



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

Original Application No. 15/2020 (WZ)

Krishna Marathe ... Applicant

Versus

Union of India and Ors. ... Respondents

**AFFIDAVIT IN SUR-REJOINDER ON BEHALF OF RESPONDENT NO.6**

I, Mr. Sachin Golatkar, the Power of Attorney, of the Respondent no. 6, do on solemn affirmation state and submit as under:

1. I say that the Applicant has served copy of the Rejoinder on the Advocate of Respondent no.6 on 24/11/2022 and therefore in response thereto, and in terms of the liberty granted by this Hon'ble Tribunal vide Order dated 24/11/2022, I am filing the present Affidavit in Sur-Rejoinder.
2. I deny all and singular statements/averments made in the Rejoinder which are inconsistent/contrary to the case set

out by me in the Reply. Nothing may be deemed as having been admitted although the same may escape specific denial or for want of traverse.

3. With reference to paragraphs no.1 and 2, I say that the Application being on record, the contentions raised therein are the matters of record. However, this Respondent seeks leave to refer to and rely upon the same for their true and correct interpretation.
4. With reference to paragraph no.3, I reiterate the contentions set out in paragraph no.3(i) to 3(v) of the Rejoinder filed on behalf of the Applicant.
5. With reference to paragraphs no.4, 5, 6, 7, 8 and 9, I reiterate that the petition is barred by the law of limitation. I deny that there is any fresh legal injury or fresh right to sue, triggering a fresh period of limitation. I say though the Applicant has now admitted that the mining operations



have ceased in the year 2016, a perusal of the Application would disclose that the Applicant had approached this Hon'ble Court by giving an impression that the mining operations were still being conducted in the said Mine. I say that the mining operations having ceased in the year 2016, there is no cause whatsoever for the Applicant to contend that the mining operations are going on without environment clearance. Assuming, while not admitting that the provisions of Section 15 are applicable, even when the limitation cannot extend beyond a period of 5 years from the date of filing of the Application.



6. With further reference to paragraphs no.4, 5, 6, 7, 8 and 9, it is denied, that the Respondent no.6 has been dumping mining waste and polluting the Arabian Sea and ground water from the beginning of alleged illegal mining operations and continues to have implications even though the mining operations ceased to exist by 2016, as alleged. It

is submitted that the stocking of overburden/waste was done at designated places as permitted by the Port officer, as set out in the reply filed by this Respondent. The Applicant is put to strict proof thereof. I say that the Order dated 11/10/2019 passed by this Hon'ble Tribunal having been stayed by the Hon'ble Supreme Court, no reliance can be placed on the same. Even otherwise the factual matrix of the case in Kalyan Bansingh & Ors. Vs. HIL Ltd. & Ors. was completely different from the present case and as such the Judgment is not applicable in the case of this Respondent. This Tribunal actually found violations resulting in adverse impact on the health of inhabitants, contamination of ponds and streams and spread of waste material into fields and foothills and that the children and elderly were exposed to the dust. More importantly this Tribunal found that the lessee had violated Section 25(1) of the Mines Act, which obliged him to notify the disease and also violation of requirement of monitoring mandatory medical examination



for every person employed in the Mine for more than 6 months. Such is not the case in the present case and in any case there are no pleadings to this effect.

7. With further reference to paragraph 9, it is denied that unscientific dumping activities in Arabian Sea have severely damaged environment by polluting ground water and discolouring the portion near Arabian Sea as alleged. It is submitted that the stocking of overburden/waste was done at designated places as permitted by the Port officer, as set out in the reply filed by this Respondent. I say that the Google images cannot be relied upon to pass on liability on this Respondent. It is denied that the rust colour turbidity in marine water along the coastline near M/s. NIMCO, is not a natural phenomena and that the effect continues on account of activities of NIMCO. The very basis of dumping in the Arabian Sea being absent in the present case, the



charge of pollution and contamination is factually not established and made out.

8. With reference to paragraphs no.10, 11, 12, 13 and 14, I reiterate the contents of paragraphs 19, 20, 21 and 22 of my reply. I seek leave to refer to and rely upon the true and correct interpretation of the Judgments referred to by the Applicant at the time of hearing of the matter.
9. With reference to paragraphs no.15, 16 and 17, I reiterate the contents of paragraph 7, 8, 9, 10 and 11 of my Reply.
10. With reference to paragraphs no.18, 19 and 20, I reiterate the contents of paragraph no.16 and 17 of my Reply.
11. With reference to paragraphs no.21, 22, and 23, I reiterate the contents of paragraph no.15 of my Reply.
12. With reference to paragraphs no.24, 25 and 26 I reiterate the contents of paragraph no.18 of my Reply.



13. With reference to paragraph no. 27, I say that the Judgment of the Apex Court in the case of Common Cause Vs. Union of India & Ors., (2017) 9 SCC 499 was passed in an altogether different factual matrix and the same cannot mechanically be made applicable to the case of this Respondent, in view of the peculiar facts and circumstances of the present case.



14. With reference to paragraphs no.28 and 29, I deny that severe environmental damage has been caused on account of mining operations conducted by this Respondent. I say that Reclamation and Restoration is a continuous process under the MCDR, 1988 read with MCDR 2017 and this Respondent is already before the Chief Controller of Mines in a Revision Application. This Respondent having stopped the mining operations, has partly carried out Reclamation and Restoration, as set out in the Reply itself. Further

Reclamation and Restoration could not be carried out as Final Mine Closure Plan was not approved by the IBM.

15. In view of the above, it is submitted that the Application is liable to be rejected and be so rejected.

Solemnly affirmed on this 14<sup>th</sup> day of December, 2022 at Goa.

Place : Panaji, Goa

Date : 14/12/2022

  
Deponent



### VERIFICATION

I, Mr. Sachin Golatkar, the Power of Attorney of the Respondent no.6, resident of 4/581, Margachitad, At & Post Masure, Taluka Malvan, District Sindhudurg 416608, Maharashtra, do hereby verify and declare that the statements made in the aforesaid



paragraphs are true to my knowledge and/or based on information, and/or the contents are based on legal submissions and/or inferences of the facts, which I believe to be true.

Verified on this 14<sup>th</sup> day of December, 2022 at Goa.

Place : Panaji, Goa

Date : 14/12/2022



Deponent



Identified by:



Advocate for Respondent no.6  
(S. T. Shirvadkar)



verification  
Solemnly affirmed before me by  
Sri / Smt Sachin Golabkar  
who has been identified by  
Adv. Seema  
whom I personally know  
Reg. No. 6969/2022 Dated 14/12/2022



SAYED ABBAS  
Advocate & Notary  
Tiswadi Taluka  
Panaji-Goa 403001  
Reg. No. 231/2010

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

Original Application No. 15/2020 (WZ)

Krishna Marathe ... Applicant

Versus

Union of India and ors. ... Respondents

**AFFIDAVIT**

I, Mr. Sachin Golatkar, the Power of Attorney, of the Respondent no. 6, do on solemn affirmation state and submit as under:

1. I say that I am Respondent no.6 in the above titled Application and I am conversant with the facts and circumstances of the case and competent to swear this Affidavit.
2. I say that the contents of the present Affidavit in Sur-Rejoinder are true to my knowledge and/or based on



*[Handwritten signature]*

information, and/or the contents are based on legal submissions and/or inferences of the facts, which I believe to be true.

  
Deponent

**VERIFICATION**

Verified on this 14<sup>th</sup> day of December 2022 that the contents of the present Affidavit in Sur-Rejoinder are true to my knowledge and belief and nothing material is concealed therefrom.



  
Deponent



SOLEMNLY AFFIRMED AND VERIFIED  
BEFORE ME BY Mr. Sachin Golalkar.  
WHO IS IDENTIFIED BEFORE ME BY Seema Adv. WHOM I KNOW.  
SR. NO: 6990/2022  
DATED: 14/12/2022

  
SAYED ABBAS  
Advocate & Notary  
Tiswadi Taluka  
Panaji-Goa 403001  
Reg. No. 231/2010