

1481 NDH: 06.09.2023

BEFORE THE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 7 OF 2020

IN THE MATTER OF:

ARYAVART FOUNDATION,
THROUGH ITS PRESIDENT

... APPLICANT

VERSUS

M/S. NARODA ENVIRO PROJECTS LIMITED
(CETP) AND OTHERS

... RESPONDENTS

AFFIDAVIT OF OBJECTIONS ON BEHALF OF RESPONDENT NO. 1 TO
UNDATED REPORT OF CPCB AND GPCB PREPARED JOINTLY
PURSUANT TO ORDERS DATED 11.09.2020 AND 21.09.2020 AND
PROVIDED TO RESPONDENT No.1 on 12.07.2023

PAPER BOOK

[for index kindly see inside]

ADVOCATE FOR RESPONDENT NO.1: MS. ANUSHREE KAPADIA.

1482

BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH, PUNE)

ORIGINAL APPLICATION No. 7/2020

IN THE MATTER OF:

ARYAVART FOUNDATION
THROUGH ITS PRESIDENT

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... RESPONDENTS

INDEX

Sr. No.	Particulars	Pg. Nos.
1)	Affidavit of Objections on behalf of Respondent No. 1 to undated Report of CPCB and GPCB prepared jointly pursuant to orders dated 11.09.2020 and 21.09.2020 and provided to Respondent No. 1 on 12.07.2023	1483 - 1488
2)	<u>ANNEXURE-A-1</u> :- True copy of the order of the Hon'ble Supreme Court of India in Civil Appeal No. 3594 - 95 of 2020 dated 26.11.2020	1489 - 1490
3)	Proof of Service.	



ANUSHREE KAPADIA

ADVOCATE FOR THE RESPONDENT No.1

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Filed on: 02.09.2023

1483

BEFORE THE NATIONAL GREEN TRIBUNAL

Western Zone Bench, Pune

Original Application No. 7 of 2020

IN THE MATTER OF:

Aryavart Foundation, through its President ... Applicant

Versus

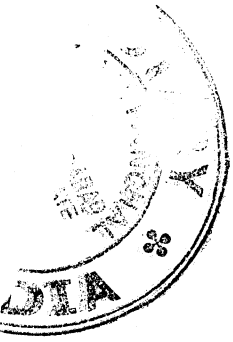
M/s. Naroda Enviro Projects Limited (CETP)
and others ... Respondents

AFFIDAVIT OF OBJECTIONS ON BEHALF OF RESPONDENT NO. 1
TO UNDATED REPORT OF CPCB AND GPCB PREPARED JOINTLY
PURSUANT TO ORDERS DATED 11.09.2020 AND 21.09.2020 AND
PROVIDED TO RESPONDENT NO. 1 ON 12.07.2023

I, Mayur Jani s/o Karunashankar, Age 63, Director of Respondent No.1 Company, having my office at 512-515, Phase-I, GIDC, Naroda, Ahmedabad 382330, do solemnly affirm and declare as under:

1. I am a Director of Respondent No.1 Company in the present case and as such I am authorized to file this affidavit on behalf of Respondent No.1 Company (hereinafter referred to as "answering Respondent" or "NEPL"). I am well conversant with the facts and circumstances of the case on the basis of record available with my office and I am competent to swear upon the present affidavit. I say that the answering Respondent





has filed its Affidavit in Reply as well Objection to the Report of the Joint Committee dated August 2020 and has also filed an Additional Affidavit dated 17.11.2021. Further Additional Affidavit dated 01.07.2023 has been filed to place relevant subsequent developments before the Hon'ble Tribunal.


2. I say that in the course of hearing on 03.07.2023, *inter alia*, it was noted by the Hon'ble Tribunal that “8. *After receipt of this report, this matter was considered by this Tribunal on 11.09.2020 and in that order, it was also noted that notice be issued to the respondents as to why environmental compensation for damaging the environment for violating Sabarmati River be not initiated against them. In the next consideration i.e. 21.09.2020, the CPCB and the State PCB were directed to suggest the remedial measures and to calculate the environmental compensation according to the guidelines issued by the CPCB or in accordance with the parameters laid down by the Principal Bench of this Tribunal. In pursuance of this order, a Joint Committee report has been filed, which is at page no. 948 to 954 of the paper book, where-in a total sum of Rs. 18,63,00,000/- (Eighteen Crores Sixty Three Lacs only) has been proposed as environmental compensation to be imposed upon the respondent No. 1?*” and the remedial actions stated in the said Joint Committee Report were noted. Since, a copy of such Report was never served on the Counsel for Respondent no. 1, objections to the same could not be submitted. Pursuant to the directions of the Hon'ble Tribunal in order dated 03.07.2023, a copy of the Joint Report was provided the Registry of the Hon'ble Tribunal by email on 12.07.2023.

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The Respondent no. 1 had been granted liberty to submit their objections thereto and in the circumstances, this Additional Affidavit is being filed.

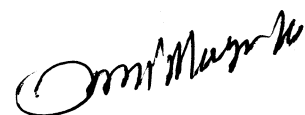
3. At the outset it is submitted that the Joint Report which has been provided to the Respondent no. 1 on 12.07.2023 is undated and it is not a Report of any Joint Committee, but a report jointly prepared by GPCB and CPCB. It is also not clear how such a report could have been filed after the passing of the order of the Hon'ble Supreme Court on 26.11.2020, while it has been stated to have been prepared pursuant to orders of this Hon'ble Tribunal dated 11.09.2021 and 21.09.2021.
4. With all due respect, it is humbly submitted that *inter alia* since the objections of the respondent no. 1 to the Report of the Joint Committee appointed by the Hon'ble Tribunal dated August 2020 were not heard before passing of the orders dated 11.09.2020 and 21.09.2020, the Hon'ble Supreme Court of India was pleased to set aside the said orders (11.09.2020 and 21.09.2020) by way of order dated 26.11.2020. Thereby the directions contained therein to compute / assess any environmental compensation or to suggest remedial measures pursuant to Report of the Joint Committee appointed by the Hon'ble Tribunal dated August 2020 would also stand quashed. As a direct consequence thereof, such undated report jointly prepared by CPCB and GPCB, as provided to Respondent no. 1 on 12.07.2023 would therefore also be set aside and not survive. The undated report jointly prepared by CPCB and GPCB, which is in question, is denied and disputed in entirety as the same is prepared without any adjudication of the objections of the Respondent no.1 to

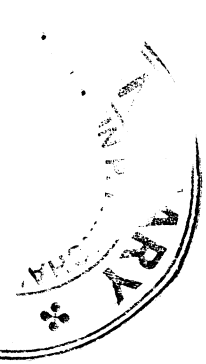




Report of Joint Committee dated August 2020. The respondent no. 1 reserves liberty to address and object to any report on compensation at the appropriate stage. True copy of the order of the Hon'ble Supreme Court of India in Civil Appeal No. 3594 – 95 of 2020 dated 26.11.2020 is annexed hereto and marked as **ANNEXURE A1**.

5. It is submitted that the Report of the Joint Committee appointed by the Hon'ble Tribunal is ambiguous, does not contain any material particulars that would show any violation on part of the respondent no. 1 or its member units, and it is based on certain incorrect premises, while overlooking issues in their entirety and overlooking statutory provisions. In fact, based on the said report of the Joint Committee dated August 2020, it is not even possible to ascertain any compensation for environmental damage alleged against respondent no. 1. In view thereof and the detailed objections of the respondent no. 1 to the said report, even otherwise, no environmental compensation is required to be assessed and the undated joint report of GPCB and CPCB is required to be disregarded.
6. Moreover, without prejudice to the aforementioned assertions/ averments and the reservation of the right of respondent no. 1 to file detailed objections, it is submitted the said undated joint report of GPCB and CPCB is based on incorrect assumptions and parameters, which are arbitrary, unreasonable, discriminatory and without any reference to any proportion / assessment of contribution of the respondent no. 1 to pollution, if any, of the river Sabarmati. Such assessment of





environmental compensation wrongly proceeds on an assumption that the respondent no. 1 is solely responsible for any pollution of the river Sabarmati, when factually it has been demonstrated in pleadings and supporting record submitted by the respondent no. 1 that there are numerous other entities which release their effluents and sewage in the river and there has been no investigation in to their role and contribution, resulting in arbitrary and unreasonable assessment against the respondent no. 1. Moreover, the said assessment finds no nexus with the Report of the Joint Committee dated August 2020. In view of all these anomalies as well, the undated joint report of GPCB and CPCB is required to be disregarded.

7. It is submitted that the matter is at the stage of hearing of objections of the Respondent no. 1 to the Report of the Joint Committee appointed by the Hon'ble Tribunal, dated August 2020. It is further humbly submitted that until further adjudication on the merits of the issues arising in the present case, no further remedial steps or directions are called for, in the facts and circumstances of the present case and the undated report of GPCB and CPCB does not survive.

The contents of the present Affidavit are true and correct and based on records available with the office of the Deponent and nothing material has been concealed therefrom.

For Naroda Enviro Projects Ltd.



Deponent

Director

VERIFICATION

Verified that the facts stated in para 1 to 7 herein are true to my information and belief derived from the record of my office and no part of it is false and nothing material has been concealed therefrom.

Verified at Ahmedabad on this 2nd day of September 2023.

For Naroda Enviro Projects Ltd.

Deponent *[Signature]*

Director

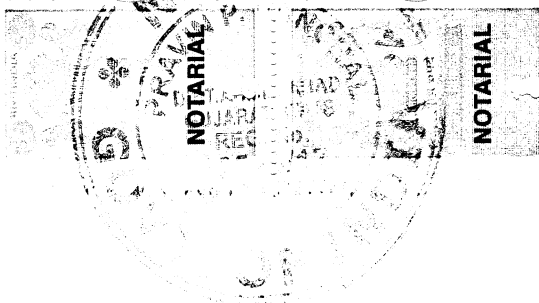
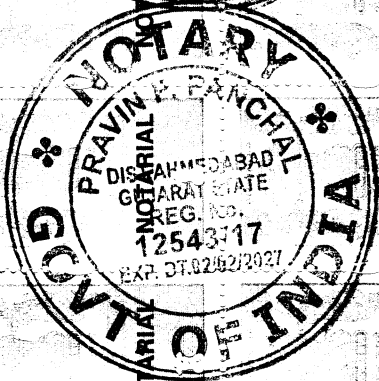
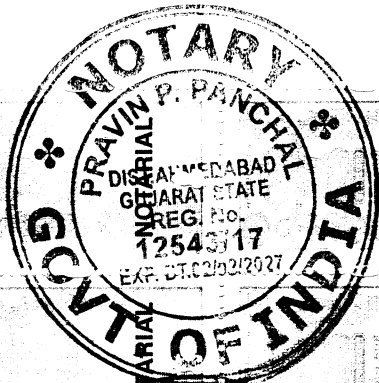
IDENTIFIED BY ME

[Signature]

ADVOCATE *[Signature]* Clerk.
Name: Mukesh Chavda
Code: 426

RG. SERIAL No. 992/2023
DATE: 02/09/2023
BOOK No. 91
PAGE No. 153

[Signature]
PRAVIN P. PANCHAL
NOTARY
GOVT. OF INDIA
02 SEP 2023



SOLEMNLY AFFIRMED
BEFORE ME
[Signature]
PRAVIN P. PANCHAL
NOTARY
GOVT. OF INDIA
02 SEP 2023

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 3594-3595/2020

M/S NARODA ENVIRO PROJECTS LTD. (CETP)

Appellant(s)

VERSUS

ARYAVART FOUNDATION & ORS.

Respondent(s)

(IA No.112488/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.112490/2020-STAY APPLICATION and IA No.112492/2020-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 26-11-2020 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MR. JUSTICE ANIRUDDHA BOSEFor Appellant(s) Mr. Mukul Rohatgi, Sr. Adv
Mr. Nikhi Nayyar, Sr. Adv
Megha Jani, Adv
Ms. Anushree Prashit Kapadia, AOR
Ms. Sugandha Batra, Adv
Mr. Ashutosh Ghade, AdvFor Respondent(s) Mr. Raj Panjwani, Sr. Adv.
Dr. Surender Singh Hooda, AORUPON hearing the counsel the Court made the following
O R D E R

The appeals are disposed of in terms of the signed order.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS(NISHA TRIPATHI)
BRANCH OFFICER

(Signed order is placed on the file)


TRUE COPY

Affidavit of Objection on behalf of Respondent No.1 in OA No. 7 of 2020

1 message

Anushree Kapadia <a.kapadiaoffice@gmail.com>

Sat, Sep 2, 2023 at 12:17 PM

To: uh-gpcb-ahme@gujarat.gov.in, Rajesh Kumar <rajeshgpcb@gmail.com>, legal.gpcb@gmail.com, aniruddha1488@gmail.com, Surender Singh Hooda <sshooda65@gmail.com>, maulik@nanavatico.com, judicial-ngt@gov.in

BEFORE THE NATIONAL GREEN TRIBUNAL**WESTERN ZONE BENCH, PUNE****ORIGINAL APPLICATION NO. 7 OF 2020****IN THE MATTER OF:**

ARYAVART FOUNDATION,
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AFFIDAVIT OF OBJECTIONS ON BEHALF OF RESPONDENT NO. 1 TO UNDATED REPORT OF CPCB AND GPCB PREPARED JOINTLY PURSUANT TO ORDERS DATED 11.09.2020 AND 21.09.2020 AND PROVIDED TO RESPONDENT No.1 on 12.07.2023**Sir/Madam,****Please find attached herewith copy of Affidavit of Objection on behalf of Respondent No.1 in the captioned matter.**

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Anushree Kapadia
Advocate-on-Record
Supreme Court of India

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 **NGT_Affidavit_of_Objection on behalf of R-1.pdf**
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