

BEFORE THE NATIONAL GREEN TRIBUNAL**WESTERN ZONE BENCH AT PUNE****ORIGINAL APPLICATION NO. 65 OF 2021****IN THE MATTER OF:**

SARANG YADWAKAR...

...APPLICANT

VERSUS

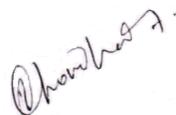
STATE OF MAHARASHTRA & ORS...

....RESPONDENTS

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THROUGH

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BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
ORIGINAL APPLICATION NO. 65 OF 2021

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JOINT REJOINER ON BEHALF OF THE APPLICANT TO THE
REPLIES FILED BY RESPONDENT NO.2 & 6

MOST RESPECTFULLY SHOWETH:

1. The above mentioned Application was filed by the Applicant before this Hon'ble Tribunal under Section 14 read with Section 20 of the National Green Tribunal Act, 2010 (*hereinafter "NGT"*) raising the substantial question related to environment arising out of failure of Central Pollution Control Board (*hereinafter 'CPCB'*) in formulating guidelines for preparation of State Action Plans by 2019 as per the National Clean Air Programme (*hereinafter "NCAP"*), failure of State Pollution Control Boards ('SPCB') of Maharashtra and Gujarat in formulating 'Preliminary State Action Plan for Air Pollution' by 2020 as envisaged in the National Clean Air Programme ("NCAP"), thereby violating the provisions of the Air (Prevention and Control of Pollution) Act, 1981.
2. That the National Clean Air Programme (NCAP) is a national-level strategy launched by the Ministry of Environment, Forests, and Climate Change ("MoEFCC") in 2019. It formulated goals to improve the air quality at both regional and urban scale in India. NCAP emphasizes on comprehensive mitigation strategies, as well as envisages augmenting and strengthening an effective ambient air quality monitoring network across the country. Furthermore, NCAP

states the mitigation actions and their stringent implementation for prevention, control and abatement of air pollution. One such action is the collaborative and participatory approach involving State Governments, Local bodies, relevant Central Ministries and other Stakeholder forming the crux of the programme, and accordingly, mandates that CPCB along with MoEFCC is to formulate guidelines for the preparation of State Action Plans ("SAP") by 2019 and thereafter each State Pollution Control Board and State Government is to formulate and implement "SAP" by 2020. That despite these stated objectives, CPCB, MoEFCC, SPCBs as well as every State Governments have failed in formulating and implementing the SAP within the stipulated timeframes, i.e., by 2019 and 2020 respectively

3. That the present rejoinder is being filed in response to the affidavits filed by Respondent No.2, and 6 and i.e. Maharashtra Pollution Control Board and Central Pollution Control Board respectively. At the outset, the Applicant denies various statements and averments made and nothing is admitted unless specifically admitted or is part of the record. The Applicant reiterates all the facts and submissions made in the Application to be true and correct and the same may be read as part of the instant rejoinder and are not all being repeated for the sake of brevity.

REJOINDER TO THE REPLY FILED BY RESPONDENT NO.2,

MAHARASHTRA POLLUTION CONTROL BOARD

4. That the Reply affidavit dated 13.12.2022 filed by the Maharashtra Pollution Control Board (*hereinafter "MPCB"*) only focus on the "City Specific Clean Air Action Plans" that have been prepared and rolled out for implementation of 19 non-attainment cities in State of Maharashtra. It is pertinent to note that under chapter 7 of the NCAP, Para 7.6 mandates the formulation of city specific air quality management plan for non-attainment cities and Para 7.7 categorically mandates the formulation of State Action Plan for control of Air

Pollution, with collaborative, participatory approach involving State Government. Therefore Para 7.6 and Para 7.7 mandates distinctive plans under the NCAP. In para 4 of the reply affidavit, the MPCB relies on an NGT order dated 08.10.2018 in OA No. 681/2018 (***In Re: News item published in "the Times of India" authored by Shri Vishwa Mohan titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15"***), where directions were issued for the preparation of Action plans for the 124 Non-Attainment cities. The Applicant submits that, the Order dated 08.10.2018 in OA No. 681/2018 deals with only few parameters that accelerate the air pollution and the remedial measures to mitigate the same, whereas the present petition extensively pertains to compliance of the comprehensive State Action Plan for the mitigation of air pollution as mandated by the NCAP under para 7.7.

5. That furthermore, in Para 11 of the Reply affidavit, states that the State Air Action Plan is prepared and submitted to the CPCB on 28.07.2022, a copy of the letter bearing No./MPCB/JDCAPC/StateActionPlan/TB/B-0022 was submitted however, no action plan was submitted by the MPCB or attached along with the annexure II. Therefore the contention that MPCB prepared and submitted is not acceptable.
6. That it is submitted that the MPCB has failed to come up with the State Action plan within the timeline as mandated under the Appendix VI, Para 1.13 which states *1.13.2 that State action plan for air pollution to be taken up for implementation by the state government and city administration by 2020 by State Governments*. Furthermore, MOEF & CC issued an indicative template to the concerned State Government Authorities to share the completed/ filled up template by November 30, 2021, for which the MPCB again failed to adhere. Therefore, it is submitted by the Applicants that the contentions raised by the MPCB is not true or relevant and there is complete inaction on

the part of them in formulating the State Action Plan for the State of Maharashtra as mandated under the NCAP.

**REJOINDER TO THE REPLY FILED BY RESPONDENT NO.6,
CENTRAL POLLUTION CONTROL BOARD**

7. That the averments made in para 5 of the Reply Affidavit dated 20.01.2022 filed by the CPCB states that the CPCB has shared an indicative template for the preparation of the State Action Plan and has also conducted meeting with the National Knowledge Network to discuss the said template for the preparation of the State Action Plan. That this submission of the CPCB clearly shows that till date no State Action Plan has been formulated as per the specified timeline of 2019, which is in clear non-compliance as mandated under the NCAP. Furthermore, in Para 6 it is submitted by the CPCB that there is a delay in formulation of guidelines for the preparation of the State Action Plan due to the Covid- 19 pandemic situation in the country. It is submitted by the Applicants that this contention is vague and false. The guideline for preparation of State Action Plan was prepared by CPCB by 2019 and the COVID -19 Pandemic had hit the country in 2020, with the first Covid-19 case hit in Kerala on January 27, 2020 and the official initiation of lock down started with a Janta Curfew (a voluntary approach) on 22nd March, 2020. Hence the argument of Covid-19 Pandemic is erroneous should not be accepted while it is coming from CPCB, who was supposed to formulate the guidelines for the preparation of State Action Plans by 2019 as specified in NCAP.
8. That the reply Affidavit solely focus on the "City Specific Clean Air Action Plans" that have been prepared and rolled out for implementation in 124 non-attainment cities. They simply stated that the National Clean Air Programme ("NCAP") is being implemented in 124 non-attainment cities through the City Specific Action Plan. The Applicant here submits that the contentions raised by the CPCB is not relevant at all as it does not justify the inaction by the CPCB to

formulate the guidelines for the preparation of the State Action Plan by 2019. The NCAP Timeline as in Appendix VI, Para 1.13, specifically requires the following:

1.13.1 - A "Preliminary State Action Plan for air pollution" to be formulated for all the 23 states, which harbour 102 non-attainment cities by 2020 by SPCBs, CPCB and MoEFCC;

1.13.2 - State action plan for air pollution to be taken up for implementation by the state government and city administration by 2020 by State Governments;

1.13.3- The guidelines for the preparation of the state action plan to be formulated by 2019 by MoEFCC and CPCB.

9. That as per the above mentioned provisions, the "Preliminary State Action Plan" under Para 1.13.1 is to be formulated by the relevant State Pollution Control Boards along with Central Pollution Control Board and Ministry of Environment, Forest and Climate Change by 2020, while implementation thereof envisioned in Para 1.13.2 is to be undertaken by State Governments by 2020 and under Para 1.13.3 the guidelines for the preparation of the "State Action Plan" is to be formulated by the Central Pollution Control Board along with Ministry of Environment, Forest and Climate Change by 2019. However, the Central Pollution Control Board and the Ministry of Environment, Forest and Climate Change have clearly failed in formulating the guidelines for the preparation of the "State Action Plan" within the specified timeframe i.e., 2019. Thus, it is submitted that the reply dated 04.10.2021 filed by the CPCB clearly makes every possible attempt to shift the focus of this Hon"ble Tribunal from its failure to prepare the State Action Plan and the City Specific Action Plan, which are two completely different plans mandated under the NCAP.
10. That in the light of the contentions raised by the Applicant herein, the Original Application may be allowed.

11) Pass any other order as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case.



APPLICANT

THROUGH

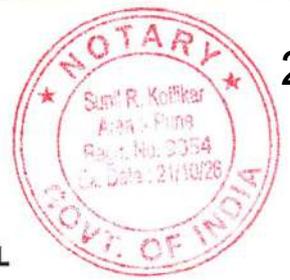


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AFFIDAVIT

I, Sarang Yadwadkar, aged about 63 years, R/o A-9, Pradnyangad, Sinhgad Road, Pune- 411030 do hereby solemnly affirm and declare as under:

1. That I am the Applicant in the above titled Application and I am conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the contents of the accompanying Application are true and correct and nothing material has been concealed therefrom.

[Signature]
DEPONENT
16/1/23

VERIFICATION

Verified on this 16th day of Jan 2023 that the contents of the present Affidavit are true and correct to my knowledge and belief and nothing material is concealed therefrom.

[Signature]
DEPONENT
16/1/23



BEFORE ME
[Signature] 16/1/23
SUNIL R. KOTLIKAR
NOTARY, GOVT. OF INDIA
PUNE DISTRICT (MAHARASHTRA)
REGD. No. 9054

