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BEFORE THE NATIONAL GREEN TRIBUNAL,

WESTERN ZONE BENCH, PUNE

O.A. NO. 195 OF 2016 (WZ)

Shri Anant Bhadale & Anr.

Applicants

Versus

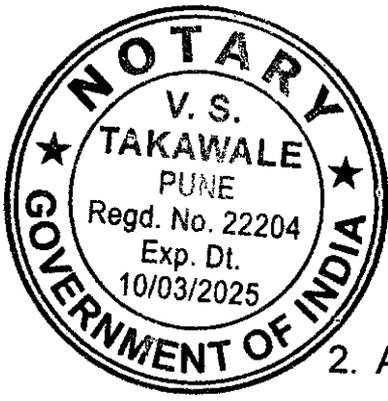
Pune Municipal Corporation & Ors.

Respondents

Affidavit on behalf of The Pune Municipal Corporation, R-1. in pursuance of the order dated 16.12.2022 by this Hon'ble Tribunal.

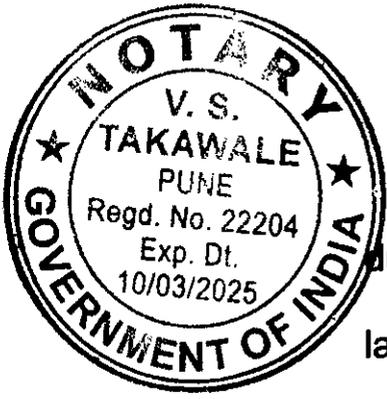
I, Asha Raut, Age 46, Deputy Commissioner, (Solid Waste Management Dept.) Pune Municipal Corporation do state on solemn affirmation as under:

1. I say that I am working as Deputy Commissioner, Solid Waste Management Department, Pune Municipal Corporation (Henceforth referred as PMC for the sake of brevity) and I am authorized to file an affidavit before the Hon'ble National Green Tribunal on behalf of the PMC.



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2. At the outset I deny all the contentions and/or statements and/or allegations contained in the present Original Application to the extent those are contrary to and/or inconsistent with what is stated in the present Affidavit. Nothing contained in the Original Application should deem to be admitted by the PMC for the want of specific traverse unless the same would be specifically admitted herein below. I crave leave of this Hon'ble Tribunal to file an additional Affidavit as and when the occasion so arises.
3. I say that I am filing this affidavit as per the order dated 16/12/2022 wherein PMC has requested time to file affidavit.
4. I say that in the year 1989 after following all due procedure District Collector, Pune has allotted land the Survey No. 30/31 village Urali Devachi of admeasuring 43 Acres to PMC. On 02/04/2002, after following all

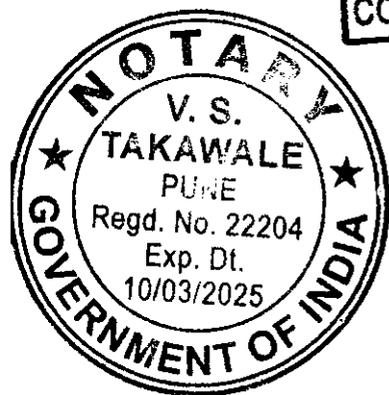


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due procedure, District Collector, Pune has allotted land the Survey No. 191 to 195 village Fursungi of admeasuring 120 Acres to PMC. It is relevant to note that on both occasions the transfer of land has done by not only by following due procedure but also after obtaining the NOC of the concerned Authorities. On 07/06/2002, MPCB also issued authorization for the site under the SWM, Rule, 2000.

5. I say that on both occasions of land acquisition, dated 1989 and 2002, PMC faced a huge protest by the residents of the nearby areas. Even the number of litigations filed before the Hon'ble Bombay High Court, challenging the said acquisition. Vide common Judgment and Order dated 22.03.2005/23.03.2005 the Hon'ble Bombay High Court (Coram F. I. Rebello & S. P. Kukday JJ) pleased to dispose the said Writ Petitions. The relevant part of the observations made in para 13 are reproduced herein below,

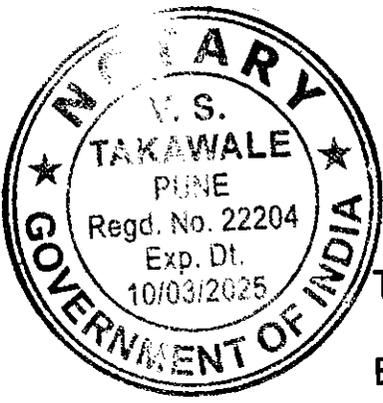
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Quote

"In setting up of land fill sites or the garbage treatment plant, there are bound to be objections by parties likely to be affected either on account of the threat of pollution or on account of fact that the land being in proximity of the site, the land value would depreciate. These are hazards which we have to accept. Ultimately it is sustainable development. Sites have to be provided for disposal of the waste generated by human habitations. A statutory duty is cast on the local bodies for that purpose. An attempt by Respondent Corporation to set up modern facilities which it was bound to do, pursuant to Solid Waste Rules by 31.12.2003, it has been unable to meet the target. The Respondent Corporation to now proceed to set up the process for a landfill sites and garbage disposal plant as required by the rules."

Unquote



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Therefore, this site was confirmed even by the Hon'ble Bombay High Court for Solid Waste site.

6. I say that I am filing the present Affidavit only for the limited purpose of demonstrating that this present OA has become infructuous, and the prayers made in the said OA do not survive.

7. Prayer [A] is reproduced as below,

[A] That direction may kindly be issue to close the landfill site at Urali Devachi and Fursungi with immediate effect.

So far as the prayer [A] is concerned, I say that a location alleged to be a Landfill site by the Applicants herein is not landfill site. It is relevant to be noted that PMC has completely stopped dumping since 02/01/2020. It is pertinent to be noted that to the said effect PMC has filed an affidavit dated 22/02/2020 in



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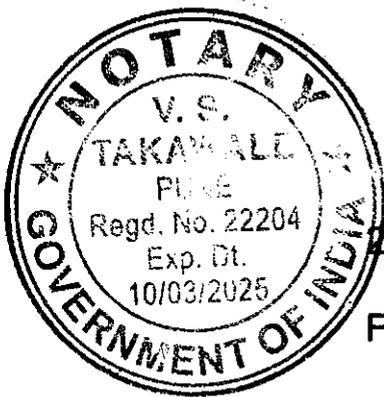
OA 52 of 2020. Therefore, the said prayer doesn't survive anymore.

8. Prayer [B] is reproduced as below,

[B] Directions may kindly be given to the Respondent No.1 Pune Municipal Corporation to completely remove the garbage dumped at the site of Urali Devachi and Fursungi. Further directions may be given to complete capping work scientifically removing methane gas in a month's time as rainy season will start in June 2017.

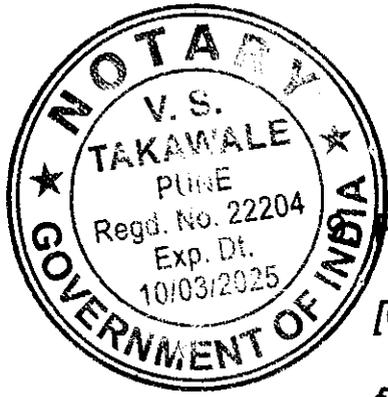
So far as the prayer [B] is concerned, I say that as per Rule 22 of Solid Waste Management Rules, 2016 timeframe for the implementation, entry 10 of the chart clearly states that five years from the notification of the SWM, Rule 2016 is provided for the "Bioremediation or Capping of the old and abandoned dump site". It is pertinent to be noted that in the year 2014, 25 Lakh MT of the Legacy Waste was scientifically capped by PMC, which was even prior to introducing of SWM Rule,

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2016. I say that as per the SWM Rules, 2016 period of Five years from April 2016 is provided for scientific bio-mining of legacy waste; however Central Pollution Control Board (CPCB) has provided necessary guidelines for scientific process of bio-mining of Legacy Waste in February 2019. Therefore, the timeline for the completion of Bio-mining i.e., 5 years will be calculated from February 2019 and not for April 2016. Therefore, considering all these aspects, the time limit for the Bioremediation will be completed in February, 2024.

It is relevant to note that around 14 MT of legacy waste has been bio-mined by PMC and thereby reclaimed around 23 Acres of land. From April 2019 to October 2022, bio-mining was done 1000 MT per day. However, from November 2022 bio-mining capacity is increased to the tune of 2000 MT per day. Around 20 Lakh MT of legacy waste is likely to be bio-remediated by the end of year 2023.

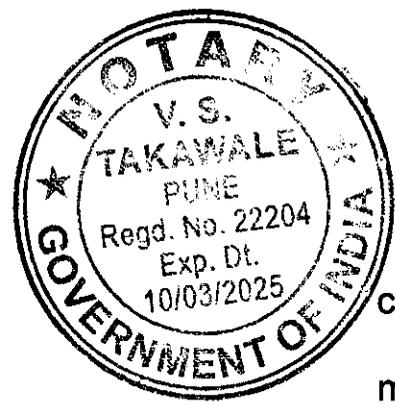


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Prayer [C] is reproduced as below,

[C] That till the capping work and then leveling of land for garden or playground is in progress, directions may be issued to the Respondent No 1 that not a single fire takes place there and that the Ground Water and Air is not contaminated.

So far as the prayer [C] is concerned, I say that legacy waste has been covered by the soil layer. Two Fire Engines and around 2 lakh liter water storage tank have arranged at the said location exclusively as a preventive measure against any fire incident. It is relevant to be noted that since April 2017 no major fire incident has been reported. Around 16,000 trees have already been planted by PMC to improve the environment at the site. Water sprinklers are regularly used for dust mitigation. Methane gas has been collected and flared regularly to avoid any fire incident. Leachate treatment plant of 100 cubic meter per day is going on at the said site to avoid the water



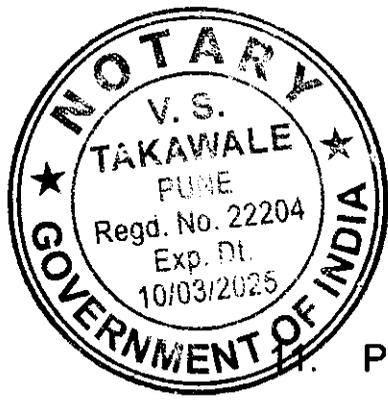
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contamination. Air and Water quality is regularly monitored.

10. Prayer [D] is reproduced as below,

[D] That the NGT be pleased to direct the Maharashtra Pollution Control Board not to issue any Authorization Certificate to the Pune Municipal Corporation to continue the Garbage Depot at Urali Devachi and Fursungi.

So far as the prayer [D] is concerned it is relevant to note that PMC has already stopped dumping of the waste and PMC has also filed an affidavit to that effect before this Hon'ble Tribunal. Bio-mining, SLF, Leachate treatment plant these activities are going on at the said location. Time to time MPCB has already granted authorizations such as Authorization for bio-mining; Consent to operate facility of processing, recycling, treatment, and disposal of solid waste. Therefore, the said prayer also doesn't survive any more.



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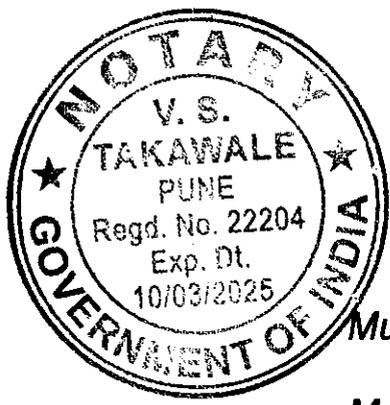
11. Prayer [E] is reproduced as below,

[E] That pending final disposal of this case NGT may be pleased to issue a temporary injunction, restraining the Municipal Corporation from making use, for the purpose of depositing the Municipal Solid Waste, in the Depot of Urali Devachi and at Fursungi village.

So far as the prayer [E] is concerned, I once again reiterate the fact that from January 2020, PMC has completely stopped dumping of the waste at Depot of Urali Devachi and Fursungi village, in view of this fact even the said prayer appears to be fulfilled and hence doesn't survive any more.

12. Prayer [F] is reproduced as below,

[F] That pending final disposal of this Public Interest Litigation as and by way of interim relief, the Honourable Court be pleased to, prevent the Respondent No.1 herein, from carrying on any work, which is being carried on by the Respondent No.1

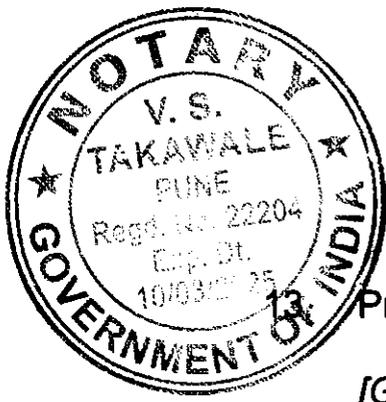


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Municipal Corporation at Urali Devachi and Fursungi, Municipal Solid Waste, Management Depot without firstly giving an undertaking to the Hon'ble Court that it would carry on such activity, only after the entire Municipal Solid Waste on that site is completely removed from the intended cover up, on the said Land Fill Site.

So far as the prayer [F] is concerned, I once again reiterate the fact that from January 2020, PMC has completely stopped dumping of the waste at Depot of Urali Devachi and Fursungi village. It is relevant to be noted that PMC has submitted its action plan before this Hon'ble Tribunal and PMC is implementing the said plan. I say that PMC is carrying on the scientific bio-remediation of Legacy Waste, therefore in view of this fact even the said prayer appears to be fulfilled and hence doesn't survive any more.



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Prayer [G] is reproduced as below,

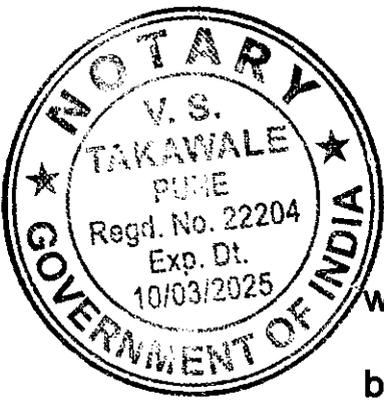
[G] Ad interim relief in terms of prayer Clause (E) and (F) be awarded in favour of the Petitioner.

So far as the prayer [G] is concerned, I say that as stated above, prayer (E) and (F) itself became infructuous, therefore nothing will be granted as an ad interim in terms of the said prayers, therefore even this prayer also appears to be infructuous.

14. Prayer [H] is reproduced as below,

[H] That any order deems fit under section 14 of the NGT Act may kindly be passed and directions may kindly issue under section 15 of the NGT Act for restitution of environment and property damaged and also direct the Respondents to deposit some amount to cure the environmental damage.

I say that section 14 of NGT Act 2010, provides limitation of six months period from the date when the cause of action first arose. Section 15 of NGT Act 2010, provides limitation of Five years from the date



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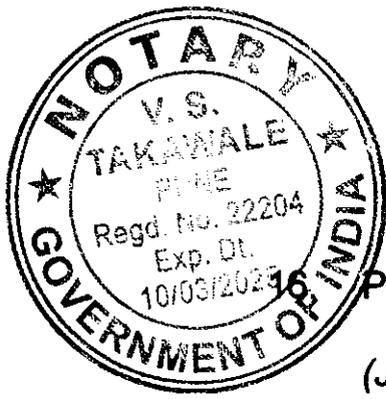
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when cause of action first arose, to file an Application before the this Hon'ble Tribunal. The present matter was filed before the Hon'ble Bombay High Court on 28/10/2013 thereafter the matter was transferred to this Hon'ble Tribunal in 2016. Therefore, even if the limitation provided under sec 15 of The NGT Act is considered, the present application should have been filed in the year 2005. Therefore, the present OA is barred by limitation, hence even on the count of Limitation the present matter deserves to be dismissed.

15. Prayer [I] is reproduced as below,

[I] That the costs of this Public Interest Litigation be awarded in favour of Petitioner against Respondent, by this Honourable Court.

Since the OA is itself became infructuous as the relief sought by the Applicant has already been realized and therefore the present OA deserves to be dismissed hence no question arises as to grant either any relief or cost to the Applicant/Petitioner.



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Prayer [J] is reproduced as below,

(J) For such other orders as justice and convenience may demand from time to time be passed in favour of the Petitioner by this Honourable Court.

I say that since the main prayers became infructuous and the OA itself does not survive therefore no question of granting such other orders in favour of Petitioner arises.

17. I say that in the last 5 years, PMC has already spent around Rs. 195 Crores for the said site and is taking all possible measures to provide a clean and green environment for the citizens.
18. Therefore, it is humbly submitted that all the prayers made in the Original Application have become infructuous and therefore this application may please be dismissed.

Pune

01/04/2023


Advocate for R1

VERIFICATION

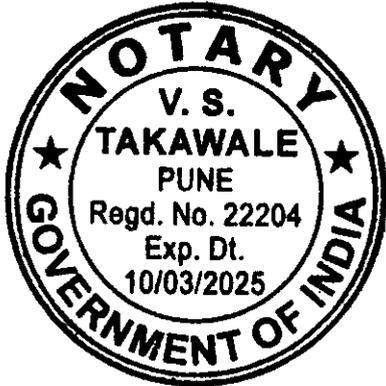
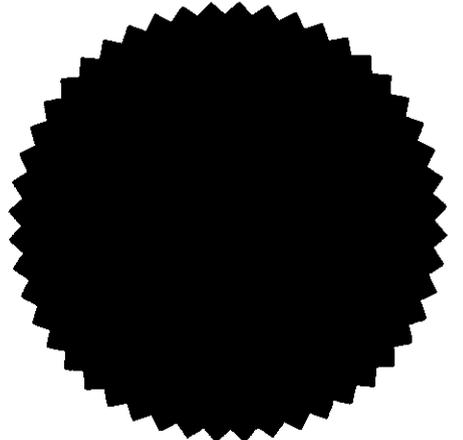
I, Asha Raut, Age 46, Deputy Commissioner, (Solid Waste Management Dept) Pune Municipal Corporation do state on solemn affirmation that what is stated on running paragraphs is true and correct to my own knowledge and belief.

Solemnly affirmed at Pune

On 01st day of April, 2023

Ryarg
Advocate for PMC Respondent No.1

Asha Raut
ASHA RAUT
Deputy Commissioner
Solid Waste Management
Pune Municipal Corporation



BEFORE ME

Takawale
V. S. TAKAWALE
ADVOCATE & NOTARY
NOTARY GOV. OF INDIA
Regd. No. 22204
Exp. Dt.: 10/03/2025

- 1 APR 2023

Noted & Registered
At Sr.No. 0-612/2023

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