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**BEFORE THE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE) PUNE**

**MEMORANDUM OF APPLICATION**

**(Under Section 14, 15, 18 & 20 of the National  
Green Tribunal Act, 2010)**

**ORIGINAL APPLICATION NO. 121 OF 2023**

(Diary No.2704138003482023)

**BETWEEN**

Smt. Lalita Sandip Shinde ...Applicant  
(Deshmukh)

Vs.

Chief Executive Officer, ...Respondents  
Trimbakeshwar Municipal Council  
& Ors

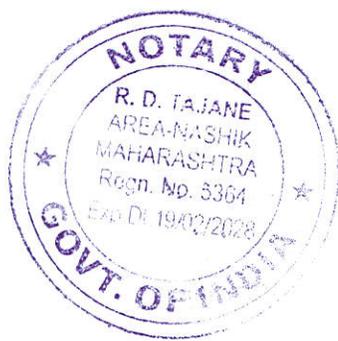
**Joint Objections to the Interim Report dated  
08.01.2024 as well as Detailed Report filed by the  
Joint Committee on behalf of the Applicant**

I, Smt. Lalita Sandip Shinde (Deshmukh), Age: 49 years, Occ.: Social Worker, R/o.: Patankar Sankul, Pach Aali, Taluka:- Trimbakeshwar, District:- Nashik – 422 212 the Applicant abovenamed, do hereby solemnly affirm and declare as under :

1. I am the Applicant in the present OA, and as per order 26 September 2023 Hon'ble Tribunal was pleased to constitute a joint committee to

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visit the site and spot in question & after informing the applicant about the same submit a report as to whether any construction is going on in the area mentioned in the original application and whether any permission has been granted for the same.

2. In furtherance of the said order, the committee was supposed to submit its report within a stipulated time however on 8th January 2024 the committee submitted an interim report and sought some time to submit a detailed report
3. The detailed report was eventually submitted by the committee and the same was served upon the applicant on 12th of April 2024. The Applicant has perused both the reports providing is providing her objections on the same hereinbelow.
4. The interim report filed by the joint committee does not really require much of a reply as it was only made in order to seek some time to file detailed report. However, it is necessary to refer to paragraph 9 of the interim report where it has been stated that *"it is also humbly submitted that recently Rs 18 lakh has been sanctioned from dpdc for demarcation of Eco sensitive zone under the forest department land situated in Trimbakeshwar and the demarcation*

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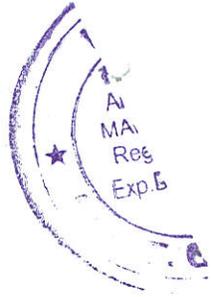


*work is under process joint committee is of the opinion that the state progress. Therefore, the Joint Committee is of the opinion that the said process after completion would also help in clarifying many apprehensions of the applicant"*

The applicant was initially pleased to have read this paragraph of the interim report as the committee was going to consider all the apprehensions of the applicant. However, unfortunately, the Detailed Report does not refer to this aspect at all.

5. It is necessary to point out that it was mentioned in the ordered dated 26 September 2023 and it was also part of the arguments advanced before this Hon'ble Tribunal that the Applicant is apprehensive of the construction / illegal excavation / mining activities as well as extraction of sand at the foothills of Brahmagiri. The applicant has also mentioned the construction is happening both at the front as well as the back side of the Brahmagiri Hills.
6. It is therefore stated that the applicant was of the opinion that as and when she points out the necessary illegal activities going on in the region especially those which are harmful for the environment and to prevent the damage to the ecosystem of Brahmagiri Hills, it will be

  
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taken into consideration. In fact during the first & the only visit of the Joint Committee, when the Applicant had attempted to show various places where according to Applicant illegal mining was going on, the committee had refused to look at the other illegal activities such as mining etc by referring to the order dated 26 September 2023 passed by this Hon'ble Tribunal and stated that the order only refers to construction. This fact was brought to the notice of the Hon'ble Tribunal on hearing dated 10th January 2024, this Hon'ble Tribunal was therefore kind enough to give that clarification in paragraph 7 and 8 of the order stating that the committee would give a detailed report on any illegal activity that is going on and submit a full fledged report on the same.

7. It is therefore stated that in terms of the relevant orders of this Hon'ble Tribunal, the committee was expected to give a detailed report on all illegal activities especially the activities that could harm the environment and ecology of The Brahmagiri Hills.
8. It is stated that the detailed report submitted by the committee does not refer to the various illegal activities pointed out by the Applicant during the joint visit. In fact it is abundantly

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clear from the perusal of the detailed report that the committee went for the survey for preparing of the report only once i.e. on 3rd January 2024. It is pertinent to point out that the paragraph 9 and 10 of the interim report dated 8th January 2024 clearly implied that the joint committee would visit the necessary places again in addition to this as per the Order dated 10th January 2024, the joint committee ought to have visited the necessary places again & accordingly they were supposed to conduct a proper survey to prepare detailed report. However, the detailed report clearly refers to the visit of the joint committee only on 3rd January 2024, making it abundantly clear that the committee failed to visit the various locations referred to in the in the original application and those which the Applicant wanted to show the joint committee after the only survey conducted on 3rd January 2024.

9. It is stated that the applicant had visited the office of the Ld. Collector of Nashik being the nodal agency of the said Committee requesting them to fix a date for visit and survey of various locations where clearly mining activities and illegal construction was going on. The Applicant visited the office of the Collector on various

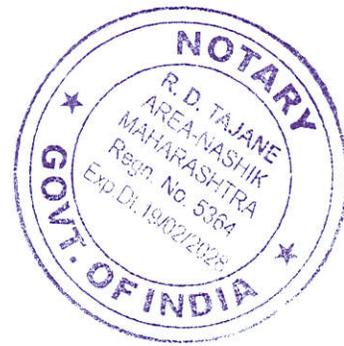
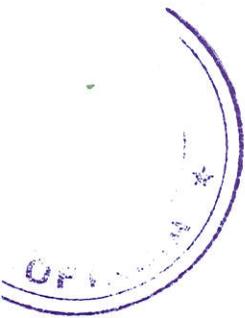
  
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occasions. However, no subsequent survey was carried out.

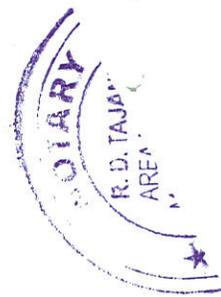
10. It is stated that The brahmagiri Hills is being dug up from both sides heavily and it is nothing but a natural Catastrophe in wait. It is unfortunate in that in spite of the directions in order that 10th January 2024 the joint committee did not convene any further meeting/ date of survey.
11. It is stated that applicant is aware that there are various survey numbers that Applicant could not take information of all of them due to her limited resources. However, once the committee was formed the Applicant could have easily shown them the locations and necessary information could have been obtained about illegal activities including illegal excavation/minning/Constructions. It is clear that majority of the area is a forest land which can be seen even from the detailed report and yet clearly no proper enquiry is conducted into the same.
12. The detailed report refers to certain permissions granted of certain Constructions however there is absolutely no reference to the excavation and mining that is being carried out at the foothills of Brahmagiri.

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13. The joint committee has given its report pertaining to the survey conducted on 3rd January 2024 in paragraph 6 of the detailed report. It is stated that paragraph 6 of the detailed report only talks about the properties in question. The said paragraph no. 6 of the detailed report refers to the 'Draft Notification' attached to the Additional Affidavit filed by the present Applicant & states that since village Trimbakeshwar is not mentioned in the Draft Notification the survey numbers of Schedule B are not covered by the same. The said paragraph further states that the office is trying to verify if the Draft Notifications have become final or not. It is pertinent to point out that whether the notification is final or not the task of the joint committee was to identify whether illegal activities are going on and whether they are hazardous to environment or not. It has been clearly observed by this Hon'ble Tribunal in its first order that the applicant not able to showcase the exact area in writing where the illegal mining activities are going on near the foothills of Brahmagiri. However, eventually based on the draft notifications, the Joint Committee was constituted. Therefore, it was the responsibility of the joint committee to

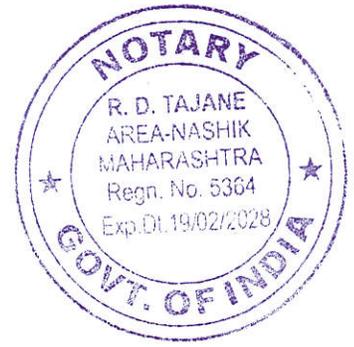
  
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identify and see exactly in what context or to what effect the damage to environment is being caused or not. However, the entire report filed by the joint committee in the month of April only refers to their one visit in the month of January 2024 and it simply States that wherever construction is carried out permissions are granted.

14. With respect to property is mentioned in Schedule A, the detailed report clearly States that properties mentioned there in are pertaining to the village Talegaon and it's not mentioned in Draft Notification. The report further says that the Applicant could not show them any specific survey or Gat number to the Joint Committee. It is stated that this is a completely false statement the Applicant on 3rd January 2024 was also pointing out various locations mentioned in schedule A at which time the committee refused to take a look at it stating that the order of 26 September 2023 is only pertaining to the construction. It is clear that on 10th January 2024 the applicant was given opportunity to show all the possible places where according to applicant environmental hazard is being caused. However, the joint committee thereafter never

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convened any further surveys and simply gave the present detailed report.

15. The Joint Committee gave similar report with respect to properties mentioned in Schedule B , the report refers to construction permissions being granted in the areas however none of those permissions are attached to the report. Nonetheless, the report is still silent on the facts as to whether permissions granted for construction are exceeding their limits and are causing trouble to the foothills of Brahmagiri and whether it can affect the environmental well being of the region.

16. The report also refers to Schedule C and D and simply states that in Schedule C the construction is being done by building and construction department of Maharashtra government. As far as Schedule D is concerned, the report States the Applicant did not show any specific location to the committee. It is stated that the applicant tried to show various locations while the survey dated 03.01.2024 was being conducted however the applicant was not paid any attention to, by stating that the order dated 26 September 2023 does not require the committee to look at anything but illegal construction. Even after the order 10

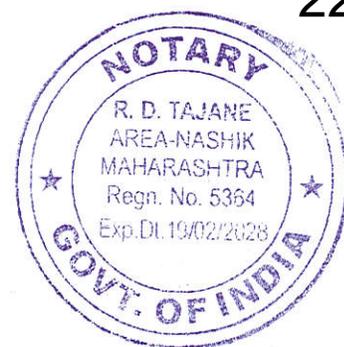
  
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January 2024 the Applicant made various visits to the office of Ld. Collector however the applicant was absolutely not entertained there.

17. The Joint Committee based on the survey conducted on 3rd January 2024 has given opinion in three small paragraphs. In paragraph 1, it is stated that "*Trimbakeshwar village is not a declared Eco sensitive zone and therefore the Applicant may provide the copy of final draft notification*". It is stated that the Applicant has not filed the president Original Application with respect to a private land or Applicants own land. The Applicant has filed the original application even though area or persons are not mentioned clearly ( due to limited resources of the applicant), the Applicant has referred to the draft notifications and based on a prima facie analysis of the same this Hon'ble Tribunal had passed an order dated 26 September 2023. The joint committee had all the powers to themselves verify if the notifications are final or not an irrespective of the fact whether the notification declaring specifically Trimbakeshwar as Eco sensitive zone is final or not. The joint committee ought to have visited all the spots that Applicant was showing and incorporated the necessary details

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of the same in their report including the fact about how the environmental impact of activities going on in that region may cause to the ecology of the region.

18. The Paragraph 2 of the opinions says the construction going on at various places shown by the Applicant are being done with the permission of the Trimbakeshwar Municipal Council. However none of these permissions are attached and it is not made clear whether the construction so carried out or being carried out is affecting the foothills of The brahmagiri or not.

19. The paragraph 3 of the said opinion is quite interesting it says that "*the forest department is the agency regarding any violation of rules regarding building works in the rural area the forest department has also been informed and kept aware of any works going on in the area*" therefore clearly the joint committee has not verified whether construction that is being done in the forest area had sought any permission of the forest department or not as the entire report is silent about it. The fact that the report mentions "*department has also been informed*" clearly appears to be a disclaimer stating that the forest department

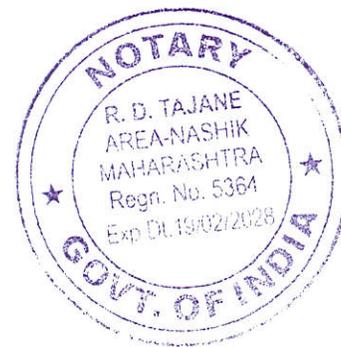
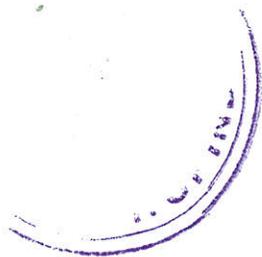
  
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should look into it. The Applicant states that the Applicant has no concern with the fact that if construction activities that are being carried out are done so with or without the permissions or can be regularized or not. The important point that the Applicant is trying to agitate is that the brahmagiri foothills area is clearly been dug up & clearly illegal mining and sand extraction activities are going on and the entire report is completely silent about it. It is pertinent to point out that in spite of the fact that the report says that construction permissions are there etc, the detailed report no where states there is no illegal mining construction or sand extraction the foothills of the brahmagiri.

20. The paragraph 10 to 13 of the Additional Affidavit filed by the Applicant, she has stated & admitted that she does not have the entire data including names of the persons who are carrying out construction activities as well as the exact number survey numbers however the schedule of the property described in the original application was clear enough to identify the problem of illegal activities happening at the foothills of the brahmagiri. However, the interim report as well as a detailed report

  
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provided by the joint committee is clearly superficial in the nature it does not give any details of the permissions granted.

21. It is stated that this Hon'ble Tribunal in the order dated 10th January 2024 has clearly stated that *"we would like a detailed report from the joint committee if any illegal activities are going on even that may be taken into consideration by them and full fledged report shall be submitted by the joint committee within a period of two months from today"* clearly The detailed report submitted by the joint committee is not full fledged.
22. It is submitted that the joint committee did not give any opportunity to the Applicant to show them places according to the applicant illegal excavation/ sand extraction is going on. The joint committee conducted superficial survey on 3rd January 2024 and thereafter did not visit on any of the locations mentioned by the applicant in the original application and absolutely did not pay attention to the applicant whenever applicant requested for subsequent visits.
23. It is therefore prayed that the joint committee may be directed to conduct a proper survey especially in the locations where

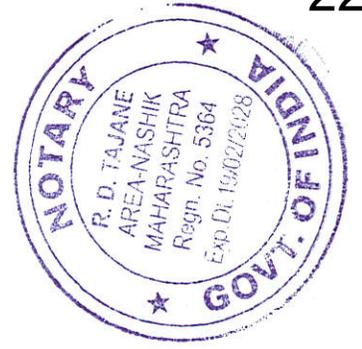
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according to Applicant, brahmagiri Hills are being destroyed and identify those locations and submit a detailed/ full fledged report fairly and in an unbiased manner.

24. The applicant has used the words "fairly" and in "an unbiased manner" responsibly as Applicant was never properly attended by the joint committee, the joint committee was established by this Hon'ble Tribunal to identify the damages to the environment anticipated by the applicant and prepare a detailed report. However, the entire demeanor of the joint committee on 3rd January 2024 as well as the report is as if the joint committee is filing reply to some allegations/averments made by the Applicant and only to oppose her. It was the duty of the joint committee to identify the locations where clearly Brahmagiri Hills are being tempered, if the joint committee was of the opinion that applicants apprehension is incorrect, the report could have stated that there are no Constructions/ illegal extraction /excavation going on at the foothills of the brahmagiri from both the sides.
25. The applicant has filed the present original application only in order to preserve The brahmagiri Hills as any environmental

  
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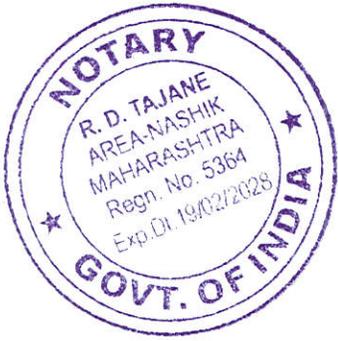
damage which may go unnoticed in the said region may cause unprecedented environmental catastrophe.

26. I therefore state that in the light of my reply and after perusing the detailed report this Tribunal may kindly pass necessary directions to join committee to conduct proper survey. I further state that in the event this Hon'ble Tribunal is of the opinion that the report filed by the Joint Committee is correct in that case in necessary directions may be issued to the concerned respondent to fix a timeline on finalizing the Draft Notifications about the Western Ghats so that the brahmagiri region can be saved.

DEPONENT

Whom personally know  
 and is entitled to  
 solemnly affirmed before me

  
**RAVINDRA D. TAJANE**  
 Advocate & Notary  
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**VERIFICATION**

I, the above-named deponent do hereby state on solemn affirmation that the contents of my above Affidavit are true and correct to my knowledge and nothing material has been concealed therefrom.

Verified at Nashik on this      day of September, 2023

**IDENTIFIED BY**

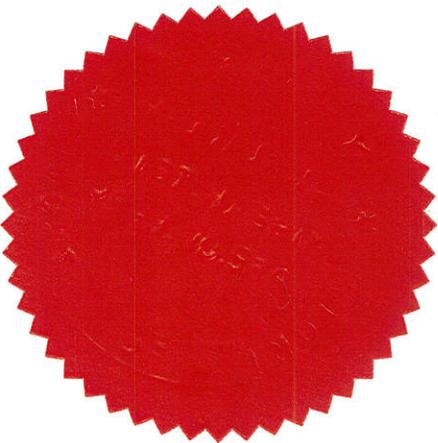
(Adv. L.R. Ddhekar)  
Advocate for the Applicant

*[Handwritten signature]*

DEPONENT

Adhaar No - 98846427963)

*[Handwritten signature]*



Solemnly affirmed before me  
by *S. S. Shinde, R/o Nashik*  
Who is identified by *Adv. L. R. Ddhekar*  
Whom personally know *R/o Nashik*

*[Handwritten signature]*  
**RAVINDRA D. TAJANE**  
Advocate & Notary  
7/1, Maruti Chamber's, District - Nashik.

<b>NOTARY</b>	
NOTED & REGISTERED	
at Serial No. ....	<i>4900/2023</i>
DATE: .....	<i>26/06/24</i>
THIS DOCUMENT	
Contains Pages.....	<i>016</i>