

BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL,

WESTERN ZONE BENCH, PUNE

Original Application No. 66/2020(WZ)

Gram Panchayat Kasarwadi Applicants

V/S

Maharashtra State Vadar Samaj Sangh & Ors ... Respondents

Affidavit filed by respondents no. 2, 8 and 12 in
compliance with order dated. 21/09/2021 passed by National
Green Tribunal Western Zone Bench Pune

I, M/s Powar and Brothers through its partner Mr. Ramesh Vinayak Powar, Age- 50 years, Occupation- Mining Labour residing at Plot no. 10, Tuljabhavani Nagar, Ujlaiwadi, Kolhapur, Tal – Karveer, Dist – Kolhapur do hereby solemnly affirm on oath as under

1. That I am conversant with the facts and circumstances of the case and I am competent to swear this affidavit in my official capacity on the basis of the records, documents and facts available to me
2. That I have read and understood the order dated 21/09/2021 passed by Hon'ble National Green Tribunal Western Zone Bench Pune at

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Superintendent (Fin.)
District Court, Kolhapur.

Pune in the above captioned matter and filling this affidavit in its compliance thereof,

BRIEF FACTS

3. That in pursuance to the Original Application No.66/2020 being filed By Gram panchayat Kasarwadi for restitution and restoration of Environment and Ecology Under Sec. 15 read with Sec 18 and 20 of the National Green Tribunal Act, 2010, since the consent and lease previously granted for stone mining being allotted to Respondents no. 2, 8, and 12 from 2007
4. That the respondent's M/s Pawar and Brothers are carrying out stone mining at Gat no. 630/1 A since 1 Jun 2009 use stone Crusher till the lease had granted by the sanctioning authority. But after the cancelation of lease and non-extension of lease period the present respondents stop their mining and crushing activity till today.
5. That the Respondents no. 2 , 8, and 12 have received the sanction from Tahasildar Hatkanangale and District Collector, Kolhapur vide Order no. MAH/GALLKH/SR/53/07 dated 17/12/2007 for 5 years lease for stone crushing. That the said respondents have simultaneously received No Objection from Gram panchayat Kasarwadi Tal. Hatkanangale Dist- Kolhapur dated 30/07/2007, 13/07/2009, 28/08/2012 and 29/05/2014 respectively. That the rent and royalty mention as per the rules and regulation provide by the State Government of Maharashtra were paid continuously since the date of allotment of lease by the said respondents.
6. From the above mention points it is clear that the Stone Crushing and Mining work in the said area was legally carried out by the said

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Respondents under the authority and sanction of the Respective Collector, Tahsildar and Gram panchayat authorities

7. that the Maharashtra Pollution Control Board Regional Office Kolhapur have granted Consent No. RO-KOLHAPUR/CONSENT/1910000178/79/2019 for a period up to 31/08/2022 for the maximum quantity of 100 Brass/ M for stone metals. That the respondents are carrying the stone crushing activity by following the rules and guidelines provided by Maharashtra Pollution Control Board.

BRIEF SUBMISSIONS

IT IS MOST RESPECTFULLY SUBMIT AS UNDER –

1. As per the contentions given by the applicants in para 1, 2 and 3 being interrelated are discuss together and specifically denied. That the said respondents are carrying stone crushing and mining activity in the said area of Kasarwadi Village by following the due norms and procedures given under Maharashtra Pollution Control Board for Stones Quarries. The guidelines for stone quarrying prescribe that the stone is treated as minor minerals and therefor the stone quarrying do not attract the provisions of Environment Protection Act. That the said stone crushing and mining activity is legally valid and not causing any pollution to the Environment.
2. That the contentions mentioned in paras 4 and 5 are interrelated being discussed together that, the said land had been allotted to the said respondent no. 2 by Collector Kolhapur by Order no. office 6-3/R R/932/2009 dated 05/01/2009. And then only for prescribed period and following the rules and guidelines given by the sanctioning authority the said respondents carrying out mining and crushing on the said land. And that the said land Gat No. 630/A A+B

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is Gairan which is reserved for cattle grazing. In such area no Stone Crushing and Mining is carried since its inception as it being reserved area.

3. That the contentions mentioned in paras 6 and 7 are interrelated being discussed together and specifically denied. And respondents states that the after completion of lease period the said respondents had applied for extension of lase period but the sanctioning authority rejected the said application so from the end of the lease day no any stone crushing or mining activity carried out on said land by the said respondents till today.
4. That the contentions mentioned in paras 9 to 14 are interrelated being discussed together and specifically denied by the said respondents. And the respondents' states that the said respondents belonging to Wadar Community which is mostly illiterate and economically backward. And in addition to same, persons of Wadar Community are landless and totally depended on their traditional business of stone breaking work activity. And so that Government of Maharashtra by taking cognizance of the problems and difficulties facing by the persons of Wadar Community granted permission for their work of traditional business activity of stone crushing vide respective Notification dt. 7/03/2015, dt, 12/01/2018. And made the rules namely Maharashtra Land Revenue [Extraction and Removal of Minor Minerals] [Amendment] Rules, 2015. Vide notification 12/1/2018, Government made rules namely Maharashtra Minor Minerals Extraction [Development and Regulation] Amendment Rules, 2017. It is to be noted that under Rule 9 mode of granting quarry lease has provided under the Rules of 2017. By the said Notification, subject to permission of Ld. District Collector, permission has granted to the Wadar Families who wish to do

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mining as their traditional business and also permitted to remove stone upto 200 brass annually for the purpose of traditional profession of stone crushing. And Government had issued another Circulars dt. 06/08/2014 and dt. 06/10/2020 and directed to the concerned authorities to follow the directions/ guidelines for grant of permission for traditional business of stone crushing. And on the basis of above notification the present respondents apply for grant of temporary lease of land Gat no. 630/1 A situated at Mouje Kasarwadi, Tal- Hatkanangale, Dist.- Kolhapur. The said application rejected by Ld. Additional Collector of Kolhapur dt, 18/11/2020 and by Order dt. 03/02/2021 by Ld. Additional Collector of Kolhapur and order dt. 04/02/2021 Ld. Tahesildar Hatkanangale, Kolhapur illegally transferred the said land to Forest Department. hence the said respondents had moved to the Hon'ble High Court Bombay, through Writ Petition © No. 6209/2021 , Writ Petition © No. 6207/2021 and Writ Petition © No. 6210/2021 against the said impugned order. And the said petition before the Hon'ble High Court is still pending

5. That the contentions mentioned in paras 15 to 20 are interrelated being discussed together and specifically denied that said respondents and submits that the said stone crushing and mining activity being carried by following the due guidelines Maharashtra Pollution Control Board and hence no such sound air and land pollution being cause in such area. No any complaints and grievances are being filled till the date by any villagers before any Government Authority and hence the contentions being baseless, false and frivolous.
6. That the contentions mentioned in paras 21 to 24 are interrelated being discussed together and specifically denied by the said

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respondents, and submits that since the date cancelation of permission for stone crushing and mining the respondents had ceased to carry such activity in the said area and hence not liable for any legal action and damage cause to the environment.

7. That the respondents submit in pursuance to the grounds no. H and K mention in the application, that the State Government of Maharashtra have itself failed to comply with the directions given by the Hon'ble Supreme Court to Constitute an Expert Committee in the Kasarwadi Tal Hatkanangale Dist. Kolhapur
8. There is no any ground has arise to file such an application
9. **Therefore, it is humbly prayed that,**
 - a) The application filed by the applicant may kindly be dismissed with cost.
 - b) The said respondents have not acted or carried out any illegal activity on the said land. So they are not liable to pay any compensation to any one and also not liable for any legal action against them.
 - c) Any other relief be granted in favour of said respondents.
 - d) liberty to amend or alter reply be granted if and when necessary

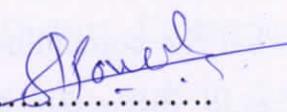
Hence the reply affidavit ...

I know the deponent

 Ado. P.A. Chauran

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Verification

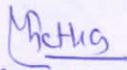
I M/s Powar and Brothers through its partner Mr. Ramesh Vinayak Powar, Age- 50 years, Occupation- Mining Labour residing at Plot no. 10, Tuljabhavani Nagar, Ujlaiwadi, Kolhapur, Tal – Karveer, Dist – Kolhapur Respondent no. 2 for and on behalf of Respondent no. 8 and 12, do hereby verify that the contents of above reply are true and correct to my personal knowledge information and belief.

Kolhapur

Dt. 18/12/2021



Solemnly Affirmed before me by
Shri. Ramesh Vinayak Powar, ag 50yr
of Ujlaiwadi, Kolhapur, who is
identified by Shri. P. A. Chavan
Adv. whom I know personally
Dated - 18.12.2021


Superintendent