautification work.	ground. It will rejuvenate and will take care of the surrounding environment. Channelization of water will improve water quality in natural course. Gravel bed at the bottom of channel will definitely improve the percolation rate and reduce BOD 3) Misinterpretation of this kind of project is not expected. It may result in unavoidable losses to the society.
I	The beautification project of "Natural Water Body-Lendi Nalla" is not environmentally sustainable project.	1) The beautification project of "Natural Water Body-Lendi Nalla" is definitely an environmentally sustainable project. As SMC has proposed Filtration Chambers at various identified locations, which will filter domestic waste water.
J	The beautification project of "Natural Water Body-Lendi Nalla" (Old Name: Bazar Tail-Percolation Tank) is the fancy project undertaken on political influence for providing benefits to the nearby land owners planning for their future developments of their lands at the cost of mother nature and public money. Therefore, such project shall not be allowed to be executed and instead of such projects, Respondant No. 1 ought to look into Solid Waste Treatment Facilities, Sewage	1) Overall beneficiaries of this project are the people suffering from daily foul smell of contaminated water percolating into the nearby bore wells, 1 st to 7 th Standard Z.P. school children, Community Gathering at Dr. Babasaheb Ambedkar Bhavan, Community gathering for burial rituals of Kabrasthan located near Lendi- Nalla and entire town gathering for buying vegetables, fruits and necessary household items once in weekly market. 'Annexure - 1.1.2' 2) Shrigonda Municipal Council already has solid waste treatment facility and



Treatment Facilities, mass tree plantation to be undertaken.	tree plantation is undertaken on various occasions at various places within the Shrigonda Municipal Council limit. As stated earlier, Shrigonda MC has already sent a proposal to the government for land acquisition for STP plant. By the time it gets approved by the government, tender process and implementation of the STP project, it is not feasible to keep the stagnant water problem, health issues of people nearby unattended. This is why beautification project of "Natural Water Body-Lendi Nalla" is a must. Annexure- 1.7 3) Shrigonda Municipal Council is planning to plant various types of plant species using Root- Zone Technology, which will reduce BOD in Lendi- Nalla water course in next phase as per availability of fund.
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Factual Report on following aspects	
A) Impact on flow carrying capacity of Nalla	1) By this proposal, Shrigonda Municipal Council is regulating, channelizing and maintaining regular waste water flow. Seasonal monsoon water flow will remain undisturbed, unobstructed. The flow capacity of Nalla will definitely increase through desilting.
B) Impact on high flood level of Nalla	1) This Nalla is not notified. Deepening and clearing of Nalla will increase

	percolation rate and prevent the occurrence of flood during rainy season.
C) Flood risk to nearby population due to proposed project	1) Flood is unpredictable. But the proposed project will minimize the chances of flood. Thereby surrounding population will not suffer.

2) Maharashtra Jeevan Pradhikam Division, Ahmednagar: (Annexure- 2)

- i. After spot visit, it is noticed that Shrigonda Municipal council is not reducing the width of Lendi- odha Nalla to 3.0 mtr as stated by the petitioner.
- ii. While giving technical sanction, MUP has sanctioned the items which will increase the flow capacity of Nalle.
- iii. Shrigonda Municipal council is discharging waste water = 2,19,780 lit./day., which is necessary to regulate, channelize and maintain the flow.

Sr. No.	Remarks	Compliance
1	Impact on flow carrying capacity of Nalla	Refer estimate B (Nalla Channelization) Item no. 1, 2, 3, 4 excavation of earth all type of soil Soft Murum, Hard Murum, Soft rock, Hard Rock removing the excavated material up to distance of 50 m. etc. total quantity of excavated material item no. 1, 2, 3, 4 is 1612.88 cum. After reduction of quantity of item no. 5, 6, 7 providing gravel bed to Nalla, PCC to Headwal and Headwal concrete total quantity of material is 721.25 cum. Total flow capacity will be increase to 891.63 cum. Refer estimate D (Cross Drainage Work) Item no 19 cleaning and grubbing road land including uprooting rank vegetation, grass,



		<p>bushes, shrubs saplings and trees girth up to 300 mm. Removal of stumps of trees cut earlier and disposal of unserviceable material and stacking of serviceable material... etc.</p> <p>Near about 37,500 sqm. Nalla bed is cleaned and (500X Av. W 75 X 0.40) = 15,000 cum. Quantity of Nalla bed is cleared for solum, sludge and deposited soil etc.</p> <p>Hence, the flow capacity is increased by $391.53 + 15,000 = 15,891.63$ cum.</p>
2	Impact on high flood level of Nalla; and	Intensity of flood is reduced by this work and flood level may decrease. Hereby, it is advised to construct new Cause Ways at Sasanenagar & Balaji Margal Karyaley with additional pipes.
3	Flood risk to nearby Population due to proposed project	Flood level occurrence is rare by the proposal under consideration although nearby encroached population shall be removed by Shrigonda Municipal Council at Municipal level.

3) Department of Town Planning and Valuation, Ahmednagar Report: (Annexure- 3)

Following 3 points have been mentioned in the order of NGT dt.31/05/2023.

- Impact on flow carrying capacity of Nalla.
- Impact on high flood level of Nalla; and
- Flood risk to nearby Population due to proposed project.

It is self-explanatory in Point No.3.1.1 (Site not Eligible for Construction of Building) of Regulation No 3.1 (Requirements of Site) of Chapter No.3 (General Land Development Requirements) of Unified Development Control and Promotion Regulations, 2020: 'No piece of land shall be used as a site for the construction of building, if the entire site is within a distance of 6 m. from the edge of water mark of a minor water course (like Nalla, canal) and 15 m. from the edge of water mark of a major water course (like river) shown on Development Plan/ Regional Plan or village/ city survey map or otherwise.'

The construction work such as retaining wall etc. can be done on the nalla boundaries for strengthening/ beautification/ development of Land/ Nalla.

4) Land Records, Shrigonda Report: (Annexure- 4)

According to instructions given by the District Superintendent of Land Records, Ahmednagar, onsite measurement of Land/ Nalla and adjacent got no.1120, 1122, 1123, 1124 prepared a map according to the records. The above information along with the map is submitted for further action.

5) Kuleal Irrigation Division No2, Shrigonda Report: (Annexure- 5)

i. According to the Para. 11 of महाराष्ट्र शासन, जलसंपदा विभाग, शासन परिपत्रक क्र. पु.नि.2018/182/2018/नि.क.(महसूम), दि.03/05/2018 and महाराष्ट्र शासन, जलसंपदा विभाग, शासन परिपत्रक क्रमांक पु.नि.क.-2021/(क्र.क.279/2021)/नि.क.(महसूम), दि.20/08/2021 since the jurisdiction of the Water Resources Department is limited to the drawing of the flood line along the river, it has been clearly stated that the unavoidable and necessary works in the prohibited area will not require the NOC of the Water Resources Department. Therefore, since the work of the Water Resources Department is limited only to the drawing of flood lines, cleaning of the river/ Nalla does not come under the jurisdiction of this department.

It has been pointed out in the meeting held with the Honble Collector Ahmednagar. Also, as per Para.9 of महाराष्ट्र शासन, जलसंपदा विभाग, शासन परिपत्रक क्र. पु.नि.2018/182/2018/नि.क.(महसूम), दि.03/05/2018, the concerned Department/ Local Self-Government will be fully responsible for the safety of the work required in the public interest to be done in Prohibitive Zone and Restrictive Zone.

Also, according to Para.9 of महाराष्ट्र शासन, जलसंपदा विभाग, शासन परिपत्रक क्र. पु.नि.2018/182/2018/नि.क.(महसूम), दि.03/05/2018, if a demand is received from the Honble Collector, Local Self-Government or any other department for drawing of necessary flood line to prevent the possible risk of food and to determine the prohibited and controlled area, the Regional Chief Engineer of the Water Resources Department will act according to शासन परिपत्रक क्र. शासन-2014 क्र. 424/2014 दिनांक, दि.02/03/2015. No proposal has been received through Honble Collector yet. If the proposal is received, further action will be taken accordingly.




Following observations have been made by the committee members through the discussion with all stakeholders and spot visit:

1. The Retaining Wall is already constructed on the edges at some part of the nalla
2. There are four cross drainage (CD) works at present on Nalla course. The cross drainage pipes are different in size and number at each intersection. The CD work done by the NHAI seems to be proper with 6 pipes. Other CD works are constructed with only 2/3 pipes. So, to ensure smooth and uninterrupted flow, the design of CD work to be technically sound. It is observed that there are less no. of cross drainage pipes at Balaji Mangal Karyalay, Sasanenagar road and Salvandevi Road.
3. Year on year, silt deposition on nalla bed created water flow hindrance. In future, overall nalla bed shall be desilted.
4. Lendi nalla is not a notified channel and because of that blue and red line demarcation has not been carried out. As such no technical data is available about flow carrying capacity, flood probability, flood level etc.
5. It is observed that Shrigonda Municipal Council is not reducing the width of Lendi Nalla to 3.0 mtr.
6. Due to silting of nalla proper gradient is not seen, so the water stagnation is noticed.

Following actions have been suggested by the committee members:

1. The retaining wall is already constructed on the edges at some part of the nalla. So, it is advised to construct the retaining wall at remaining part, at the border of nalla to prevent encroachment.
2. Desilted soil and excavated material should be lifted and transported to landfill site or other places with the consent of land owner.
3. Intervening Electric Poles, DPs should be relocated outside the nalla boundary.
4. Measurement and demarcation of Nalla width is directed at four specified places to be done by the Deputy Superintendent of Land Records, Shrigonda.
5. Existing clogged cross drainage pipes shall be cleaned immediately and water flow shall be maintained for no stagnancy.
6. It is advised to construct new Cause Ways at Sasanenagar, Balaji Mangal Karyalay & Salvandevi Road with additional pipes.
7. Cross drainage work at national highway intersection has 6 drainage pipes, seems sufficient to regulate the water flow. Obtaining the technical data about the same from the National Highway Authority of India (NHAI) and application of it at other cross drainage work sites can increase the flow carrying capacity of nalla; thereby reducing the probability of flooding.
8. Instructed to use innovative ideas such as Root Zone Technology to filter domestic sewage water to minimize contamination with natural water body
9. Shrigonda Municipal Council should ensure that no encroachment is done within the nalla.
10. The 3.0 mtr. channel width is necessary to regulate the flow of sewage water without hindrance and to avoid social and health related issues of residents residing nearby nalla & public utility places. Hence channelizing of nalla is needed as proposed.
11. Expedite the proposal for setting up STP.





श्रीगोंदा नगरपरिषद श्रीगोंदा
 ता. श्रीगोंदा, जि. अहमदनगर
 मुख्यनी क्र. कार्यालय :- ०२४८७-२२२४५३
 ई-मेल :- coshrigonda@gmail.com

आ.क्र. श्रीगण/कार्य/१३३६/२०२३ दिनांक: १४/०७/२०२३

प्रति,
 मा. मा. मा. मा. (पत्रा)
 निम्नलिखित कार्यालय,
 नगरपालिका कार्यालय,
 अहमदनगर.

विषय :- मा. राष्ट्रीय हरित निगम यांचे सभ्य वरिष्ठ झालेले प्रकल्पांच्या अनुषंगाने या वरिष्ठेच्या वेळोवेळी झालेल्या चर्चेद्वारे लॅन्डी नाल्याचा प्रत्यक्ष वाहणी कार्यक्रम.

संदर्भ :- आपलेकडील पत्र क्र.नग/कार्य-५, मा.वि.१९/मा.क्र.८८२/२०२३.
 दिनांक - २४/०७/२०२३

प्रस्तावित,

उपरोक्त विषयाच्या मा. राष्ट्रीय हरित निगम यांचे सभ्य वरिष्ठ झालेले पत्र क्र. ८३/२-२३ (W2) या संदर्भात मा. निम्नलिखित कार्यालय, अहमदनगर यांची दिनांक २८/०६/२०२३ (बुधवार) रोजी प्रत्यक्ष वाहणी केलेली आहे तरी वरिष्ठ वाहणीच्या अनुषंगाने या कार्यालयकडील अधिग्रहण या पत्रा सोबत जोडून सादरित आहेत. (पान.नं.१ ते ७७)

करिता माहितीसाठी सविनय सादर...

नरोत्तम - ३२८९ पान झाले

निम्नलिखित अहमदनगर
 (नगरपालिका कार्यालय)
 दिनांक १४ JUL २०२३



आपला विश्वासू
 मुकुंदराव
 श्रीगोंदा नगरपरिषद श्रीगोंदा
 जि. अहमदनगर.

Shrigonda Municipal Council Report

Sr No	Points Raised by the Petitioner	Facts
A	The Beautification Project of 'Natural Water Body Lendi Nalla' (Old Name: Bazar Tai- Percolation Tank- Nalla) is nothing but non-sustainable development on account of narrowing / reduction of the width of natural water body from 50 m. to 3 m. due to construction of retaining wall without proper demarcation of actual size of water body and any study on total water discharge from the 'Lendi Lake (Old Name: Bazar Tai- Percolation Tank).	<ol style="list-style-type: none"> 1. Saying about reduction of the width of natural water body from 50 m. to 3 m., is a misleading statement. The Beautification Project of Lendi- Nalla primarily aims to avoid water contamination using filtration chambers and stagnancy of water by deepening the carriage width. 'Annexure - 5.1 & 5.2' 2. Average flow of sewage water is less than 3 meters. (Refers Photograph) 'Annexure - 5.3 & 5.4' 3. The purpose behind the construction of concrete retaining wall of 3 m. width is to avoid the soil, silt etc. from entering into the channel during the monsoon season and it will be easy to maintain (i.e. to remove soil, silt etc.) from 3 m. width channel. Also, height of retaining wall of 0.60 m., above from lower ground level, will not hinder the water to flow into the channel during rainy season. 4. A total 850.00 m. stretch of Lendi Nalla downstream to the percolation tank 'ats under the development area. In year 2012 -13, out of 850.00 m., 400.00 m. boundary wall was already constructed on both sides of the Nalla by Shrigonda



	<p>Municipal Council to protect the Nalla. Remaining length of 450.00 m. of Nalla will be developed as and when fund is available.</p> <p>5. Shrigonda Municipal council is planning for mass plantation in next phase of project.</p> <p>6. Shrigonda Taluka is a rain shadow region. Average Annual Rainfall is 448.60 mm. It is a scanty precipitation region. Hence, the chances of flood during the rainy season are very low to none. During 4 months of monsoon season, rainwater flows through the Nalla and during the remaining 8 months only domestic sewage water flows through Nalla.</p> <p>7. As most time of the year, only domestic sewage water flows through the Nalla, sitting in many places near Siddharth nagar, Sasane nagar resulted in stagnation of domestic sewage water, which created the problems related to health of nearby people. Water borne diseases such as Dengue, Malaria etc. are on the rise affecting the nearby residents. This Beautification Project will help to reduce these problems to the great extent. 'Annexure - 5.5, 5.5 v (video evidence)'</p> <p>8. A letter by the Medical Superintendent, Rural Hospital, Shrigonda highlighted the fact that because of this stagnant</p>
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	<p>domestic sewage water in Nalla, may result in high chances of vector borne diseases and water borne diseases. Further advice is to make arrangement so that water will flow continuously. 'Annexure - 5.6'</p>
<p>B The Beautification Project of "Natural Water Body-Lendi Nalla" is not required at all and in actual there is need of sewage treatment facility of sewage water generated and discharged into this natural water body, which is finally merging into the "Sarawati River".</p>	<p>1) The Beautification Project of "Natural Water Body- Lendi Nalla" is required due to continuous demand and complaints received through written, telephonic and oral way by resident of locality and people suffered by the nuisance of contaminated and stagnant water. Siddharth nagar, Sasane nagar is scheduled caste ward and Shrigonda Municipal Council is facing communal allegations too.</p> <p>2) For primarily relief to residents of Siddharthnagar and Sasane nagar, primary filtration of sewage water is necessary while discharging into Lendi-Nalla. This treatment is in a decentralized manner.</p> <p>3) Shrigonda Municipal Council needs Central Sewage Treatment Facility for which SMC is in follow up with state government.</p> <p>4) Shrigonda Municipal Council has already sent proposal of acquisition of land required for Centralize Sewage Treatment Plant to Honble District Collector Ahmednagar and same has been forwarded to government of</p>



		<p>Maharashtra by them. Annexure - 5.7</p> <p>5) Shrigonda Municipal Council is class "C" municipal council. For commissioning central S.T.P. Approx. amount of Rs.150.00 cr. is required. Nowadays we are not in a position to incur the amount.</p> <p>6) Central government through AMRUT Scheme has called for proposals of S.T.P. and we may expect some time for availing land fund, and commissioning of central S.T.P.</p>
C	Shrigonda Municipal Council does not have sewage treatment facility and entire sewage generated is directly discharged into the various natural water bodies and rivers passing through their jurisdiction.	1) Discharging the sewage water directly in natural stream is very unhealthy and dangerous. Hence, Shrigonda Municipal Council has identified and spotted discharge locations causing nuisance and contamination to nearby area and proposed primary treatment to sewage water through filtration chambers which will reduce BOD and COD.
D	The Beautification Project of "Natural Water Body- Lendi Nalla" (Old Name: Bazar Tai-Percolation Tank-Nalla) undertaken by the Respondent No. 1- Shrigonda Municipal Council is also proposing the concretization of bed of the natural water body and there is no scientific study carried out for computing impact on natural water body and thereby there is no	<p>1) Shrigonda Municipal Council is not proposing the concretization of bed of the natural water body. It has proposed <u>Gravel Bed</u> to increase percolation capacity of ground in contact. 'Annexure - 5.8'</p> <p>2) Lendi Nalla is a seasonal water stream. During the rest period of the year (approx. more than 3 months) only sewage water flows through Nalla.</p> <p>3) Lendi Nalla is not notified water body.</p>

	application of mind and without giving heads for demarcation of such prohibited zone.	
G	The Beautification Project of "Natural Water Body Lendi Nalla" (Old Name: Bazar Tai-Percolation Tank Nalla) ought to be carried out only with due diligence to the environmental issues related to the natural water body and only after scientific study on the area with remedial & mitigation measure on treatment of sewer generated from the area and solid waste treatment facility to be put under scientific operation.	1) Lendi Nalla is a not a part of Solid Waste Treatment Facility.
H	The "General Description" on account of "preservation of boundaries & environment" given in the estimate of project work is totally bogus and misleading and there is no environmental protection explained due to this beautification work.	<p>1) Shrigonda Municipal Council is keen to preserve natural boundaries of Nalla. It has already built 400.00 m. retaining wall on both banks of Nalla.</p> <p>2) Upto some extent, filtration chambers will reduce contamination of water and in contact with natural ground. It will rejuvenate and will take care of the surrounding environment. Channelization of water, will improve water quality in natural course. Gravel bed at the bottom of channel will definitely improve the percolation rate and reduce BOD.</p> <p>3) Misinterpretation of this kind of project is not expected. It may result in unavoidable losses to the society.</p>



	<p>remedial & mitigation measures for adverse impact of this project on the "Lendi Odha" therefore, this entire beautification project is illegal and waste of public money as this beautification project involves the illegal construction of "Retaining Wall, Nalla Channelization, Filtration Chamber, Cross Drainage Work".</p>	<p>'Annexure - 5.9'</p> <p>4) There is no adverse impact of this project. Instead, it will enhance appearance, flow carrying capacity, reduce stagnancy of sewage water, thereby improving health of nearby residents.</p> <p>5) Total stations survey has been carried out. All levels have been worked out and deepening of 0.8 m. is designed for smooth water flow. Annexure - 5.1.0 & 5.1.1'</p>
E	<p>Shrigonda Municipal Council have not applied their mind before proposing this beautification project on the said location, despite there being need of sewage treatment facility in their jurisdiction for stopping direct discharge of untreated sewer to the various natural water bodies passing through their jurisdiction including the Lendi Odha.</p>	<p>1) This is not true to say Shrigonda Municipal Council has not applied their mind. Continuous complaints w.r.t. stagnant sewage water in Lendi Nalla, health issues of residents have to be addressed and resolved on urgent basis. People residing nearby are battling with various diseases through expenditure from their pocket.</p> <p>2) General body of Shrigonda Municipal Council has unanimously passed the resolution of this work. Annexure - 5.1.3'</p>
F	<p>Shrigonda Municipal Council has not demarcated the prohibited buffer zone on both side of Lendi Odha as mandated under Development Control Regulations UDCR 2020 and Respondent No. 1-Shrigonda Municipal Council has undertaken this project without</p>	<p>1) Buffer zone is not marked on development plan and regional plan. This is a minor water stream which flows very rarely and is not a notified water stream. Annexure - 5.9'</p>

I	<p>The beautification project of "Natural Water Body-Lendi Nalla" is not environmentally sustainable project.</p>	<p>1) The beautification project of "Natural Water Body-Lendi Nalla" is definitely an environmentally sustainable project. As SMC has proposed Filtration Chambers at various identified locations, which will filter domestic waste water.</p>
J	<p>The beautification project of "Natural Water Body-Lendi Nalla" (Old Name: Bazar Tai-Percolation Tank) is the fancy project undertaken on political influence for providing benefits to the nearby land owners planning for their future developments of their lands at the cost of mother nature and public money. Therefore, such project shall not be allowed to be executed and instead of such projects, Respondent No. 1 ought to look into Solid Waste Treatment Facilities, Sewage Treatment Facilities, mass tree plantation to be undertaken.</p>	<p>1) Overall beneficiaries of this project are the people suffering from daily foul smell of contaminated water percolating into the nearby bore wells, 1st to 7th Standard Z.P. school children, Community Gathering at Dr. Babasaheb Ambedkar Bhavan, Community gathering for burial rituals at Kabrasthan located near Lendi-Nalla and entire town gathering for buying vegetables, fruits and necessary household items once in weekly market. Annexure - 5.1.2'</p> <p>2) Shrigonda Municipal Council already has solid waste treatment facility and tree plantation is undertaken on various occasions at various places within the Shrigonda Municipal Council limit. As stated earlier, Shrigonda MC has already sent a proposal to the government for land acquisition for STP plant. By the time it gets approved by the government, tender process and implementation of the STP project, it is not feasible to keep the stagnant water problem, health issues of people nearby unattended. This is why</p>



	<p>beautification project of 'Natural Water Body-Lendi Nalla' is a must. 'Annexure 5.7'</p> <p>3) Shrigonda Municipal Council is planning to plant various types of plant species, using Root-Zone Technology, which will reduce BOD in Lendi-Nalla water course in next phase as per availability of fund.</p>
Factual Report on following aspects	
A) Impact on flow carrying capacity of Nalla	1) By this proposal, Shrigonda Municipal Council is regulating, channelizing and maintaining regular waste water flow. Seasonal monsoon water flow will remain undisturbed, unobstructed. The flow capacity of Nalla will definitely increase through desilting.
B) Impact on high flood level of Nalla	1) This Nalla is not notified. Deepening and cleaning of Nalla will increase percolation rate and prevent the occurrence of flood during rainy season.
C) Flood risk to nearby population due to proposed project.	1) Flood is unpredictable. But the proposed project will minimize the chances of flood. Thereby surrounding population will not suffer.

9. From the side of respondent No.1-Shrigonda Municipal Council, reply affidavit dated 03.10.2023 has been filed, wherein it is submitted that in compliance with the order of Hon'ble Supreme Court as well as the order of the Tribunal in Original Application No.606/2018, the respondent No.1 had submitted a proposal on 27.01.2022 for setting up STP in Shrigonda and requested for allocation of land for the said purpose. But the said proposal will take some time to mature. Therefore, respondent No.1, after following the Sechewal Model and Karnal Technology of Sewage Treatment and Zero Discharge Model for small 'township', had proposed to set up filtration chambers along the Lendi Nalla so that the treated waste water could be utilized by the farmers nearby for irrigating their lands. The respondent No.1 through the said project is making efforts to ensure that the Lendi Nalla becomes clean and pollution free.



10. It is further mentioned in this affidavit by the respondent No.1 that the said Nala meets the Saraswati River only when heavy rain happens. The said river is approximately 1.1 kms. away from the said Nala. It is further submitted that the Saraswati River is not a notified river and flows only seasonally. The execution of the said project will ensure that the water flowing from the Lendi Nala will be pollution free and clean and thereby would prevent pollution of the Saraswati River as well.

11. Further, in this affidavit by the respondent No.1, it vehemently denied that the said Nala was actually 50.45 mtrs. wide and that after construction of retaining wall, during the alleged beautification project, its width got reduced to 3 mtrs. as alleged by the applicant. In fact, the project in question is being undertaken for the safety of people staying in the vicinity and has no adverse impact on environment. The project in question is being carried out in respect of the Lendi Nala, which is a minor water body, where water flows very rarely and is not a notified water stream. In fact, the said Nala, in literal sense, is just a drain, in which water flows only during the monsoon, while during the remaining months, only domestic sewage water flows through the same. The applicant is trying to portray the Lendi Nala as a river and/ or a major water body. In fact, the said project is a type of project, which was undertaken by the respondent No.1 to clean the Lendi Nala by deepening and desilting of the said Nala to regulate the flow of sewage water and to avoid the stagnation of sewage water by channelizing the drainage water flow, thereby addressing health hazards.

12. It is further mentioned in this affidavit by the respondent No.1 that there is no demarcation of any buffer and/ or prohibited zone (marking of red line and blue line), as the said Nalla is not notified as a water body. Only domestic sewage water flows through the said Nalla for major part of



the year, resulting in silting and stagnation of the sewage water creating health hazards for the residents and school students in its vicinity. The project in question would not reduce the width of the said Nala, rather it would increase the percolation capacity thereby increasing the groundwater levels in the area.

13. It is further mentioned in this affidavit by the respondent No.1 that the said project will help regulate, channelize and maintain regular waste water flow due to which the seasonal monsoon water flow will remain unobstructed and undisturbed and thus carrying capacity of the said Nala would be increased. Taluka Shrigonda, District- Ahmednagar is a rain shadow region experiencing scanty rainfall, therefore, chances of experiencing floods are negligible. A thorough study has been conducted before the project was undertaken, after obtaining necessary permissions and approvals. The water flow in the said Nala is within the standards, as laid down by the State Pollution Control Board. The applicant has no *locus standi* and has filed the present Original Application in order to extort money from the respondent No.1. Hence, the present Original Application should be dismissed.

14. From the side of respondent No.2-District Collector, Ahmednagar, reply affidavit dated 22.09.2023 has been filed, wherein main emphasis has been laid on the Joint Committee Report, as the same has been extracted therein. Besides, it is also submitted in para no.7 of this reply affidavit that the Joint Committee Report be treated as a part of this affidavit. The Respondent No.1 is a local authority, which has proposed the project for Beautification of Lendi Nalla. It is also made clear therein that necessary funds for the land will be allotted to the respondent No.1 for setting up of STP.



15. In para no.8 of the affidavit of respondent No.2, it is submitted that the office of Respondent No.2, by letter dated 18/09/2023, had directed the Respondent No.1 to implement the actions suggested by the Committee Members and the directions issued by this Tribunal by order dated 04.08.2023, expeditiously. By letter dated 18/09/2023, the office of Respondent No.2 had directed the office of Respondent No.4 to carry out the measurement and demarcation of nalla's width at four specified places as suggested by the Committee Members. The Committee has suggested that 3.0 mtrs. channel width was necessary to regulate the flow of sewage water without hindrance and to avoid social and health related issues to the local residents and that the channelization of the said nalla is also needed as proposed. Therefore, it is prayed that an order may be passed by this Tribunal accordingly.

16. From the side of respondent No.3- Maharashtra Jeevan Pradikaran, Ahmednagar, reply affidavit dated 03.10.2023 has been filed, which too stated that the Joint Committee Report be treated as a part of this affidavit.

17. From the side of respondent No.5- the Secretary, Urban Development Department, Government of Maharashtra, reply affidavit dated 03.10.2023 has been filed, wherein recommendations of the Joint Committee have been reiterated with respect to channelization of the said Nalla and it is also submitted therein that the respondent No.1 had requested the Revenue and Forest Department to allocate land for the construction of STP of the capacity of 7.2 MLD, which would be requiring Rs.144.00 Cr., while the cost of beautification of Lendi Nalla is Rs.2.10 crore. Although it is also mentioned that the answering respondent will certainly consider the proposal for setting up of proposed STP Project under Suvarna Jayanti Nagorathan Mahabhiyan, once respondent No.1-



Shrigonda Municipal Council acquires the land for the proposed STP project.

18. We have heard the arguments of learned counsel for parties and have perused the record.

19. Our attention is drawn by the learned counsel for applicant to page no.511 of the paper book, which is the objections filed by him against the Joint Committee Report and rejoinder to the replies of respondents. In this, our attention is drawn to para no.2.1, which relates to reduction in width of Natural Water body from 50 mtrs. to 3 mtrs. In this regard, he has shown us a Revenue Map of the area in question, annexed at page no.426 of the paper book and having drawn our attention to it, it is argued by him that this would indicate that for the entire length of the said nalla, at the beginning, its width is recorded as 52 mtrs; in the middle, it is recorded as 50 mtrs.; and at the end, it is recorded as 40 mtrs. Therefore, according to him, the width of the Nalla in question is approximately 50 mtrs., which now, he is alleging, is going to be reduced to 3 mtrs. by construction of retaining wall in pursuance of the project in question, which would have an adverse impact on the local ecology. He presumed that since the project is of beautification, the entire area adjacent to the said Nalla, on both sides of its bank, would be developed by making different kind of parks, gardens, setting up of benches etc., which would result in adversely impacting the water flow during monsoon season when the entire area would be inundated in a big manner. Therefore, this kind of channelization should not be permitted, which would restrict the width of the Nalla to 3 mtrs.

20. We find that the Joint Committee Report contains a report dated 25.07.2023 of the Maharashtra Jeevan Pradikaran, Division- Ahmednagar,

O.A. No.83/2023(WZ) [I.A. No.136/2023(WZ)]

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annexed at page nos.419-420 of the paper book, which is to the following effect:-

After spot visit it is noticed that Shrigonda Municipal council is not reducing the width of lendi-odha Nalla to 30 mt as stated by the petitioner.

While giving technical sanction. We have sanctioned the items which will increase the flow capacity of Nalla.

Shrigonda Municipal council is discharging waste water =219780 lit/ day. Which is necessary to regulate, channelize and maintain the flow.

Sr. No.	Remarks	Compliance
1	Impact on flow carrying capacity of Nalla	<p>Refer estimate B (Nalla Channelization) Item no. 1, 2, 3, 4 excavation of earth all type of soil soft murum, Hard Murum, Soft rock, Hard rock removing the excavated material up to distance of 50 m. ...etc. total quantity of excavated material item no. 1, 2, 3, 4 is 1812.88 cum. After reduction of quantity of Item no. 5, 6, 7 providing gravel bed to nalla, PCC to Headwall and Headwall concrete total quantity of material is 721.25 cum. Total flow capacity increasing 891.63 cum.</p> <p>Refer estimate D (Cross Drainage Work) Item no. 19 clearing and grubbing road land including uprooting rank vegetation, grass, bushes, shrubs saplings and trees girth up to 300</p>

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		<p>mun. Removal of stumps of trees cut earlier and disposal of unserviceable material and stacking of serviceable of material...etc.</p> <p>Near about 37500 sqm. Nalla bed is cleaned and (500X Av.W 75X0.40)= 15000 Cum. Quantity of nalla bed is cleared for scum, sludge and deposited soil etc.</p> <p>Hence the flow capacity is increased by 891.63 + 15000= 15891.63 cum.</p>
2	Impact on high flood level of Nalla, and	<p>Intensity of flood is reduced by this work and flood level ...y decreased. Hereby it is advised to construct new Cause Ways at Sasanenagar & Balaji Mangal Karyalay with additional pipes.</p>
3	Flood risk to nearby population due to proposed project.	<p>Flood level occurrence is rare by this proposal under consideration, although nearby encroached population shall be removed by Shrigonda Municipal Council at Municipal level.</p>



21. From the above-mentioned report, we are convinced that the respondent No.3, which was one of the Members of the Joint Committee, clearly stated that there was no reduction of the width of Lendi-Odha/ Nalla to 3.0 mtrs. as stated by the Petitioner and that the channelization, which is being done, would enhance the flow of the said Nalla, to a great extent, which, according to the respondent No.1- Shrigonda Municipal Council, is being done by construction of retention wall on either side of the said Nalla so that during the monsoon period, if there is higher rain fall, the sewage water, which flows into that Nalla, would not stagnate and that the increased flow would reduce the pollution levels and consequently, health hazardous would be lessened.

22. We find force in the argument of learned counsel for respondent No.1- Shrigonda Municipal Council and are also of the view that in case of higher rain fall, the water would spill over the retaining wall and would spread in adjoining area. Therefore, there does not appear to be any threat for causing any obstruction in the flow of that Nalla.

23. The learned counsel for applicant has apprehended that at the time of modification/developmental activity, on both sides of the Nalla, retaining wall has been constructed, which would be used for beautification work including setting up of benches, paths etc., which may be gathered from the Map, annexed at page no.69 of the paper book. But we are not convinced with the said argument at this stage because no such proposal has been placed before us of any kind of developmental activities, as are shown in the said Map. The Joint Committee has also suggested that in the area adjoining the retaining wall on both sides of the said Nalla, no encroachment should be allowed, by which we also infer that the suggestion is to the effect that no such kind of activities should be permitted/construction allowed, which would hinder the free flow of water



even during monsoon. Therefore, the apprehension of the applicant appears to be far-fetched and it may also be mentioned here that the respondent No.1 and all other respondents i.e. Government Authorities, are also inclined to accept the recommendation of the Joint Committee. Therefore, there appears all the more reason to be convinced that no encroachment would be allowed by these authorities either by 3rd parties or by raising construction at their own end.

24. The next argument made by the learned counsel for applicant is that the Chapter-3 of the Unified Development Control and Promotion Regulations-2020 (UDCPR) stipulates that if the entire site is within a distance of 6 m. from the edge of water mark of a minor water course (like nallah, canal) and 15 m. from the edge of water mark of a major water course (like river) shown on Development Plan/Regional Plan or village/city survey map or otherwise, the same would not be eligible for Construction of Buildings. Having drawn our attention to this, it is argued by him that in the case in hand, the Map, which he has annexed at page no.132 of the paper book, shows the width of the said Nalla to be 50 mtrs., therefore, from the edge of that nalla 6 mtrs. on either side should be left free where no construction of any kind can be permitted. But we are not in agreement with this argument because the said Rule provides 6 mtrs. from the edge of water mark of a minor water course such as nalla etc., which would mean that 6 mtrs. would be counted from the place where the water is flowing and not the revenue boundary of the nalla, as shown in the Map at page no.132 of the paper book. Here, in the case in hand, the distance of 6 mtrs. would be counted from the retaining wall, which is constructed/to be constructed for channelization of the nalla and that from that up to 6 mtrs. on either side should be left free area where no construction of any building etc. should be permitted as per the said Rule.

Therefore, we are of the view that respondent No.1 should keep in mind
O.A. No.83/2023(WZ) [I.A. No.136/2023(WZ)]

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this fact, while granting any permission of construction of any building etc. in the area in question and should observe this Rule that from the retaining wall on either side of the nalla, no building construction of any kind up to 6 mtrs. is permitted.

25. As regards the prayer made by the applicant that a direction be issued to the Respondents for demarcating 6 mtrs. line from the water mark of minor course, does not appear to be of any use in the case in hand, because the same would be required to be marked as and when required for the purpose of permitting developmental activity over there and not prior to that. Therefore, the said prayer appears to be premature.

26. After having heard the arguments of learned counsel for applicant as well as that of the respondent No.1, the crux of this matter in our estimation appears to be that, the main thrust should have been laid by the learned counsel for applicant on resolving the problem of sewage water of the said nalla being flown into the river Saraswati, only after the same is treated so that no pollution happens in the said river. But instead of that relief having been sought directly in the prayer clause, the applicant has chosen to get the project in question stopped, which appears to be for the benefit of local residents, as the same would result in minimising the pollution.

27. The learned counsel for respondent No.1 has submitted that they are going to set up Filtration Chambers as a stop-gap arrangement, for a short duration, in order to verify that the sewage water is not allowed to be flown into the river Saraswati, however, it is admitted on their part that the same is not full remedy of controlling the pollution as for the same, STP is required to be set up which is an expensive affair, for which we find from the record that efforts are going on. Even respondent No.5-Urban



Development Department, Government of Maharashtra has assured that the funds would be released very soon, provided that the land is identified.

28. In view of above analysis, we dispose of this application with the following directions:-

- (i). Respondent No.1-Shrigonda Municipal Council and Respondent No.6- Mr. M. G. Mane shall ensure that retaining wall for the entire length of 466.50 Mtrs. should be built, because as of now, some part of it has been left to be built, expeditiously;
- (ii). Desilted soil and an excavated material shall be lifted from the site in question and transported to landfill site or other places with the consent of land owner/s;
- (iii). Intervening Electric Poles, DPs shall be relocated outside the nalla boundary;
- (iv). The Lendi Nalla shall be measured at four specified places by the Deputy Superintendent of Land Records, Shrigonda as suggested by the Joint Committee;
- (v). The existing clogged cross drainage pipes shall be cleaned immediately so that there is no chocking of the flow of the water;
- (vi). New Cause-Ways shall be built at Sasanenagar, Balaji Mangal Karyalaya and Salvandevi Road with additional pipes;
- (vii). New Cause-Ways, which are to be built, will have six drainage pipes, as suggested by the Joint Committee;



(viii). The respondent No.1 shall ensure that there is no encroachment done within 6 mtrs. on either side of the retaining wall of the said nalla; and

(ix). The STP shall be set up in Shrigonda Municipal Area at the earliest, for which respondent No.2- District Collector, Ahmednagar shall ensure that the land is allocated at the earliest, within three months of uploading of this Order/Judgment.

29. With the above directions/observations, we dispose of this Original Application.

30. All pending applications, if any, also stand disposed of. No order as to cost.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 26, 2024
Original Application No.83/2023(WZ)
I.A. No.136/2023(WZ)
P.Kr.



1488

ANNEXURE - A13

Item No.25

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

[Through Physical Hearing (With Hybrid Option)]

ORIGINAL APPLICATION NO.19 OF 2020 (WZ)

Sayed Mohammed Sabir Usman Applicant

Versus

Central Pollution Control Board & Ors. Respondents

Date of hearing : 29.04.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Tanaji Gambhire, Advocate holding for Mr. Nitin Lonkar, Advocate

Respondents : Mr. Aniruddha Kulkarni, Advocate for R-1 and R-2
Ms. Manasi Joshi, Advocate for R-3
Mr. R.B. Mahabal, Advocate for R-7
Mr. Saurabh Kulkarni, Advocate for R-8

ORDER

1. From the side of respondent No.8/Project Proponent, learned counsel Mr. Saurabh Kulkarni has appeared and submits that he will furnish all the information, which is required to be furnished as directed by this Tribunal vide order dated 26.04.2024, within two weeks. We allow two weeks' time as prayed.

2. We had directed the Registry to issue notice to respondent No.8 and the applicant. Today, from the side of the applicant, learned counsel Mr. Tanaji Gambhire, holding brief of Mr. Nitin Lonkar has appeared.

3. From the side of respondent No.3-MPCB, learned counsel Ms. Manasi Joshi has appeared while from the side of respondent Nos.1 and 2, learned counsel Mr. Aniruddha Kulkarni has appeared.

[NPJ]



Page 1 of 2

4. Put up this matter for next consideration on 24.05.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 29, 2024
O.A. No.19/2020 (WZ)
npj





1490 Proof of Service

raghunath mahabal <adv.rbmahabal@gmail.com>

NGT Appeal 140/2024(WZ) Tanaji Gambhire Vs Uol: R-9 DUVILLE ESTATES PVT LTD: Next Date: 06/12/2024

1 message

raghunath mahabal <adv.rbmahabal@gmail.com>

4 December 2024 at 17:29

To: National Green Tribunal Pune <ngt-pune@gov.in>, Tanaji Gambhire <tanaji_9june@yahoo.com>, Secy-moef@nic.in, "Principal Secretary Environment Dept. Govt. of Maharashtra" <psec.env@maharashtra.gov.in>, Rahul Garg <rahul.garg@mgklegal.com>, Aniruddha Kulkarni <aniruddha1488@gmail.com>, nahatavijay31@gmail.com, pjarchco@gmail.com, env@maharashtra.gov.in, ropune@mpcb.gov.in, pmcmco@gmail.com
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Bcc: mahendrakumar.joshi@duville.com, mjoshi@duville.com, tdubash@duville.com, amit.soni@duville.com, Pinkesh@mullas.net

Sir / Madam,

I am pleased to serve and circulate the advance copy of the Reply Affidavit of Respondent No. 9 in above mentioned matter.

Regards,

Dhananjay Chavan, 7038383654

Advocate for Respondent Nos. 4.= Raghunath Mahabal, Advocate +91-74-0011-6222 [adv.](mailto:adv.rbmahabal@gmail.com)rbmahabal@gmail.com =

B-202 Chandravijay, Phule Road, Mulund East, Mumbai-400081

| Adv. Sumedha Marathe | Adv. Ashlesha Gondhalekar | Adv. Antima Bazaz New Delhi |

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