

## AFFIDAVIT IN REPLY

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH AT, PUNE

ORIGINAL APPLICATION No. 70 of 2020

Mr. PrafullShivajiPise -

APPLICANT

Versus

The Municipal Council of Chiplun -  
through its Chief Officer and Others.

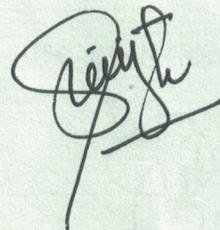
RESPONDENTS

## AFFIDAVIT IN REPLY

I, Mr. Prasad S. Shingte, Age: 38 Years, Occupation : Service, presently working as Chief Officer, The Municipal Council of Chiplun, having address at: Municipal council, Guhagar Road, Chiplun, Maharashtra 415605, do hereby solemnly affirm and submit as under :

- 1) The Applicant has filed this application by suppressing material facts and as the Applicant has not come before the Hon'ble Tribunal with clean hands, this application need to be rejected on this count alone. All the contents of the present Application are false and hence are denied by this Respondent in toto.





2) It is submitted that, more than 1000 people are residing around the Nallah/ Gutter. Till date there is no damage to any property or environment resulted from an accident or the adverse impact of an activity or operation or process attributed to the permission given by this Respondent to Respondent No. 4 to 7. Therefore, nobody has filed a complaint about pollution, waterlogging or diversion of water course due to the construction of the Nallah/ Gutter. No one sustained injury or threat to life due to the construction of the Nallah/ Gutter. The present Applicant is neither residing around the Nallah/ Gutter nor he has claimed so and hence, the applicant not an aggrieved person under Section 18(2)(e) of the National Green Tribunal Act, 2010. Moreover, the Applicant do not have personal knowledge about the facts mentioned in the application and therefore the applicant is not entitled to file the present application.



3) It is further submitted that, Respondent No.1 has issued Building Permission to Respondent No. 4 to 7 on 19/06/2019 and the construction of the retaining wall to the Nala is completed on 17/02/2020 and hence the cause of action first time arose on 19/06/2019 and thereafter on 17/02/2020. The present application is filed on 1/10/2020 and registered on 5/10/2020. As per Section 14(3) of the National Green Tribunal Act, 2010, application for adjudication of the dispute must be filed within a period of 6 months from the date of which the cause of action for such dispute arose. There is no cause of action occurred for the

applicant to file present application. The cause of action mentioned by the application is bogus and fictitious. Hence, the present application is not only filed after lapse of the limitation but have filed without any cause of action. Therefore, it deserves to be dismissed.

- 4) No comments are warranted from this Respondent to the contents mentioned in Para No. 1 & 2. Moreover, it is denied for want of knowledge that the applicant is a social worker.
- 5) The contents of Para No. 3 are not true and hence are denied by this Respondent. It is not true to say that the said Nallah/Gutter is around 5 meters in width and its width become around 3 meters while flowing through C T Survey No. 6397. In fact, width of the Nala prior to the plot of the C T Survey No. 6397 is 3.10 meters and while flowing through the plot it is 3.20 meters in width. The said fact is also observed by the Committee appointed by the Honourable Court.
- 6) No comments are warranted from this Respondent to the contents mentioned in Para No. 4.
- 7) The contents of Para No. 5 are not true. It is not true to say that, " the RCC Construction of Nallah/Gutter has impeded the natural flow of the Nallah/ Gutter. Further it has also completely changed the natural course of the Nallah/ Gutter which is causing water logging in the said area which is leading to substantial aggravation of the water pollution. Further the said RCC construction of the Nallah/Gutter has been carried out for the benefits of property owners.



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Furthermore the Respondent No.4 to 7 i.e. project proponents have completely violated the section 24 of the Water (Prevention and Control of Pollution) Act;-1974 by changing the natural water course of Nallah/ Gutter leading to cause environmental degradation and water logging in the said area". The Respondent further submits that the Respondent No. 4 to 7 have constructed 4.5 meters in width retaining wall to the Nallah/ Gutter and maintained 3.20 meters width of the Nallah/ Gutter. Due to the construction of the retaining wall, Respondent No. 4 to 7 have not impeded or changed the watercourse of the Nallah/ Gutter. In fact, it supports to channelized flow of water in the natural course and there is no damage to the environment. The said fact is also observed by the Committee appointed by the Honourable Tribunal.

- 8) Respondent No. 4 to 7 have not violated Section 24 of the Water (Prevention and Pollution Control) Act, 1974 and any other provision of the Acts mentioned in Schedule 1 of the said Act and therefore, the present applicant has no cause as well as locus to file present application under Section 14 (1) of the National Green Tribunal Act, 2010.
- 9) The contents of Para 7 of the application are not true and hence are denied by the Respondent. It is not true to say that the said Building Permission granted by the Municipal Council is in violation of clause 11.1 of the General Planning and Building requirements applicable to Municipal Council.



10) The contents of Para 8 of the application are not true and hence are denied by the Respondent. It is not true to say that "it is noticed that the owners of the said plot i.e. Respondent Nos. 4 to 7 for their personal gains by hand in gloves with the authorities have obtained the permission for construction at the said plot and have completely changed the natural course of Nallah/ Gutter by disturbing the water body which is causing water logging and water pollution resulting into environmental degradation."

11) The contents of Para 10 of the application are not true and hence are denied by the Respondent. It is not true to say that "said area is a flood prone area and due to such impediments in the natural course of the nallah/ Gutter it will be high risk for the human habitant residing in the area and it will also cause great damage to the environment."

12) All the grounds raised by the applicant are false and hence are denied by this Respondent. There is no impediment in the natural flow of nallah/ Gutter. This Respondent has neither given any permission/ sanction with our following due process of Law nor violated any Rule and/ or Law. The risk of flood as pointed out by the applicant is baseless.

13) The applicant has suppressed material facts from this hon'ble Tribunal and thus the Respondents is hereby submitting facts of the present case, are as under :-




- a) As per alignment and measurements, the distance of alleged nallah/ gutter that to from the alleged building is at a distance of 50 meter.
- b) Nobody has complained till today regarding any occurrence of any life-threatening incident.
- c) The gutter/nallah in issue runs towards 'Shivnadi' river and thereafter said Shivnadi river reaches to Vashishti river.
- d) Considering section 24.2 of Water [Prevention and Control of Pollution] Act 1974, there is no violation observed of said provisions as far as construction of alleged Nallah/ Gutter is concerned.
- e) The water course in issue is "Minor Watercourse" which runs through the alleged Nallah/ Gutter, so that there is provision for approval of construction of Nallah/ Gutter, within the regular marginal distance by controlling the watercourse within the same space of construction of concerned watercourse. Accordingly, the alleged construction of Nallah/ Gutter has been found as per the norms by maintaining marginal distance.
- f) The natural watercourse has not been changed as contended by the Applicant. Moreover, it was not noticed the water logging within alleged Nallah/ Gutter.
- g) There is neither threat to life of citizens residing within the nearby locality nor there is a big threat/ damage to the environment as contended by the Applicant.



14) In this background, it is clear that the applicant is baseless and without any cause as mentioned. For the above-mentioned reasons, it is clear that the application of devoid of any merits & hence deserves to be dismissed with cost.

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Jeevan K.  
Ratnagiri  
902/98  
09/2021  
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RAHARASHTRA  
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What ever stated herein above in reply Paragraphs No. 1 to 14 is true and correct to the best of my knowledge, information, belief and instructions based on record of Municipal Council, and hence I have signed hereunder for the correctness of the same at Chiplun on 15<sup>th</sup> September 2021.

I know the Signatory  
Adv. Dilip S. Dali  
Kochi Plun.



*Prasad S. Shingte*  
Mr. Prasad S. Shingte,  
Chief Officer

Municipal Council of Chiplun



BEFORE ME

*Jeevan K. Relekar*  
JEEVAN K. RELEKAR  
NOTARY STATE OF MAHARASHTRA  
CHIPLUN, DIST. RATNAGIRI.

Solemnly affirmed and duly executed in presence by Shri Prasad S. Shingte of Chiplun who is identified Shri Dilip S. Dali of Chiplun Whom I know personally

Noted & Registered at Serial Number 1983

15/9/2021

*Jeevan K. Relekar*  
Jeevan K. Relekar  
Advocate & Wrt  
Regd. No. Mh 9  
Chiplun.

