

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**WESTERN ZONE BENCH, PUNE****EXECUTION APPLICATION NO. 12 OF 2022****IN****ORIGINAL APPLICATION NO. 80 OF 2020****IN THE MATTER BETWEEN**

Vanashakti & Anr.

...Applicants/Original Applicants

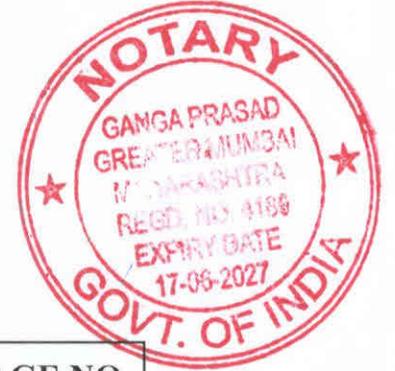
Versus

State of Maharashtra & Ors.

...Respondents

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Advocate for the Applicant

24.02.2023

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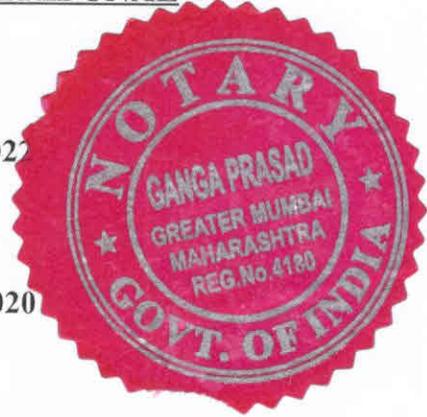
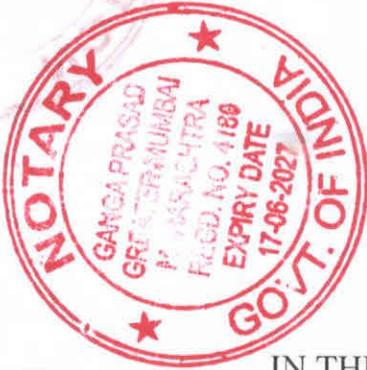
State of Maharashtra & Ors.

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**AFFIDAVIT OF THE APPLICANTS IN RESPONSE TO THE
REPORT OF THE COMMITTEE RELATED TO UNREGULATED
ACTIVITIES OF INLAND AQUACULTURE IN MAHARASHTRA
DATED 10.01.2023**

I, Stalin Dayanand, aged about 55 years, Applicant No. 2 & authorised Signatory/Director of Projects, Vanashakti (Petitioner No. 1) and having my office at Nandakumar Pawar House, Opp. Shri Jagannath Darshan Building, M D Kini Marg, Bhandup Village (E), Mumbai – 400042 do hereby solemnly affirm and state facts as under:

1. I say that I have read a copy of the Expert Committee Report dated 10.01.2023, which is annexed to the Affidavit of CPCB (R-7) dated 23.01.2023 and I shall proceed to reply to the Committee Report hereinafter.



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2. At the outset, I say that despite the judgment dated 31.05.2021 passed by this Hon'ble Tribunal specifically directing that the report is required to be filed within 3 months, i.e. by 31.08.2021 and that the Committee had admittedly deliberated on the way forward for compliance on 13.08.2021, this Committee Report has been filed only on 23.01.2023, which is done after the filing of execution proceedings on 02.12.2022 and therefore, it is pertinent to note that there has been a delay of more 16 months in filing this report and that the responsible officer of CPCB be directed to inform of the reasons for such a delay and appropriate orders of costs may be passed for the lethargic conduct of CPCB.

I. RESPONSE TO COMMITTEE REPORT'S DATA ON THE BACKGROUND OF AQUACULTURE IN INDIA

3. At Para 5.0, while providing details of the type of inland water sources where aquaculture is carried out in India, the Report emphasises on capture fishery since this kind of fishery contributes substantially to fish production in reservoirs and that the entire discussion is on benefits of fisheries while leaving out the important of retaining wholesomeness of pure drinking water as the entire rural and urban population may not have water purifiers or piped water supply. Therefore, the report ought to have stated the impact of fisheries on wholesomeness of the water.
4. At Para 6.1 (at Pgs. 12 & 13), the Report specifically places an emphasis on the fact that the cage culture is a cause for concern as its productivity goes for which guidelines of National Fisheries Development Board (NFDB) ought to be implemented.



II. GOVERNMENT RESOLUTIONS OF MAHARASHTRA DATED 28.08.2021 ARE CONTRARY TO CENTRAL GOVERNMENT'S GUIDELINES ON CAGE CULTURE DATED 17.10.2016

5. At Para 7.0, the Report submits that the policy of Maharashtra Government in regulating aquaculture runs contrary to the Central Government's 2016 Guidelines on Cage culture in the following manner:
- (a) Maharashtra Government's GRs dated 09.03.2018 & 28.08.2021 provide for granting permission for cage culture in reservoirs/water bodies that are less than 200 ha. in size whereas the Central Government Guidelines mandate that no cage culture must be permitted in a water body that is less than 1000 ha.
- (b) MH Government's GR dated 28.08.2021 further dilutes the permission criteria from the earlier GR of 09.03.2018 by allowing cage culture in average depth of water at 8 meters whereas in 2018, it was restricted to water bodies of depth of 10 meters or more.
6. Further at Para 7(3), the Report lays down pollution related aspects covered by Maharashtra in GR dated 28.08.2021 whereby it is provided that the contract for aquaculture will be cancelled if the water body is found to be polluted. However, there is no mechanism whatsoever concerning how such pollution will be identified and what are the basic standards that a cage culture operator is required to maintain.

III. CAGE CULTURE PROJECT AT VADIWALE LAKE

7. At Para 8.2, the Report records that one Mr. Bhardwaj Yadavrao Pagare is carrying out cage culture activities with 24 cages that are operational and records at Pg. 24 of the Report that analysis results of the sample



directly violate the Standards set for Best Use Water Use quality criteria as CPCB's Guidelines and therefore, such aquaculture activity is making the water of the lake completely unfit for drinking and the same is reflected in the conclusive portion at Paras A, B, D(i) and D(ii) between internal pages 27 to 29 of the Report. Therefore, the submissions made by the Applicant in the present proceedings have been upheld as analysed by the Respondent authorities and therefore, such aquaculture activities ought to be directed to be closed for want of compliance with the law. That this has been further confirmed by the Expert Report at Para 9(ii) at Pg. 33 of the report, wherein it is stated that the issue raised by the Applicant is of environmental concern. That the Report also confirms that Vadiwale Lake is 230 ha. and is a drinking water source for 28 villages and therefore, the report has to be very seriously dealt with and all recommendations therein need to be implemented *in toto*.

IV. CONCLUSIONS AND RECOMMENDATIONS OF THE COMMITTEE REPORT

8. At Para 10 (*internal Pg. 38*) , the Expert Committee Report makes certain conclusions which have been summarised by the Applicant for the benefit of this Hon'ble Court in the following manner:
 - (i) Cage culture is growing at a very fast pace, which may lead to some concern of its impact on the water bodies;
 - (ii) Strong governance platform as per the Central Government's Guidelines of Cage Culture outlines about the environmental concerns and restricts any cage culture in a water body less than the size of 1000 ha.



- (iii) Maharashtra's Government Resolution dated 26.08.2021 does not include any conditions stipulating water quality standards to be complied/maintained in reservoirs, and parameters thereto.
- (iv) Maharashtra's GR dated 26.08.2021 provides for contract conditions, which do not restrict the use of wholesome food for growth of fish and government approved medicines provided under expert guidance.
- (v) Maharashtra's GR dated 26.08.2021 does not state that food and medicine should be government certified and that prior permission should be taken from assistant commissioner, fish business/ fishery department.
- (vi) Maharashtra's GR dated 26.08.2021 allows construction of toilets inside the cage culture in the water body without specifying any standards/parameters for discharge from such toilets.
- (vii) There is discharge/pollution load in Vadiwale Lake due to cage culture activities and is likely to create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organisms as phosphorous and total nitrogen concentration were found to be in excess of the Central Government's Guidelines.
- (viii) Consent Mechanism is currently not regulated by MPCB and there is a need to bring inland aquaculture fisheries activities into consent regime and under EIA.



9. At Para 11 (*internal pg. 44*), all recommendations provided by the Committee Report confirms all the submissions, suggestions and averments made by the Applicants in the captioned matter and that the need to regulate aquaculture activities in Maharashtra has been seriously addressed by the Expert Committee Report.

10. In light of the above, I pray the following:

- (a) That this Hon'ble Tribunal be pleased to direct MPCB to bring aquaculture within the consent regime in light of the conclusions made by the Expert committee that the present GR dated 26.08.2021 regulating aquaculture activities does not deal with environmental concerns properly;
- (b) That this Hon'ble Tribunal be pleased to direct that no aquaculture activities can be permitted in water bodies less than 1000 ha. in size, as per the Central Government's Guidelines of 2016.
- (c) That this Hon'ble Tribunal be pleased to direct implementation of all recommendations of the Expert Committee *in toto* in a time-bound mechanism and that the Union of India and State of Maharashtra be directed to update their respective policies and that the instant matter be kept for compliance for the same on a fixed date;
- (d) That in light of the conclusive evidence placed on record by the Committee that the purity and wholesomeness of the water of Vadiwale Lake, which acts as a source for drinking for 28 villages, is affected by the operations of cage culture, this Hon'ble Court be pleased to direct MPCB (R-6) to issue closure notice to the concerned violator in accordance with law.

Solemnly affirmed at Mumbai)

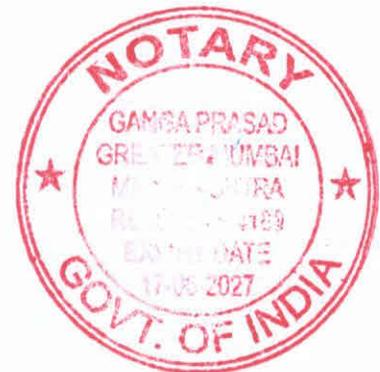
Dated this 24th Day of February, 2023)



Advocate for the Applicants



Applicant No. 2



VERIFICATION

I, Stalin Dayanand, aged 55 years, Indian Inhabitant, Applicant No. 2 & Authorised Signatory of Applicant No.1 & having his office at Vanashakti, Nandakumar Pawar House, Opp. Shri Jagannath Darshan Building, M.D. Kini Marg, Bhandup Village (East), Mumbai - 400 042,



do hereby verify the contents of paras 1 to 10 are true to my personal knowledge and I also believe to be true on legal advice and that I have not suppressed any material facts.

Advocate for the Applicants

Applicant No. 2

Place: Mumbai

Date:

H. M. YADAV
(B.Com., PM., & IR, LL.B.)
ADVOCATE HIGH COURT
51, Indira Colony, BR Rd.,
Mulund (W), Mumbai - 80.
M. No.: 9322685872



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BEFORE ME

24 FEB 2023

GANGA PRASAD
(B.A.LL.B)
ADVOCATE & NOTARY
Govt of India
Gr. Mumbai
Maharashtra
Reg No. 4180

NOTED & REGISTERED
Sr. No. 980/2023

BEFORE THE NATIONAL GREEN

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**AFFIDAVIT OF APPLICANTS IN
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Dated this 24th day of February, 2023

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