



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

**Original Application No. 64/2019 (WZ)**

**Mr. Tanaji Balasaheb Gambhire ...Applicant**

**Versus**

**Union of India &Ors ....Respondent(s)**

**Affidavit on behalf of Respondent No. 9, 10 and 11 Pune**

**Municipal Corporation is as under:**

1. I, Rahul Salunke, Executive Engineer, Pune Municipal Corporation am competent to file say. I am filing this Affidavit on the basis of information given to me and documents made available to me.
2. I state and submit that this Affidavit has been filed by Respondent No. 9, 10 and 11 PMC to bring certain facts on record and to respond to the Original Application filed by the Applicant.
3. I state and submit that I deny each and every allegation made by the Applicant in the Original Application and failure to deny each and every allegation specifically does not amount to admission thereof on part of this Respondent.

**Para-wise response to the Original Application**

**No. 64 of 2019:**

4. With reference to para. 1 and 2, I state and submit that the present Respondent No. 9, 10 and 11 PMC has no comment about para. 1 and 2 as both paras contain statement of facts.
  
5. With reference to para. 3, I state and submit that the applicant is alleging that there has been a gross violation of the EIA Notification 2006, Environment (Protection) Act -1986, Water (Prevention and Pollution Control) Act-1971 and Air (Prevention and Pollution Control) Act-1984 by the Project Proponent ('PP'). I respectfully submit that Consent to Operate under Water (Prevention and Pollution Control) Act -1971 and under the Air (Prevention and Pollution Control) Act-1984 is obtained from the MPCB and Environmental Clearance (EC) is obtained from the SEIAA, Maharashtra/MOEFCC, New Delhi. Hence, MPCB and the SEIAA, Maharashtra/MOEFCC, New Delhi are the competent authorities in relation to the issue pertaining to violations of the above mentioned Acts.
  
6. With reference to para. 4, I state and submit that Respondent No. 9, 10 and 11 PMC has issued



Commencement Certificate to the R-13 PP dated 31/03/2017 numbered CC/3374/16. In the said commencement certificate, at condition no. 19, it is clearly mentioned that no objection certificate and environmental clearance from the competent authorities must be obtained. In fact, PMC issued a show cause notice dated 09/11/2019 to R-11 PP demanding an explanation as to why the PP has not submitted EC in compliance of EIA notification 2006. Finally, PMC issued a stop work order dated 11/12/2019 stating that the PP has not submitted EC and that the PP should stop work on the impugned site. Thus, PMC has neither actively aided the PP nor turned a deaf ear to the violations by the PP as alleged by the applicant and PMC has given conditional Commencement Certificate to the R-11 PP. A copy of show cause notice dated 09/11/2019 is annexed herewith and marked under **Annexure 'A'**. A copy of stop work order dated 11/12/2019 is annexed herewith and marked under **Annexure 'B'**.

7. With reference to para. 5, I state and submit that the present applicant is maliciously alleging that absolutely no action has been taken by Respondents no. 1-10 in light of the gross violations by the R-13 PP. This statement is false and baseless and hence



denied by the present Respondent No. 8 and 9 PMC. I state that PMC had issued conditional Commencement Certificate wherein it was clearly mentioned that the PP must obtain Environmental Clearance and Consent to Establish from the competent authority.

8. I state and submit that paras. 7a, 7b, 7c and 7d contain detailed information about the project in question like location, total plot area, name of the PP, etc. I submit that the contents of para. 7 do not require a comment from the present Respondent No. 9, 10 and 11 PMC.
9. I state and submit that the applicant is alleging at para. 8 that the PP has commenced and continued the construction activity without obtaining prior EC from the SEIAA and Consent to Establish from the MPCB. I state and submit that Respondent No. 9, 10 and 11 PMC has issued Commencement Certificate to the R-13 PP dated 31/03/2017 numbered CC/3374/16. In the said commencement certificate, at condition no. 19, it is clearly mentioned that no objection certificate and environmental clearance from the competent authorities must be obtained. I respectfully submit that the SEIAA, Maharashtra and the MPCB are the authorities who are competent to comment about the allegation in para. 8.



10. I state and submit that the applicant has described the construction project in detail. The present respondent No. 9, 10 and 11 PMC has no comment about the same as it is a statement of fact.
11. I state and submit that the applicant is making the following allegations at para. 10a to 10z: PP did not apply for EC, PP did not apply for Consent to Establish, PP has not obtained Consent to Operate, PP has extracted ground water without permission, PP has not done any water testing, PP has not provided proper waste disposal facilities, PP has not provided energy saving devices and rain water harvesting, PP has not planted requisite number of trees and that PP is running DG sets on the site without permission. I state and submit that the Joint Committee comprising SEIAA, Maharashtra and MPCB has taken cognizance of the above mentioned allegations. I state and submit that Respondent No. 9, 10 and 11 PMC has issued Commencement Certificate to the R-13 PP dated 31/03/2017 numbered CC/3374/16. In the said commencement certificate, at condition no. 19, it is clearly mentioned that no objection certificate and environmental clearance from the competent authorities must be obtained. I respectfully submit that



SEIAA, Maharashtra and MPCB are the authorities which are competent to comment about the allegations in paras. 10a to 10z.

12. With reference to para. 11a to 11d, I state and submit that the applicant is averring that PP commenced construction activity in 2009 and hence EC should have been obtained before commencing construction. I state and submit that the PMC has issued a conditional Commencement Certificate to the PP wherein it is mandatory for the PP to obtain EC from the SEIAA and a NOC from the MPCB.
13. I state and submit that para. 12a to 12g states that Consent to Establish and Consent to Operate must be obtained from the MPCB and that PP has not obtained any clearance for this project under challenge. I state and submit that Respondent No. 9, 10 and 11 PMC has issued Commencement Certificate to the R-13 PP dated 31/03/2017 numbered CC/3374/16. In the said commencement certificate, at condition no. 19, it is clearly mentioned that no objection certificate and environmental clearance must be obtained from the competent authorities.



14. I state and submit that para. 13a. to 13c. contains the details of the Sanctioned Plans approved by the PMC from time to time for the said Respondent no. 13-PP. The present respondent No. 9, 10 and 11 PMC declines to comment about the same as para. 13a. to 13c. contains statement of facts.
15. With reference to para. 14a to 14i, the applicant is alleging that PP should have obtained EC to comply with of EIA Notification – 2006 and that PP has not obtained such EC inspite of condition no. 19 imposed by the PMC in the Commencement Certificate to the R-13 PP dated 31/03/2017 numbered CC/3374/16. I state that EC is obtained from the SEIAA and hence the SEIAA is the competent authority to consult about the allegations in para 14a. to 14i.
16. At para. 15, the applicant is alleging that Built up area (BUA) of the project is more than 20,000 Sq. mtr. and it is mandatory for the PP to obtain EC. . I state and submit that Respondent No. 9, 10 and 11 PMC has issued Commencement Certificate to the R-13 PP dated 31/03/2017 numbered CC/3374/16. In the said commencement certificate, at condition no. 19, it is clearly mentioned that no objection certificate and



environmental clearance must be obtained from the competent authorities.

17. With reference to para. 16a to 16e, it is alleged by the applicant that the R-13 PP has not obtained ground water extraction permission, that PP has not conducted ground water tests and that there is no permission for the construction of basements. I state and submit that the Report filed by the Joint Committee comprising SEIAA and MPCB has taken cognizance of the above mentioned allegations. I state and submit that the CGWA is competent to comment about not obtaining ground water extraction permission by the R-13 PP. Report filed by the Joint Committee comprising SEIAA and MPCB mentions that the PP has not constructed any basements.
18. With reference to para. 17a to 17e, the applicant is alleging that PP should have installed rain water harvesting devices and that no such devices have been installed by the R-13 PP. I submit that the matter falls outside the knowledge of the present respondent No. 9, 10 and 11 PMC.
19. I state and submit, with reference to para. 18a to 18j, it is alleged that the PP has not preserved the top soil for



developing recreational space and that the PP has not conducted any soil tests. The report furnished by the Joint Committee took cognizance of the above allegations. I submit that the present Respondent No. 9, 10 and 11 PMC declines to comment about the same as the matter falls outside the knowledge of the present respondent No. 9, 10 and 11 PMC.



20. With reference to para.19a to 19n, I state and submit that the applicant is alleging that there is a huge consumption of water, that there is a huge quantity of waste generated at the project site and that the PP has not established by STPs.I state and submit that the Report filed by the Joint Committee comprising MPCB and SEIAA has taken cognizance of the above allegations and the present respondent No. 9, 10 and 11 PMC declines to comment about these allegations as they fall outside the knowledge of the present respondent.
21. At para. 20a to 20f, the applicant submits that the PP has installed 3 DG sets without obtaining permission. I respectfully submit that consent to operate DG sets is obtained from the MPCB and hence the present Respondent No. 9, 10 and 11 PMC declines to

comment about the same as it falls outside the knowledge of the PMC.

22. With reference to para. 21a to 21f, the applicant is alleging that the PP has not installed any energy conservation devices, that no solar panels have been installed and that no solar heaters have been installed. I state and submit that the Report filed by the Joint Committee comprising SEIAA and MPCB has taken cognizance of the above mentioned allegations. The present Respondent No. 9, 10 and 11 PMC declines to comment about the same as it falls outside the knowledge of the PMC.

23. With reference to para. 22a to 22c, it is alleged that the PP has violated the norms of tree plantation by not planting requisite number of trees and that the PP has not developed open space. The report filed by the Joint Committee comprising MPCB and SEIAA is silent about plantation of trees. However, the report mentions that PP has developed 10% open space although it is on a podium on which club house is constructed by the PP. The present Respondent No. 9, 10 and 11 PMC declines to comment about the same as it falls outside the knowledge of the PMC.



24. At para. 23a to 23i, it is alleged that the R-13 PP is liable for heavy compensation because, inter alia, there has been a gross violation of the EIA Notification 2006, Environment (Protection) Act -1986, Water (Prevention and Pollution Control) Act-1971 and Air (Prevention and Pollution Control) Act-1984 by the PP. I state and submit that Respondent No. 9, 10 and 11 PMC has issued Commencement Certificate to the R-13 PP dated 31/03/2017 numbered CC/3374/16. In the said commencement certificate, at condition no. 19, it is clearly mentioned that no objection certificate and environmental clearance from the competent authorities must be obtained.
25. I state and submit that with reference to para 24a to 24d, it is alleged by the applicant that he asked Respondents 1, 2, 3, 4, 5, 6, 7 to take action against the R-13 PP. I state that PMC issued conditional Commencement Certificate and revised sanction plan wherein it was mandatory for the PP to obtain EC and Consent to Establish from the competent authorities. It is the responsibility of the PP to obtain EC from SEIAA and consent to establish from MPCB. In fact, PMC issued a show cause notice dated 09/11/2019 to R-11 PP demanding an explanation as to why the PP has not submitted EC in compliance of EIA



notification 2006. Finally, PMC issued a stop work order dated 11/12/2019 stating that the PP has not submitted EC and that the PP should stop work on the impugned site.

26. I state and submit that I have no comment about the contents of para.25 because it is related to MPCB and it falls outside the knowledge of the present respondent PMC.
27. I state and submit that with reference to para. 26 it is alleged by the applicant that there is no coordination between the sanctioning authority, SEAC, SEIAA, DoE and MPCB. I state that PMC issued conditional Commencement Certificate and revised sanction plan wherein it was mandatory for the PP to obtain EC and Consent to Establish from the competent authorities. It is the responsibility of the PP to obtain EC from SEIAA and consent to establish from MPCB.
28. The present respondent no. 9, 10 and 11 PMC has no comment about the allegations in para. 27 and 28 because it falls outside the knowledge of the PMC.
29. Para 29a to 29d of the original application mentions questions of law raised by this application and the



present respondent no.8 and 9 has no comment about the same. I submit that the PMC has issued revised Commencement Certificate and Sanction Plan wherein it was mandatory for the PP to obtain EC and Consent to Establish from the competent authorities. It is the responsibility of the PP to fulfill the conditions mentioned in the Commencement Certificate.

- 
30. At para 30a to 30n, the applicant makes reference to numerous legal principles and important judgments and states that he has locus standi to file the present application. I state and submit that the present respondent no. 9, 10 and 11 PMC has no comment about the contents of para30a to 30n as it falls outside the knowledge of the present respondent.
31. I state that para. 31 of the original application discusses jurisdiction of the Hon'ble NGT, that para. 32 states the cause of action and that para. 33 states that the present application is within limitation. I state and submit that the present respondent has no comment about the contents and averments in paras31 and 32 and 33 because it falls outside the knowledge of the present respondent no.9, 10 and 11 PMC.

32. With reference to para. 31, I state and submit that the present respondent No. 9, 10 and 11 PMC has issued conditional Commencement Certificate and Sanction Plan wherein it was mandatory for the PP to obtain Environmental Clearance and Consent to Establish from the competent authorities. I submit that it is the responsibility of the PP to fulfill the conditions mentioned in the Commencement Certificate and Sanction Plan. In fact, PMC issued a show cause notice dated 09/11/2019 to R-11 PP demanding an explanation as to why the PP has not submitted EC in compliance of EIA notification 2006. Finally, PMC issued a stop work order dated 11/12/2019 stating that the PP has not submitted EC and that the PP should stop work on the impugned site. I submit that the Hon'ble Tribunal is required to apply the Polluter Pays principle, the Precautionary principle and the Sustainable Development Principle according to section 20 of the National Green Tribunal Act, 2010. In the present application, it is clear that R-13 PP is the polluter. Hence, the present respondent No. 9, 10 and 11 PMC prays that no adverse orders may be passed against the PMC. In case an adverse order is passed against the PMC, it will set a precedent where respondent municipal corporations will be penalized



due to the pollution caused by promoters and developers.

Whatever is stated hereinabove is true and correct to the best of my knowledge, belief and information thereof.

Date: 28/12/2021

Pune



Rahul Salunke

Executive Engineer,

Pune Municipal Corporation

Pune

कार्यकारी अभियंता  
सांघिकाम विकास विभाग  
पुणे महानगरपालिका



BEFORE ME  
NOTARY GOVERNMENT OF INDIA  
NARESH SAHAI CHHABRA

Noted and Registered  
At Notary Office  
Date: 28/12/2021



**VERIFICATION**

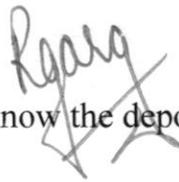
I, Rahul Salunke, Executive Engineer, Pune Municipal Corporation, do hereby state on solemn affirmation that what is stated in this Affidavit in paragraphs 1 to 32 is true and correct on the basis of documents and records available with me and information given to me.

Solemnly affirmed at Pune

Date: 28/12/2021



Deponent/Affiant



I know the deponent.

कार्यकारी अभियंता  
बांधकाम विकास विभाग  
पुणे महानगरपालिका

Advocate

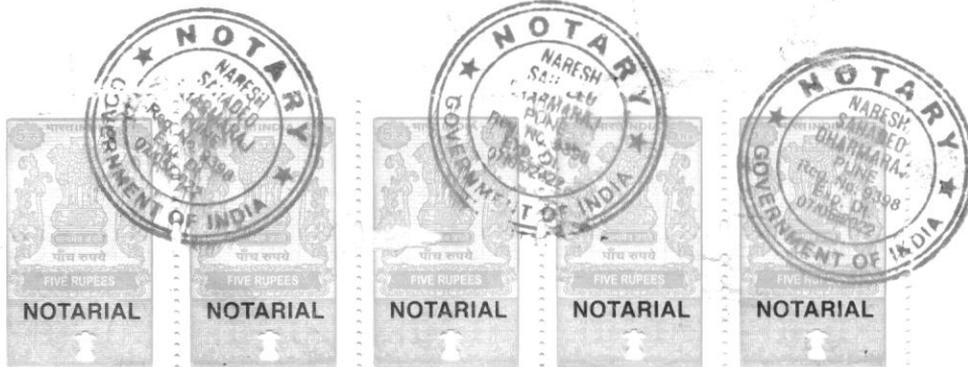


Noted and Registered  
At Sr. No. 152/2021  
Date 28/12/2021

**BEFORE ME**

  
NARESH SAHADEO DHARMARAJ  
NOTARY, GOVERNMENT OF INDIA

28/12/2021



0/2

प्रत :- ला.आर्कि. श्री. धनंजय व्ही दळवी,  
७७६, कसबा पेठ, पुणे ४११०११.

बांधकाम विकास विभाग धोन क.१,  
पुणे महानगरपालिका  
कार्यकारी अधिकारी,

*[Handwritten Signature]*



कळवे.  
वरील आपला खलासा सादर करावा.  
पर्यावरण दखला घेणे आवश्यक होते. तथापी आपण पर्यावरण दखला घेतलेला नाही. तरी याबाबत  
तरी विषयांकित मिळकतीचे बांधकाम क्षेत्र २०,००० चौ.मी. पेक्षा जास्त होत असल्याने  
संदर्भातच नोटीस प्राप्त झाली आहे.  
विभागाकडील नोटिफिकेशन - २००६ मधील तरतुदीच्या / नियमाच्या उल्लंघन झाले असलेबाबत  
प्रकल्पच्या या गृहप्रकल्पाच्या बांधकामामध्ये बांधकाम नियंत्रण व प्रोत्साहन नियमावली व पर्यावरण  
विषयांकित पुणे पेठ उर्डी स.नं. १/१ (पार्ट) येथील एकठा कॅलीफॉर्निया व फ्लॉरिडा या गृह

संदर्भ :- श्री. तानाजी बाळासाहेब गंधारे यांच्या तर्फे अॅड श्री. नितीन लोणकर यांचे दि.२५/७/२०१९  
रोजीची नोटीस ( इकडील आ.क्र. ३१८९ दि.५/८/२०१९ )

विषय : पुणे पेठ उर्डी स.नं. १/१ (पार्ट) येथील एकठा कॅलीफॉर्निया व फ्लॉरिडा या गृह प्रकल्पाच्या  
बांधकामाबाबत.

प्रति,  
श्री.अशोक मोहनजी,  
एकठा वरुड म.लि,  
४०१ म.लि. होलमार्क, विद्यार्थी सल्लाखा,  
अपीलीट वेस्टर्न इन्स्टीट्यूट,  
कलामार, बार्दा इस्ट, मुंबई ४०००५१.

कार्यकारी अधिकारी कायस्थ,  
बांधकाम विकास विभाग धोन क.१,  
पुणे महानगरपालिका.  
बा.क्र. ३१८९ / ३१९९  
दिनांक २/०९/२०१९

कारणे दाखवा नोटीस

Annexure A

# Annexure B

165

18538

कार्यकारी अभियंता कार्यालय  
बांधकाम विकास विभाग  
पुणे महानगरपालिका  
जा.क्र.- झोन १/४३०६  
दिनांक - ११/१२/२०१९.

प्रति,  
ला.इंजि.श्री.धनंजय व्ही. दळवी,  
८७६ कसबा पेठ,  
पुणे - ४११०११.

यांस...

**विषय:-** पुणे पेठ उंड्री स.नं.९/१ पार्ट या मिळकतीवरील बांधकामा बाबत.

**संदर्भ:-** पर्यावरण विभाग, महाराष्ट्र शासन यांजकडील पत्र आ.क्र.६३३९  
दि.४.१२.२०१९.

पुणे पेठ उंड्री स.नं.९/१ पार्ट येथील मिळकतीवरील बांधकामाबाबत संदर्भांकित पत्रान्वये पर्यावरण विभाग, महाराष्ट्र शासन यांजकडून पत्र प्राप्त झालेले आहे.

तरी आपणास कळविण्यात येते की, पुणे पेठ उंड्री स.नं.९/१ पार्ट येथील बांधकामास पर्यावरण विभागाकडील नोटीफिकेशन २००६ मधील तरतुदीनुसार एकूण बांधकाम क्षेत्र २०००० चौ.मी. पेक्षा जास्त असल्यास पर्यावरण दाखला घेणे आवश्यक असते. तथापी आपण पर्यावरण नोटीफिकेशन २००६ नुसार आवश्यक पर्यावरण दाखला मालक/ विकसक यांनी घेतलेला नाही. विषयांकित मिळकतीवरील विकसन, काम थांबविण्यात यावे.

कळावे.



कार्यकारी अभियंता

बांधकाम विकास विभाग, झोन क्र.१

पुणे महानगरपालिका.

११/१२/१९

प्रत:-

श्री.अशोक मोहनानी,

एकता वर्ल्ड प्रा.लि.

४०१, हॉलमार्क, बिझनेस प्लाझा

वेस्टर्न इस्टर्न हायवे कलानगर,

बांद्रा इस्ट, मुंबई- ४०००५१.

Recd. Copy  
Unbilled  
11/12/2019

## SHOW CAUSE NOTICE

Office of the Executive Engineer,  
Construction Development Deptt.  
Zone No.1, Pune Mun. Corpn.  
O. No. Zone No. 1/3611  
Date : 9.11.2019.

To  
Mr. Ashok Mohnani  
Ekta World Pvt. Ltd.  
401 Hallmark,  
Business Plaza,  
Opp. Western Eastern Highway,  
Kalanagar, Bandra East,  
Mumbai 400051.

Subject : Regarding construction of housing project Ekta California and Florida at S.No. 9/1 (Part) Pune Peth Undri.

Ref. : Notice dated 25.7.2019 of Adv. Mr. Nitin Lonkar on behalf of Mr. Tanaji Balasaheb Gambhire. (This Office I.No.3189 dtd. 5.8.2019).

The referred notice has been received regarding violation of provisions / rules of Notification – 2006 of Environment Department and Construction Control and Promotion Regulations in the construction of housing projects Ekta California and Florida at referred Pune Peth Undri, S. No. 9/1 (Part).

It was therefore necessary to obtain the Environment Certificate as the construction at the subject property is being more than 20,000 sq.mtrs. However, you have not obtained the Environment Certificate. Therefore, your explanation in that regard may be immediately submitted.

Sd/-  
Executive Engineer,  
Construction Development Deptt.  
Zone No. 1, Pune Mun. Corpn.

To  
Lic. Arch. Mr. Dhananjay V. Dalvi,  
876, Kasba Peth, Pune 411011.

True copy



True translation from Marathi to English

Office of the Executive Engineer,  
Construction Development Deptt.  
Pune Municipal Corporation,  
O.No. Zone1/4306.  
Date : 11.12.2019.

To  
Lic. Engr. Mr. Dhananjay V. Dalvi,  
876, Kasba Peth,  
Pune – 411011.

Subject : Regarding the construction on the property of S.  
No. 9/1 Part at Pune Peth Undri.

Ref. : Letter of I.No.6339 dtd. 4.12.2019 of Environment  
Department, Government of Maharashtra

The above referred letter has been received from the  
Environment Department, Government of Maharashtra  
regarding the construction on the property of S.No. 9/1Part  
at Pune Peth Undri.

However, you are informed that, as per the 2006  
Notification of the Environment Department it is necessary  
to procure Environment Certificate, if the construction is  
more than a total area of 20000 sq.mtrs. in respect of the  
construction at S. No. 9/1 at Pune Peth Undri. However,  
the owner/ developer has not obtained the necessary

Environment Certificate as per the Environment Notification of 2006. The development, work at the subject property may be stopped.

Sd/-  
Executive Engineer,  
Construction Development Department,  
Zone No.1, Pune Municipal Corporation

To  
Mr. Ashok Mohnani,  
Ekta World Pvt. Ltd.  
401, Hallmark, Business Plaza,  
Western Eastern Highway,  
Kalanagar,  
Bandra East, Mumbai – 400051.

True Copy

