

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION NO.168 OF 2023 (WZ)**

Pratap Lal Teli

... Applicant

Versus

SEIAA, Environment Department

Govt. of Maharashtra & Ors.

... Respondents

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION NO. 168 OF 2024 (WZ)**

Pratap Lal Teli ... Applicant
Versus
SEIAA, Environment Department
Govt. of Maharashtra & Ors. ... Respondents

**LIMITED PRELIMINARY AFFIDAVIT ON BEHALF OF
RESPONDENT NO.6**

I, Pragati Mehra, an adult and Indian Inhabitant, authorised signatory of the Respondent No. 6 and having my office address at Raheja Tower, Plot No.C-30, Block 'G', Bandra Kurla Complex, Bandra (East), Mumbai 400051, do hereby solemnly affirm and state as under:-

1. I am the authorized representative of Respondent No. 6. I have read and familiarized myself with the papers and proceedings in the captioned matter. I am conversant with the facts and circumstances of the present case and am able and competent to depose to the same from facts to my personal knowledge and records maintained by Respondent No. 6.
2. I have perused a copy of the captioned Application ("said OA") and am filing this Limited Preliminary Affidavit inter-alia raising preliminary objections and opposing the grant of any reliefs in favour of the Applicant as prayed for in the said OA and to place on record the true and correct facts of the matter that will enable this Hon'ble Tribunal to pass appropriate orders.
3. At the outset, I deny each and every allegation, contention, submission and insinuation made by the Applicant in the said OA along with all Exhibits and documents referred to therein, which is contrary to and/or inconsistent with what is set out herein, and nothing contained therein is



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or should be deemed to be admitted by Respondent No.6 for want of specific traverse or otherwise. This Affidavit is not a detailed response to the said OA and does not traverse the said OA paragraph-wise. I crave leave to file further detailed Affidavit(s) setting out the true and correct facts of the matter and dealing with the said OA paragraph-wise as may be required and/or as I may be advised.

4. At the further outset, I submit that the said OA deliberately obfuscates and jumbles up completely distinct and independent regulations and compliances required of this Respondent and has incorrectly jumbled and mixed up different and distinct regulations / compliances under the same heading and sometimes, in the same paragraph and sentence, with the sole motive and intention to misguide and mislead this Hon'ble Tribunal in the adjudication of the present case. For instance, the said OA has mixed up the concepts of open space requirement and number of trees to be planted. It is respectfully submitted that the Applicant has, deliberately, with mischievous and oblique motive, not disclosed true and correct facts and has suppressed vital and relevant facts which are germane in deciding the issue at hand. Without prejudice to the above, I say and submit that the said OA is not maintainable, grossly misconceived and ought to be dismissed in *limine* with costs.
5. It is respectfully submitted that through vague statements and loose drafting, the said OA attempts to obfuscate the Applicant's real challenge, i.e. to Regulation 27 of DCPR 2034. It is respectfully submitted that Regulation 27 of DCPR 2034 permits provision of the mandatory R.G. in the manner as stated therein. The said regulation and DCPR 2034 itself, are in full force and effect and have not been set aside by any competent Court of Law. Inasmuch as the said OA prays *inter-alia* for requiring Respondent No. 6 (at its project which is the subject property of the said OA) to undertake plantation of trees on mother earth / ground and that the same cannot be provided at the podium level, though this Respondent has provided R.G. on mother earth and the



podium level (which is permissible in Regulation 27 of DCPR 2034), it is clear that the said OA is really a challenge to Regulation 27 of DCPR 2034.

6. I say that this Respondent's development and provision of Recreation Ground (at its project) is in compliance of Regulation 27 of DCPR 2034. The said regulation is in full force and effect and is binding law and is duly complied with by this Respondent. Thus, the challenge in the said OA viz. to Regulation 27 of DCPR 2034, is not maintainable before this Hon'ble Tribunal. It is settled law that this Hon'ble Tribunal does not have jurisdiction to adjudicate upon the vires of any statutory provisions or of any subordinate legislation and I crave leave to refer to and rely upon the authorities in this regard. It is equally settled that the DCR/DCPR are framed by the State in exercise of its powers under Section 22(m) of the Maharashtra Regional and Town Planning Act, 1966 ("MRTP Act"), and form part of the 'Development Plan' and hence are not amenable to judicial review. The issues emanating from regulations of DCPR/DCR and their implementation, cannot be considered or adjudicated by this Hon'ble Tribunal.
7. Without prejudice to the aforesaid, it is respectfully submitted that the said OA is barred by limitation and ought not to be entertained by this Hon'ble Tribunal. A perusal of the allegations reflect that the Applicant is aggrieved by approvals sanctioned in 2015 i.e. 2015 Permission. Without prejudice, admittedly, the cause of action, if any, entitling the Applicant to seek such reliefs accrued to the Applicant on the date of the issuance of the 2015 Permission i.e. 18th June 2015 and the so-called alleged violation of the same.
8. Under Section 14(3) of the National Green Tribunal Act, 2010 ("NGT Act"), the limitation period for filing the said OA is a period of 6 (six) months from the date on which the cause of action first arose. The said period of 6 (six) months commenced on 18th June 2015 and expired in



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or around 18th December 2015. Admittedly, the Applicant filed the said OA only in or around 29th July 2024, i.e. beyond the applicable limitation period prescribed under Section 14(3) of the NGT Act. On this ground alone, the said OA is barred by limitation and ought not to be entertained by this Hon'ble Tribunal.

9. Even otherwise, the said OA suffers from gross delay and laches for the reasons more particularly set out hereinbelow and ought to be dismissed. It is respectfully submitted that this Hon'ble Tribunal does not have the subject-matter jurisdiction to adjudicate upon the present dispute. The Applicant is *inter-alia* required to satisfy the two-pronged test set out in Section 14 of the NGT Act in order for this Hon'ble Tribunal to exercise jurisdiction. Under Section 14 of the NGT Act, the Applicant is required to show that there are substantial questions relating to environment which arise in the present matter and that such questions arise out of the implementation of the enactments specified in Schedule I to the NGT Act.

10. At the outset, the Applicant has failed to raise any substantial questions relating to environment which merit adjudication by this Hon'ble Tribunal. In any case, a perusal of the captioned Application clearly demonstrates that the present disputes / questions are camouflaged as allegedly relating to environment, when in fact, they relate to the implementation of the provisions of the Development Control Regulations, 1991 and the Development Control & Promotion Regulations for Greater Mumbai, 2034 in relation to real estate projects. I say and submit that the Development Control Regulations are referable to Section 22(m) of the MRTP Act, 1966. I further say and submit that under the MRTP Act, 1966, any matter concerning / relating to the implementation of the provisions of the Development Control Regulations, 1991 and/or the Development Control & Promotion



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Regulations, 2034 falls within the exclusive domain of the jurisdictional planning authority and not this Hon'ble Tribunal.

11. Admittedly, the Development Control Regulations, 1991, the Development Control & Promotion Regulations, 2034 and the MRTP Act, 1966 are not the enactments which are specified in Schedule I to the NGT Act. The Applicant has wholly failed to establish as to how this Hon'ble Tribunal has the subject-matter jurisdiction relating to the implementation of the provisions of the Development Control Regulations, 1991 and/or the Development Control & Promotion Regulations, 2034 and/or the MRTP Act, 1966. On this ground alone, I say and submit that this Hon'ble Tribunal does not have subject-matter jurisdiction to adjudicate upon the present dispute.

12. It is also pertinent to note that most of the purported issues / allegations, with respect to the property which is the subject matter of the said OA are already the subject matter of pending Original Application No. 28 of 2023 ("OA No.28 of 2023") filed by one Mr. Santosh Daundkar before this Hon'ble Tribunal and presently sub-judice. In light of the fact that no interim reliefs could be obtained by the applicant in the OA No. 28 of 2023, the said OA is filed in relation to the subject property, with a malafide intention to misguide this Hon'ble Tribunal and to the cause deliberate wrongful loss to Respondent No. 6, who has carried out / is carrying out the work of the project on the subject property, solely in accordance with law and after obtaining all relevant permissions / sanctions and approvals from the concerned authorities. It is evident that the said OA appears to be nothing but a fallacious attempt to create a fresh cause of action, which in the present case, does not exist at all. A tabulated statement indicating similarities in the allegations and submissions by the applicant in OA No.28 of 2023 and the allegations in the said OA are annexed and marked as **EXHIBIT "A-1"** hereto. A copy of the OA No.28 of 2023 is annexed and marked as **EXHIBIT "A-2"** hereto.



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13. It is submitted that the said OA is substantially based on the alleged case of the Applicant that the plantation of trees is required to be on mother earth / ground and that the same cannot be provided at the podium level. It is submitted that every ground raised in the captioned OA is based on the purported contention of the Applicant as to plantation of trees on mother earth / ground level. Without prejudice to anything set out herein, it is respectfully submitted that the Applicant has attempted to cause this Hon'ble Tribunal to adjudicate on issues in the said OA which are not only sub-judice before the Hon'ble Supreme Court of India but also before this Hon'ble Tribunal.
14. The Applicant has invited this Hon'ble Tribunal to adjudicate on a matter that is directly, substantially and materially under consideration by the Hon'ble Supreme Court of India in *Sagar Devre & Anr. v. NAREDCO West Foundation & Ors.* [SLP (Civil) Diary No.11843 of 2023] and *CREDAI-MCHI v. State of Maharashtra & Ors.* [Civil Appeal Diary No.19266 of 2024]. A brief background to recapitulate the events that led to the institution of the petition in *Sagar Devre* supra and *CREDAI-MCHI* supra is appropriate.
- (i) In the matter of *Anil Tharthare v. Secretary, Environment Department of the State of Maharashtra & Ors.* [Appeal No.22 of 2016 (WZ)], this Hon'ble Tribunal passed the Order dated 13th September 2022 holding that recreation ground has to be provided on the ground which should not only be open to the sky, but must also enable plantation of trees and directed that if the project proponent fails to provide recreational ground in such manner, the project may not be allowed to proceed. The said Order passed in the matter of *Anil Tharthare* supra was on the basis of the judgement of the Hon'ble Supreme Court of India in the case of *MCGM & Ors. vs. Kohinoor CTNL Infrastructure Co. Pvt. Ltd. & Anr.* [(2014) 4 SCC 538]. The Order passed by



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this Hon'ble Tribunal is an order passed in personam and not in rem. It is not and cannot be treated as an order / judgement in rem and be construed as general direction that in all developments, recreation ground has to be provided at ground level only.

- (ii) Thereafter, the records indicate that this order was communicated to the Respondent No.1 SEIAA and resultantly, the SEIAA deferred numerous proposals received by it for environmental clearance.
- (iii) Being aggrieved by the inaction of the SEIAA, NAREDCO West Foundation filed Writ Petition (Lodging) No.35671 of 2022 before the Hon'ble Bombay High Court. By the Judgment and Order dated 27th January 2023, the Hon'ble Bombay High Court, after carrying out a detailed analysis of the decision of this Hon'ble Tribunal in *Anil Tharthare* (supra), allowed the said Writ Petition with inter-alia the following observations:
 - (a) That the decision of this Hon'ble Tribunal in the case of Anil Tharthare (supra) and the decision of the Hon'ble Supreme Court in Kohinoor CTNL (supra) were rendered in the context of the mandatory provisions of Regulation 23 of the Development Control Regulations, 1991;
 - (b) That the provisions of the Development Control Regulations, 1991 stand superseded/ replaced by the provisions of the Development Control & Promotion Regulations for Greater Mumbai, 2034;
 - (c) That the provisions of Development Control Regulations, 1991 relating to the exact location for the



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provision of recreational open space have undergone a change pursuant to the Development Control & Promotion Regulations for Greater Mumbai, 2034;

- (d) That the Order dated 13th September 2022 passed by this Hon'ble Tribunal cannot be regarded as a blanket prohibition against the consideration of development approvals by the Respondent No.1;
- (e) That Respondent No.1 is required to take into consideration the provisions of the Development Control & Promotion Regulations for Greater Mumbai, 2034 for granting applicable permissions and clearances; and
- (f) That Respondent No. 1 could not have deferred the grant of permissions relying upon the Order dated 13th September 2022 passed by this Hon'ble Tribunal.
- (iv) It is thus clear that the Hon'ble Bombay High Court's order in *NAREDCO West* supra, has recognised and held that there is a material difference between Regulation 23 of DCR 1991 (which did not envisage provision of mandatory R.G. at any location other than mother earth as interpreted by the Hon'ble Supreme Court of India in *Kohinoor CTNL*) and Regulation 27 of DCPR 2034 (which permits provision of R.G. at podium levels). Moreover, the Hon'ble Bombay High Court directed Respondent No.1 to consider proposals for grant of environmental clearances on its own merits by applying the provisions of DCPR 2034.
- (v) The Hon'ble Bombay High Court's order was assailed in *Sagar Devre* supra wherein by an order dated 8th May 2023, the Hon'ble Supreme Court of India stayed the directions contained



in the Hon'ble High Court's order dated 27th January 2023 and to the best of my knowledge, such stay has continued till date. A copy of the Order dated 8th May 2023 passed by the Hon'ble Supreme Court of India is hereto annexed and marked as **EXHIBIT "B"** hereto.

- (vi) Further, the Order dated 13th September 2022 passed by this Hon'ble Tribunal in *Anil Tharthare* supra, has been assailed by CREDAI-MCHI before the Hon'ble Supreme Court of India, wherein by an Order dated 10th May 2024 the Hon'ble Supreme Court of India has stayed the directions contained in paragraph 8 of this Hon'ble Tribunal's Order dated 13th September 2022 passed in *Anil Tharthare* supra and to the best of my knowledge, such stay has continued till date. A copy of the Order dated 10th May 2024 passed by the Hon'ble Supreme Court of India is hereto annexed and marked as **EXHIBIT "C"** hereto.

15. It is submitted that admittedly, the said issue is pending adjudication and is sub-judice before the Hon'ble Supreme Court in *Sagar Devre* supra and *CREDAI-MCHI* supra. In view of the same, and since the subject matter of OA No.28 of 2023 is directly, substantially and materially under consideration by the Hon'ble Supreme Court of India, this Hon'ble Tribunal has by its Order dated 13th November 2024 also kept in abeyance the adjudication of OA No.28 of 2023 pending the decision of the Hon'ble Supreme Court in the case of *CREDAI-MCHI* supra. A copy of the Order dated 13th November 2024 in OA No.28 of 2023 is hereto annexed and marked as **EXHIBIT "D"** hereto.

16. It is respectfully submitted that since the issues in the said OA are also directly, substantially and materially under consideration by the Hon'ble Supreme Court of India in *Sagar Devre* supra and *CREDAI-MCHI* supra, and also by this Hon'ble Tribunal in OA No.28 of 2023, the adjudication of the said OA cannot proceed and is required to be kept in



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abeyance pending the decision of the Hon'ble Supreme Court in the case of *Sagar Devre* supra and *CREDAI-MCHI* supra. It is respectfully submitted that it is settled law that subordinate courts ought not to continue with proceedings before it when the higher court/ authority is seized of the matter. It is further submitted that in the event the said OA is not kept in abeyance, there is every likelihood of there being diverging and conflicting views on the said issue and the same will result in grave prejudice to Respondent No.6.

17. Further, from a perusal of the said OA, it is aptly clear that the allegations therein are wholly unsubstantiated and untenable. The Applicant is in compliance of the provisions of the DCPR 2034 and the allegations by the Applicant qua this Respondent of non-compliance are denied in its entirety. The Applicant has not made out any case whatsoever, let alone prima facie case, for grant of any reliefs in favour of the Applicant. The Applicant has made false allegations against Respondent No.6 that are completely contrary to the factual status. It is respectfully submitted that this should not be countenanced. Respondent No. 6 is undertaking construction and development on its land in full compliance of all applicable laws, provisions of the DCPR 2034, the approvals and sanctions accorded to it till date, and all the allegations of the Applicant are denied in its entirety.
18. Respondent No.6 has received full occupation cum building completion certificate from the MCGM with respect to its residential building constructed on a portion of the subject property. Respondent No.6 has sold all 133 units in the residential wing and pursuant to sale has handed over possession of 128 out of 133 apartments / units in the said residential building to the allottees / purchasers. Pertinently, the subject property also comprises of a public parking lot which has been constructed by the Respondent No.6 and handed over to the MCGM in the year 2017 and development of the balance portion of the property which comprises of a commercial development which has been



substantially completed and is at a very advanced stage. The Respondent No.6 has incurred costs over Rs. 3500 Crore in respect of the project till date. Respondent No.6 is undertaking construction and development on its land in full compliance of all applicable laws and the permissions, approvals and sanctions accorded to it till date by the relevant competent authorities, and has invested enormous monies into the acquisition and development of the project and has created numerous third-party rights, all of whom would be vitally and drastically affected in case any reliefs are granted to the Applicant.

- 19. The said OA invites this Hon'ble Tribunal to transgress its jurisdiction and to cross all established norms of judicial propriety. For the above reasons, I reiterate that the said OA is not maintainable and ought not to be entertained by this Hon'ble Tribunal and ought to be dismissed with exemplary costs.

Solemnly affirmed at Mumbai
on this 31st day of December 2024

31 DEC 2024



Before Me

For Wadia Ghandy & Co.

Bhau Mehta
Partner

Advocates for Respondent No.6

BEFORE ME

Shane Cardoz

SHANE CARDOZ
Advocate & Notary (Govt. of India)
Reg. No. 16388 B Com, LL B
G3, Clifford House, Kadeshwari Mandir Road
Next to Ganeshi Mandir Chowk, Bandra (W)
Mumbai - 400 050, Mob. 98205 17020
MAH / 3457 / 2002



Notary Register Serial No.	7121/24
Date:	31 DEC 2024

ORIGINAL SEEN & VERIFIED						
AADHR	PAN	ELECTION ID	DRNG. LICENSE	PASSPORT	POA	RESOLUTION
6013 9712 9458						

1) Seen Resolution dt 11/11/2024
11
J



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EXHIBIT "A-1"

Similarities in allegations in the two NGT applications in respect of the same project

Sr. No.	Allegations	References in Original Application No. 28 of 2023	References in Original Application No. 168 of 2024
1.	RG on mother earth and not on podium	Internal Pages 6, 8, 27	Pages 15, 23.
2.	Compliance of Reg.27 of DCR - 2034	Internal Page 12	Exhibit "A-19" @Page 137
3.	Complete De-concretization; 1 meter distance from trunk	Internal Pages 7, 14, 30, 33, 34	Page 7, 16
4.	Plants with heavy foliage, broad leaves, wide canopy with local variety	Internal Pages 7, 10	Page 24
5.	Demolition of podium / basements & stay on construction	Internal Page 8	Page 42
6.	1 tree for every 80 square meter	Internal Page 10	Page 15, 25
7.	Compliance of CBCB guidelines, Green Belt; with consultation of local forest department / agricultural department / local DFO	Internal Page 10	Pages 14, 24, 25, 27, 43
8.	Right to life of citizens	Internal Page 19	Pages 6, 15, 33, 40
9.	Water percolation	Internal Page 35	Page 35
10.	No-Pollution	Internal Page 38	Page 5



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11.	Compliance of NGT Order dated 23.04.2014 in MA No.205 of 2014	Internal Exhibit "A-6" @Page 83	Exhibit "A-23" @Page 144
12.	Compliance of NGT Order dated 23.04.2014 in Appeal No.82 of 2013	Internal Exhibit "A-7" @Page 85	Exhibit "A-24" @Page 146
13.	Compliance of NGT Order dated 29.01.2014 (Rajasthan)	Internal Exhibit "A-9" @Page 91	Exhibit "A-26" @Page 152
14.	Circular of National Capital Territory of Delhi dated 22.7.2019 - on no concretization within one meter of radius of the trunk	Internal Exhibit "A-8" @Page 88	Exhibit "A-25" @Page 149
15.	Applicant's Advocate	Advocate Abha Singh for Santosh Daundkar	Abha Singh & Aditya Pratrapp filed Vakalatanama but NGT website shows- Yogesh Pratap as the Advocate for Pratap Lal Teli.



(14)

EXHIBIT 'A-2'

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING
AT PUNE

MEMORANDUM OF APPLICATION

(Under Sections 14 & 15 of read with section 18 National Green
Tribunal Act, 2010)

APPLICATION NO. 28 OF 2023

BETWEEN:

Santosh Daundkar ... APPLICANT

AND

Member-Secretary, State Level Environment Impact Assessment
Authority and Ors. ... RESPONDENTS

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COMPILATION NO. - 2

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	2016 (WZ), dated 13 th September, 2022, mandating the Recreation Ground to be on the ground to enable plantation.		
2.	Standard Environment Clearance Conditions (annexed as issued vide Office Memorandum dated 4 th January, 2019 for Building Construction Projects which mandate to provide 1 tree per 80 square metres of land area.	'A-2'	52 - 64
3.	Sample Environment Clearance letter which stipulates that trees have to be planted in consultation of the forest or agricultural department.	'A-3'	65 - 75
4.	Regulation 23 of the Development Control Regulations of Greater Mumbai, 1991 (applicable upto 7 th June, 2018) which mandates plantation in RG areas.	'A-4'	76 - 78
5.	Regulation 27 of the Development Control Regulations for Greater Mumbai, 1991 (W.e.f. 8 th June, 2018) which mandates plantation in RG areas.	'A-5'	79 - 82



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6.	Order Dated 23 rd April, 2014 in M.A. NO. 205 OF 2014 for keeping 1 metre radius around the trees.	'A-6'	83 – 84
7.	Order Dated April 23, 2013, in Application No. 82 of 2013, Aditya N. Prasad Vs. Union of India & Ors. For keeping 1 metre distance from the trunk of the trees.	'A-7'	85 – 87
8.	Order of National Capital Territory of Delhi dated 22 nd July, 2019 based on Orders of The National Green Tribunal for keeping 1 metre distance from the trunk of the trees.	'A-8'	88 – 90
9.	Order dated 29th January, 2014 Original Application No. 126/2013 (CZ) (THC) Vijay Saini Vs. State of Rajasthan & Ors related to concretisation of the entire compounds.	'A-9'	91 – 94
10.	Order dated July, 21, 2015 of THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI in Original Application No. 167/2015 - Indian Council for Enviro-Legal Action (ICELA) Vs. Dy. Commissioner & Anr.	'A-10'	95 – 97



	For removing concrete from under the trees.		
11.	Relevant Part of the Supreme Court order dated 17 th December, 2013 in Civil Appeal No. 11150 of 2013 (Municipal Corporation of Greater Mumbai v. Kohinoor CTNL Infrastructure Company Pvt. Ltd. for keeping Recreation Ground on the ground.	'A-11'	98 – 105
12.	5 Examples of the layouts, with supplied illustrations, showing that Recreation Ground has been placed atop the basement slab or a podium slab.	'A-12' (Colly)	106 – 110
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	polluted in weekly world ranking, Delhi not among the worst 10"		
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BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT PUNE

MEMORANDUM OF APPLICATION

(Under Sections 15 of read with section 18 National Green Tribunal Act,
2010)

APPLICATION NO. 28 OF 2023

BETWEEN:

Santosh Daundkar

... **APPLICANT**

AND

State Level Environment Impact Assessment Authority and Others

... **RESPONDENTS**

COMPILATION NO. 1



BEFORE THE NATIONAL GREEN TRIBUNAL SITTING
AT PUNE

(Under Sections 15 of read with section 18 National Green
Tribunal Act, 2010)

APPLICATON NO. 28 OF 2023

BETWEEN:

Santosh Daundkar

... APPLICANT

AND

State Level Environment Impact Assessment Authority, and
Others ... RESPONDENTS

SYNOPSIS

This Application seeks to extend the principle specified by
this Hon'ble Tribunal in Appeal No. 22 of 2016 dated 13th September,
2022, whereby it was held as under:

**“8. In the light of above, we hold that RG has to be
provided on ground to enable plantation.”**

By implication, this would mean that the Recreation Ground cannot
be atop a concrete slab of a basement or a podium, as massive trees of the



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local variety, i.e. tropical trees cannot assume their full biological height, trunk diameter and canopy diameter if placed atop a concrete slab.

This Original Application also seeks further enunciation to the rule prescribed by this Hon'ble Tribunal in various rulings, where it was mandated that a distance of 1 metre has to be kept free of concrete around the skin of the trunk of the tree. In other words, if the trunk diameter is 1 metre, then the pit diameter ought to be 1+1+1 i.e. 3 metre. Accordingly, if concrete is not permitted around 1 m of the tree, by a similar reckoning concrete cannot be permitted under the tree also.

Hence, this Original Application.

LIST OF DATES

DATE	EVENTS
17 th December 2013	The Hon'ble Supreme Court in the case of Kohinoor CTNL mandated that the statutory Recreation Ground in a layout in Mumbai ought to be on the ground so that trees could be planted therein.
13 th September, 2022	Relying on the aforesaid ruling, the Hon'ble National Green Tribunal, mandated that the RG has to be on the ground to enable plantation, and thereupon held that the Recreation Ground atop a basement slab was untenable.



... ..	<p>Under the law of precedents, if any ruling is being applied in a case of a specific violation, then for all other similar violations, identical action is required. This would also be in consonance with Article 14 of the Constitution of India.</p>
... ..	<p>There are several other projects where identical violations have taken place. As an illustration, the Applicant has cited 5 examples and has annexed the layout of these infringing projects. All the violations could only be identified when the relevant authority, having adequate resources and powers, can identify all such violations and take remedial action.</p>
... ..	<p>Accordingly, this Original Application is being filed seeking identical action against all the projects which have done identical violations as has been specific to the said Appeal No. 22 of 2016 as referred to above.</p>



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BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT
PUNE

MEMORANDUM OF APPLICATION

(Under Sections 15 of read with section 18 National Green Tribunal
Act, 2010)

APPLICATION NO. 28 OF 2023

BETWEEN:

Santosh Daundkar

10/37 BIT Chawl, KK Marg,

Mumbai Central, Mumbai 400 008,

TEL: 9821943920)

Email: brbitss@gmail.com

... APPLICANT

VERSUS

1. State Level Environment Impact Assessment Authority

Environment Department

Government of Maharashtra

Mantralaya, Mumbai - 400032

Telephone no: 022-22855082

Email: psec.env@maharashtra.gov.in

2. The Commissioner

Municipal Corporation of Greater Mumbai

Mumbai – 400 001

Telephone no: 022-22620525



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Email: mc@mcgm.gov.in

3. **The Tree Officer,**
Veer Jijabai Bhosle Udyan,
Byculla West, Mumbai – 400027
Telephone no: 022 -24305031
Email : ha01.gardens@mcgm.gov.in



**RESPONDENT 4 TO 14 ADDED AS UNDER VIDE ORDERS OF
THE HON'BLE TRIBUNAL DATED 2ND MAY, 2023**

4. Rustomjee Constructions Pvt. Ltd.

THROUGH:

Chairman and Managing Director

702, Natraj, MV Road Junction,
Western Express Highway, Andheri (East),
Mumbai 400069

Email: cs@rustomjee.com

5. Techno Freshworld LLP,

THROUGH:

The Designated Partner - Anshul Suketu Trivedi

166-A, 6 Narayan Mansion 1st floor,
Dr.Ambedkar Road, Dadar(E)
Mumbai 400014

Email: rajesh.loya@technogroup.co.in

6. Sachiv S. Sahni

Plot No. 7/17,
Khan Abdul Gafar Khan Road,
Worli Seaface, Mumbai
Email: connect@gosharalliance.com

7. Money Magnum Nest Pvt. Ltd.

THROUGH:

Managing Director & CEO

Macrotech Developers Ltd.
Lodha Excelus , NM Joshi Marg,
Mahalaxmi, Mumbai 400 011

Telephone no: 022 -61334400

Email: shares@lodhagroup.com



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8. Suraj Estate Developers Pvt. Ltd.**THROUGH:****Chairperson and Managing Director**

301, 3rd Floor, Aman Chambers,
Veer Savarkar Marg, Opp. Bengal Chemicals,
Prabhadevi Mumbai-400025
Email: suraj@surajestate.com

9. Satra Property Developers Pvt. Ltd.**THROUGH:****Chairman and Managing Director**

Upper basement, Link Corner mall, Off Linking Road Behind
KFC, 24th & 33rd Road, Bandra (w),
Mumbai-400050
Email: info@satraproperties.in

10. Godrej Projects Development Ltd.**THROUGH:****The Secretary**

Godrej One, 5th Floor, Pirojshnagar
Vikroli – 400079
Veer Jijabai Bhosle Udyan,
Byculla West, Mumbai – 400027
Telephone no: 022 -61698500
Email: secretarial@godrejproperties.com

11. Whispering Heights Real Estate Pvt. Ltd.**THROUGH:****The Secretary**

Raheja Tower, Plot No. C-30, Block 'G',
Bandra Kurla Complex, Bandra (E) Mumbai
Mumbai City MH 400051
Email: krsec@kraheja.com



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12. Incline Realty Pvt. Ltd.

THROUGH:*The Secretary*

Commerz, 3rd floor,

International Business Park,

Oberoi Garden City, off W.E. Highway, Goregaon (e)

Email: corporate@oberoirealty.com

13. MIG Realtors & Builders Pvt. Ltd.

THROUGH:*The Secretary*

DB House, General A.K. Vaidya Marg,

Goregaon East,

Mumbai – 400063

*Telephone no: 022 -40778600**Email: info@dbg.co.in*

14. K. Raheja Pvt. Ltd.

THROUGH:*The Managing Director*

Raheja Tower, Plot No. C-30, Block 'G',

Bandra Kurla Complex, Bandra (E) Mumbai

Mumbai – 400051

*Telephone no: 022 -26564000**Email: krsec@kraheja.com*

... RESPONDENTS

(Respondent No. 4 to 14 added vide Order of Amendment to
Original Application passed by the Hon'ble Tribunal dated 2nd

May, 2023)



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**AMENDED ORIGINAL APPLICATION AS PER ORDERS OF
THE HON'BLE TRIBUNAL DATED 2nd MAY, 2023**

1.1 The address of the Applicant is as given above for the service of notices of this Application.

1.2 The addresses of the Respondents are as given above for service of notices of the Application.

1.3 The Applicant above-named, has in the past, taken several issues related to environment and is committed to abiding by his Fundamental Duties as prescribed under Article 51A (g) of the Constitution of India. He is moving this Original Application on substantial questions relating to the environment as under:

1.4 SUBSTANTIAL QUESTIONS RELATED TO ENVIRONMENT:

National Green Tribunal vide its various orders, with reference to trees and RG i.e. Recreation Ground, has mandated as under:

(A) THAT in Appeal No. 22 of 2016 this Hon'ble Tribunal (Copy annexed as ANNEXURE-'A-1') had passed the following order on 13th September, 2022:

*"8. In the light of above, we hold that **RG has to be provided on ground to enable plantation.** SEIAA, Maharashtra has thus to ensure availability of space as per above norms. The area has not only to be open to sky but must also*



(29)

enable plantation of trees. If the PP fails to provide RG as per norms, the project may not be allowed to proceed and till compliance, no third-party rights may be created. SEIAA, Maharashtra may verify facts on the ground and take its decision within one month from today.” (Emphasis supplied).

- (B) THAT the National Green Tribunal in its various orders has directed that there has to be a complete de-concretisation of the width of 1 m around the skin of the trees. Therefore, if the, diameter or the potential diameter, of the trunk of the tree at the ground level is 1 m, then if 1 m is left clear from the skin of the tree, then a pit diameter of 3 m would be required around each tree free of concrete.

In addition to the above, there are further relevant provisions in this respect:

- (A) There is a provision in the standard Environment Clearance conditions dated 4th January, 2019 (ANNEXURE-‘A-2’) in relation to a Building Project that 1 tree of *‘heavy foliage, broad leaves and wide canopy cover of a local variety’* has to be planted on every 80 square metres of area of the plot.
- (B) Further, in Mumbai, as per the existing legal provisions, in any development layout, there is a



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statutory requirement to keep a specific area for Recreation Ground (RG), where tree plantation has to be done as per the *prescribed rate of 5 trees per 100 square metres* of the prescribed area of Recreation Ground in other words, 1 tree per 100 square metres.

Hence, against this backdrop, the 4 critical questions having a substantial bearing on environment are as under:

QUESTION NO. 1:

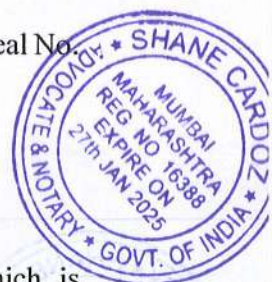
Should not, the ruling given by this Hon'ble Tribunal in abovementioned Appeal No. 22 of 2016, whereby it was mandated to keep Recreation Ground on ground i.e. on mother earth to enable plantation, and whereupon the basement was required to be removed, be applied to all projects which have done identical or similar violations?

QUESTION NO. 2:

Should not this Hon'ble Tribunal, for the purposes of statutory plantation of trees in the requisite manner, order the demolition of all the infringing constructions of basements and podiums which would get *ipso facto* covered by the Order of this Hon'ble Tribunal in the said Appeal No. 22 of 2016?

QUESTION NO. 3:

Can the statutorily mandated tree plantation, which is extremely critical to the environment of Mumbai, and



which ought to bear local variety of tropical trees, which generally grow upto the height of about 80 feet and bearing a large canopy and a trunk diameter of about 1 metre, be done atop a concrete slab?

QUESTION NO.4:

Should not this Hon'ble Tribunal order an immediate stay on the on-going construction where the statutory RG is being placed atop a concrete slab?

1.5 Hence, this Original Application is being filed seeking a resolution of these 4 questions related to environment.

2.0 FACTS IN BRIEF:

2.1 The Applicant, is an Indian Citizen and strives to adhere to his Fundamental Duties as forthcoming under Article 51A (g) of the Constitution of India. Pursuant to such Fundamental Duties, the Applicant has been taking up several issues related to environment with the authorities from time to time. The Applicant being a resident of Mumbai, is also getting adversely affected by a rapid erosion of greenery and lack of plantation as is required under the law.

2.2 In Mumbai, in any layout, there is a statutory requirement of keeping a requisite space for being developed as a garden in any layout. On this garden area, trees have to be planted. This requirement is as under:



(32)

(A) *Standard Environment Clearance Conditions (annexed above as ANNEXURE-‘A-2’) issued vide Office Memorandum dated 4th January, 2019 for Building Construction Projects applicable to projects of the size of 20000 square metres and above:*

“ii. A minimum of 1 tree for every 80 sqm of land should be planted and maintained. The existing trees will be counted for this purpose. The landscape planning should include plantation of native species. The species with heavy foliage, broad leaves and wide canopy cover are desirable. Water intensive and/or invasive species should not be used for landscaping.”

(B) *General conditions in all the Environment Clearance letters stipulating development of Green Belt and Tree Plantation according to Central Pollution Control Board guidelines in consultation with the local forest department or agriculture department (a sample Environment Clearance letter annexed as ANNEXURE-‘A-3’).*

More particularly, the following is the standard condition in all the Environment Clearance letters:

“Green Belt Development shall be carried out considering CPCB guidelines including selection of plant species and in consultation with the local DFO/ Agriculture Department”.





(C) *REGULATION 23 (annexed as ANNEXURE-‘A-4’) of the Development Control Regulations for Greater Mumbai, 1991 (Upto 7th June, 2018)*

“23. Recreational / Amenity Open Spaces.

(1) Open spaces in residential and commercial Layouts

(a) Extent. - *In any Layout or sub-division of vacant land in a residential and commercial zone, open spaces shall be provided as under:*

(i) Area from 1001 SQ.M. to 2500 SQ.M. 15 per cent

(ii) Area from 2501 SQ.M. to 10,000 SQ.M. 20 per cent

(iii) Area above 10,000 SQ.M. 25 per cent

These open spaces shall be exclusive of areas of accesses/internal roads/designations or reservations, development plan roads and areas for road widening and shall as far as possible be provided in one place. Where however, the area of the Layout or sub-division is more than 5000 sq. m., open spaces may be provided in more than one place, but at least one of such places shall be not less than 1000 sq. m. in size. Such recreational spaces will not be necessary in the case of land used for educational institutions with attached independent playgrounds. Admissibility of FSI shall be as indicated in Regulations 35.

....

(f) Tree growth.- *Excepting for the area covered by the structures permissible under (g) below, the recreational space shall be kept permanently open to the sky and*



(34)

accessible to all owners and occupants as a garden or a playground etc. and trees shall be grown as under:-

(a) at the rate of 5 tree per 100 sq.m. or part thereof of the said recreational space to be grown within the entire plot.

(b) at the rate of 1 tree per 80 sq. m. or part thereof to be grown in a plot for which a subdivision or layout is not necessary.

(D) REGULATION 27 (annexed as ANNEXURE-'A-5') of the Development Control Regulations for Greater Mumbai, 1991 (W.e.f. 8th June, 2018)

"27. Layout/Plot Recreational Ground/Open Spaces(LOS) in Layout/Plot

(1) LOS in residential and commercial layouts:

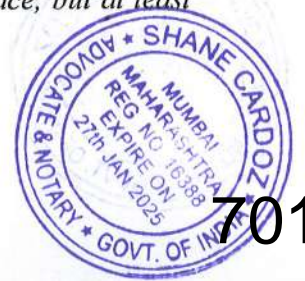
(a) Extent: In any layout or sub-division/amalgamation/ for the development of individual plots with single building in a residential and commercial zone, LOS shall be provided as under.

(i) Area from 1001 sq. m to 2500 sq. m. 15 per cent

(ii) Area from 2501 sq. m to 10,000 sq. m 20 per cent

(iii) Area above 10,000 sq. m 25 per cent

These LOS shall be exclusive of areas of accesses/internal roads/existing amenity or reservations, DP roads and areas for road-widening and shall as far as possible be provided in one place. Where however, the area of the layout or sub-division/amalgamated/plot area is more than 5000 sq. m, LOS may be provided in more than one place, but at least



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one of such places shall be not less than 1000 sq. m in size. Such LOS will not be necessary in the case of land used for educational institutions with attached independent playgrounds.

In case of provisions of Regulation No 33 the LOS shall be as stipulated in the relevant regulations if specified separately, or else the LOS as specified above shall be provided.

Provided further that the provisions of LOS in case of the redevelopment schemes under the regulation no 33(5),33(7),33(8), 33(15) and 33(20) (A) may be reduced due to planning constraints, minimum of at least 10% shall be maintained. Provided further that in case of redevelopment proposal under Regulation No 33(5), the existing area of LOS shall be maintained. If it is more than 10% of layout.

... ..

(f) Tree growth: Excepting for the area covered by the permissible structures mentioned under (g) below, the LOS shall be kept permanently open to the sky and accessible to all owners and occupants as a. LOS and trees shall be grown as under: -

(a) at the rate of 5 trees per 100 sq. m or part thereof of the said LOS to be grown within the entire plot (b) at the rate of 1 tree per 100 sq. m or part thereof to be grown in a plot for which LOS is not necessary

(c) In between the trees planted along the boundary of plot shrubs with grass shall be planted.

...





2.3 In addition to the aforesaid legal provisions, the National Green Tribunal has, from time to time come, out with general environmental protection measures not specific to any project, and thereupon in several rulings, it was mandated that *there cannot be any concrete around the trees*. In several places of the country, the Hon'ble Tribunal as also the Delhi High Court, ordered the removal of concrete around the trees. In particular, the Hon'ble Tribunal and also other Courts have directed that a distance of 1 metre should be kept without concrete or pavers or tarred road, around the skin of the trees. Therefore, if a diameter of a tropical tree of a local variety is of 1 m, then if 1 m is added around all sides, then a pit area of 3m x 3m i.e. 9 square metres or for a circular area, a radius of 1.5 or a diameter of 3 metres would be required in cases of fresh plantation. Some of the Orders of the Hon'ble National Green Tribunal are annexed hereunder:

(A) ORDER DATED 23RD APRIL, 2014 IN M.A. NO. 205 OF 2014
(ANNEXURE-'A-6'):

“It is stated on behalf of the Respondents that they would ensure **keeping one meter area from the trunk of the trees open and non-concretized** without any obstruction to the storm drain near the trees. It is further stated that wherever some roots of the trees have been exposed:

1. root protection will be done by immediately filling the exposed portion with soil on top priority.



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2. Undertake earth filling simultaneously with the carrying on of all the construction work of the storm water drain on fixing shuttering to RCC framework immediately.”

(Emphasis supplied).

(B) ORDER DATED April 23, 2013, in Application No. 82 of 2013, Aditya N. Prasad Vs. Union of India & Ors. (ANNEXURE-'A-7'):

(i) All the sign boards, names, advertisements, any kind of boards or signages, electric wires and high tension cables or otherwise are removed from the trees forthwith.

(ii) They shall also **ensure that the concrete surrounding the trees within one metre of the trees are removed forthwith** and all the trees are looked after well and due precaution is taken in future so that **no concrete or construction or repairing work is done atleast within one metre radius of the trunk of trees.** The Vice- Chairperson, the Commissioner, the Chief Engineer, the Director General and all other senior most officers of the Departments/authorities concerned shall be personally responsible for carrying out this order. (Emphasis supplied).

(C) Order of National Capital Territory of Delhi dated 22nd July, 2019 based on Orders of The National Green Tribunal (ANNEXURE-'A-8'):

“This is for the general information and compliance by all the HOS of Govt., Govt. Aided & Pvt. Recognized Schools of GNCT of Delhi, that the Hon'ble NGT in original application OA No.82 of 2013 vide its order dated 23.04.2013, directed that



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i. All the sign boards, names, advertisements, any kind of boards or signages, electric wires and high tension cables or other damaging elements are removed from the trees forthwith.

ii. The **concrete surrounding the trees within one meter of the trees are removed forthwith and due precaution taken in future that no concrete or construction of repairing work is done at least within one meter radius of the trunk of trees.**"

(Emphasis supplied).

2.4 In a similar reckoning, **if concrete is not allowed around encircling the trees, then concrete cannot be allowed under the trees also.** This is because, if concrete is placed under the roots of the trees, then there cannot be any deep roots of the trees and that the requisite natural nutrition required for the trees coming from naturally occurring deep soil would not be available. Nor would be available the requisite constant flow of water which gets distributed through the whole of the tree from the wide net of the roots. This would also inhibit water percolation which is the life of the trees thriving on naturally available water. In this reference, the undersigned would rely on the Orders of this Hon'ble Tribunal as under:

(A) Order dated 29th January, 2014 Original Application No. 126/2013 (CZ) (THC) Vijay Saini Vs. State of Rajasthan & Ors (ANNEXURE-'A-9'):



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“The importance of protecting trees in the urban areas need not be emphasized, more particularly when it is observed that the survival rate of the newly planted trees is generally low and hardly any site is left in urban areas due to expansion of colonies and laying and expansion of the roads and close proximity of residential buildings as well as **concretisation of the entire compounds** and pavements along the roads. Therefore, the need for protecting, preserving and allowing the existing trees to survive is utmost important and since these trees provide much needed greenery and reduce air Pollution in the fast expanding Urban Areas they become virtually the lungs of the cities and towns.”

(B) Order dated July, 21, 2015 of THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI in Original Application No. 167/2015 - Indian Council for Enviro-Legal Action (ICELA) Vs. Dy. Commissioner & Anr. (ANNEXURE-‘A-10’):

“...following measures need to be taken for the purpose of maintaining health of the trees i) opening of **covered area below the tree covered with the marble stones or concrete** in order to expose the soil and facilitate aeration and water percolation as well as for the spread of aerial roots; ii) drilling holes in the uppar chabutara, if any, around the trees for making openings for aeration and water percolation; ...”

2.5 It is also noteworthy that the Hon'ble Supreme Court in its order dated 17th December, 2013 in Civil Appeal No. 11150 of 2013 (*Municipal Corporation of Greater Mumbai v. Kohinoor CTNL Infrastructure Company Pvt. Ltd.*) (relevant part of this ruling has been annexed as ANNEXURE-‘A-11’ and full ruling has been annexed as ANNEXURE-‘A-17’) has ordered that any Recreation Ground has to be



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on the ground, so that there could be tree plantation. More particularly, the Hon'ble Court has ordered as under:

“25.These provisions clearly show that they are mandatory. Besides under sub-clause (f) of DCR 23 there is a requirement of keeping the recreational open space permanently open to the sky **and trees are to be grown in that space as laid down, i.e. five trees per hundred square meters of the recreational space within the plot.** DCR 2 (64) defines 'open space' to mean an area forming an integral part of a site left open to the sky. A 'site' is defined under DCR 2 (83) to mean a parcel or piece of land enclosed by definite boundaries. These DCR's when read together, very much make it clear that **the recreational /amenity space has to be on the land i.e. on ground level and it has got to be 15%, 20% or 25% of the area depending upon its size.** As rightly pointed out by learned senior counsel Mr. Nariman and Mr. Salve, the requirement of recreational space on the podium under DCR 38 (34) (iv) is discretionary. Besides, as the above referred clause (iii) lays down, podium shall be basically used for parking. Besides Clause (iv) does not contain a non-obstante clause to override the requirement under DCR 23 making it mandatory to provide recreational space on the ground floor. That being so, the provision under DCR 38 (34) cannot be read in derogation of the requirement under DCR 23 or else it will result into serious erosion in the basic requirements for a good life affecting the guarantee of right to life, under Article 21 of the Constitution of India. area.

... ..

28. Therefore, after reflecting upon the legal position, we are clearly of the opinion that having 15%, 20% or 25% of the area (depending upon the size of the lay-out) as the recreational/amenity area at the ground level is a minimum



(4)

requirement, and it will have to be read as such.” (Emphasis supplied).

“We are, however, surprised that the Municipal Corporation did not look into the reduction in the recreational area at the ground level very seriously, probably because the rule permits recreational space on the podium. If this is treated as a correct interpretation, then it is quite possible that the **recreational area left at the ground level could simply be zero**. It may leave no space on the ground floor for the residents/occupants of the apartments constructed in the particular building, **and that will have serious adverse impact on the right to life not only of the residents / occupants of the apartments but also of the people in the adjoining areas** because all of them will have to only fall back on the public parks or play grounds and gardens for their minimum recreational requirements. When the cities are overcrowded, the roads are narrow and the traffic is increasing, the situation will be extremely hazardous for the children and senior citizens. **There will be no greens in the buildings and the people will always crave for fresh and pure air. The buildings without greens will add to the ever increasing temperature of the overcrowded cities and urban areas. To put it differently, all constructions without adequate green and recreational areas will have serious impact on the environment and human life.** If the recreational area is on 20th or 40th floor, the residents of the apartments may be able to access the same only through an elevator and that could never be a substitute for any such activity at the ground level.” (Emphasis supplied).

2.6 The Applicant further submits that this Hon'ble Tribunal had considered the question of placing the statutory garden area on the ground level. Accordingly, in Appeal No. 22 of 2016 this Hon'ble Tribunal had passed the following order on 13th September, 2022 (annexed above as ANNEXURE-‘A-1’):



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“8. In the light of above, **we hold that RG has to be provided on ground to enable plantation.** SEIAA, Maharashtra has thus to ensure availability of space as per above norms. The area has not only to be open to sky but must also enable plantation of trees. If the PP fails to provide RG as per norms, the project may not be allowed to proceed and till compliance, no third-party rights may be created. SEIAA, Maharashtra may verify facts on the ground and take its decision within one month from today.” (Emphasis supplied).

2.7 Hence, based on the laws stated above, this Original Application is being filed seeking a resolution of the questions related to environment mentioned in Para 1.4 above, and to order restoration of environment in cases where there has been a violation of the law related to plantation of trees by ordering demolition of the infringing construction.

2.18 Relevance of Parties:

1. The State Level Environment Impact Assessment

Authority: This is the authority which grants Environment Clearance and has to powers to enforce the conditions of Environment Clearance under the provisions of section 5 of the Environment Protection Act, 1986.

2. The Commissioner, Municipal Corporation of Greater

Mumbai: He is the person who is approving plans for most of buildings in Mumbai and is responsible for adequate environmental protection measures including ensuring that Recreation Ground is placed on the ground in terms of the



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orders of the Hon'ble Supreme Court. Further, he has the means and adequate resources of staff and equipment to comply with the orders of this Hon'ble Tribunal related to demolition of the basements and podiums.

3. **The Tree Officer:** He is the person who has a statutory duty to ensure that adequate tree plantation is done in the layouts.



(44)

Respondent No. 4 to 14 added as Respondents for the reason that Recreation Ground has been placed above a concrete slab in their respective constructions detailed hereunder:

Rsp. NO.	ADDRESS OF THE PROJECT AND THE NAME OF THE DEVELOPER.	DETAILS OF INFRINGEMENT
4.	<p>Development on Plot bearing CS No. 648 (Part) of Group (IV) MIG Colony, Village Bandra, Gandhinagar, Bandra East, Mumbai - 400051</p> <p>OWNER: Rustomjee Constructions Pvt. Ltd.</p>	<p>RG has been placed on the basement slab, making it impossible to do plantation as per the mandatory Central Pollution Control Board guidelines on Development of "Green Belt".</p>
5.	<p>Redevelopment of Building No. 41 of Adarsh Nagar Layout, bearing cs No. 209 (Part) of Worli Division,</p>	<p>The Recreation Ground for plantation i.e. Layout Open Space (LOS) has been shown on the 7th Floor at the Podium.</p>



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	OWNER: Techno Freshworld LLP	
6.	Plot bearing CS No. 17/866 of Worli Hill Estate Scheme No. 58, Plot No. 7/17, Khan Abdul Gafar Khan Road, Mumbai OWNER: Sachiv S. Sahni	Recreation Ground has been shown on the 11 th Floor for Plantation.
7.	Plot bearing CS No. 1913 of Byculla Division in E Ward, Mumbai. OWNER: Money Magnum Nest Pvt. Ltd.	A part of the Recreation Ground has been shown on the podium for Plantation.
8.	Plot bearing Final Plot No. 823, T.P.S. IV Mahim Division in G/N Ward. OWNER: Suraj Estate Developers Pvt. Ltd.	RG has been placed on the 11 th Floor for plantation.





9.	Plot bearing CS No. 534 of Matunga Division, on Bhandarkar Road, Matunga (C.R.), Mumbai - 400019 OWNER: Satra Property Developers Pvt. Ltd.	Recreation Ground has been shown on Podium 5 th Floor for plantation.
10.	Plot bearing CS No. 437 (Part) 33(5) (Part), 33(9) (Part) 340 (Part), 341 (Part), 347 (Part), 348 (Part), 350 (Part), 351 (Part), 352 (Part), 353 (Part), 354 (Part), 356 (Part), Wadala West, Mumbai - 400031 OWNER: Shree Azad Nagar CHS & OM Azad Nagar, CHS through Competent Authority Godrej	RG has been placed on the 7 th Floor for Plantation



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	Projects Development Ltd.	
11.	Plot bearing CS No. 1618 on the Corner of Pandurang Budhakar Marg and GM Bhosle Marg, Mumbai. OWNER: Whispering Heights Real Estate Pvt. Ltd.	RG has been placed on the 9 th Floor for Plantation.
12.	Plot bearing CS No. 107/E, 140/A, 141, 142 & 155, 151/1 to 12 of Village Magathane at Dattapada Road, Borivali East, Mumbai. OWNER: Incline Realty Pvt. Ltd.	RG has been placed on the top of the basement slab for plantation.



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13.	<p>Plot bearing CS No. 649 and 649/4B of Village Bandra, Gandhi Nagar, Bandra East, Mumbai.</p> <p>OWNER: DB MIG Realtors & Builders Pvt. Ltd.</p>	<p>RG has been placed above the basement slab for plantation.</p>
14.	<p>Plot bearing CS No. 2/1629 & 1A/16129 of Lower Parel Division, G-South Ward, on Natvarya Baburao Pendharkar Road, Worli, Mumbai.</p> <p>OWNER: K. Raheja Pvt. Ltd.</p>	<p>RG has been placed on the 5th Floor for Plantation.</p>





2.17 The specific grounds along with provisions of law and the respective evidence is stated in the following paragraphs.

3.0 GROUNDS:

3.1 GROUND NO. 1:

This Hon'ble Tribunal has clearly held that the statutorily mandated Recreation Ground has to be on the ground to enable plantation and thereby ordered demolition of a basement below that – There are many projects having similar violations – Under law of precedents, these ought to be applied to all infringing projects:

The Applicant submits that in the interest of environment and in the interest of planting requisite number of trees in a proper manner, this Hon'ble Tribunal in Appeal No. 22 of 2016 had passed the following order on 13th September, 2022 (copy of the Order annexed above and marked as ANNEXURE-‘A-1’):

“8. In the light of above, we hold that **RG has to be provided on ground to enable plantation.** SEIAA, Maharashtra has thus to ensure availability of space as per above norms. The area has not only to be open to sky but must also enable plantation of trees. If the PP fails to provide RG as per norms, the project may not be allowed to proceed and till compliance, no third-party rights may be created. SEIAA,



Maharashtra may verify facts on the ground and take its decision within one month from today.” (Emphasis supplied).

While giving the aforesaid order, this Hon'ble Tribunal interpreted the orders of the Hon'ble Supreme Court given in the case of Kohinoor CTNL and arrived at the categorical inference that ***'RG has to be provided on the ground to enable plantation.'***

Under the law of precedents, if a particular ruling is applied in one case, then it ought to be applied on all other cases. In other words, once this Hon'ble Tribunal has arrived at the finding, then all the Recreation Grounds, which appeared either above the basement slab or above the podium slab, ought to be demolished so that the requisite tree plantation could be done on the mother earth, so as to facilitate the growth of tropical trees.

Since the Orders of the Hon'ble Tribunal are based on the Orders of the Hon'ble Supreme Court in the case of Municipal Corporation of Greater Mumbai referred to above, therefore, the cut-off date for taking action would be determined as under:

“(3) The decision as contained in Clauses 2(i) and 2(iv) above, will apply to those constructions where plans are still not approved, or where the Commencement Certificate (CC) has not yet been issued. All authorities concerned are directed to ensure strict compliance accordingly.”

In view of the above, for all the approvals which were given after the date of 17 December, 2013, (*including amended Commencement*



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Certificates to earlier approvals) where the statutory Recreation Ground has been shown above a podium or a basement slab, they ought to be demolished.

The Applicant submits that there are a large number of identical violations which have to be duly addressed. The specific list of such violations can only be made by the statutory agencies, who have got the manpower and the means to do so.

Nevertheless, as a measure of illustration, the Applicant gives the 5 examples where the trees have been or would have to be planted above a concrete slab. Therefore, a similar action, as has been ordered by this Hon'ble Tribunal in the said Appeal 22 of 2016, ought to be taken on all similar projects including these 5 examples.

The layout plans of these 5 examples, with supplied illustrations, are hereto annexed and marked as ANNEXURE-‘A-12’ (Colly)

Since these examples are being given only for illustrative purposes, therefore, the Applicant has not named these projects and therefore, has not made the Developers i.e. the Project Proponents as party to these proceedings. Needless to add that as and when the statutory authorities take requisite action to purge the infringing constructions of their violations, at that time, the said Authorities would be required to follow the due process of the law.

Suffice it to say that the abovementioned 5 examples, could constitute a strong reason for this Hon'ble Tribunal to extend the



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implementation of the orders in the said Appeal 22 of 2016 to all the identically infringing constructions, which took place in Mumbai. And in this reference, this Hon'ble Tribunal may consider to appoint an independent agency to survey all such constructions and prepare a specific list of all the infringing constructions, i.e. where tree plantation has been done or would be done on a concrete slab.

Such a list of infringing constructions can also be prepared through the already available AutoDCR software being used by the Municipal Corporation.

The cut-off date set by the Hon'ble Supreme Court of 17th December, 2013 in Civil Appeal No. 11150 of 2013 (Municipal Corporation of Greater Mumbai v. Kohinoor CTNL Infrastructure Company Pvt. Ltd.) may be made applicable in all such infringing constructions.

Accordingly, under the law of precedents, the duly expressed underlying principles of the Order of this Hon'ble Tribunal in the said Appeal No. 22 of 2016 be applied on all the RGs which have been placed atop a podium slab or a basement slab, and thereupon, they be demolished and filled with earth so that plantation could be done of the large tropical trees having a large canopy and which go upto the height of about 80 feet and bear a trunk diameter of about 1 metre or even more.

3.2 GROUND NO. 2: This Hon'ble Tribunal has held that there cannot be concrete below the roots of a tree and nor can there be any concrete upto 1 m from the skin of the trunk of a tree - The



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plantation done atop a concrete slab of a basement or a podium is untenable when these rulings are considered:

The Applicant submit that this Hon'ble Tribunal in the said Appeal No. 22 of 2016 has held that the Recreation Ground has to be on the ground so that plantation takes place.

To support this submission, the Petitioner would rely on the following rulings of this Hon'ble Tribunal, whereby it was held that there cannot be any concrete around 1 m from the trunk of a tree and nor can there be any concrete below the roots of a tree.

The rulings in this reference have been detailed in the foregoing. However, for the sake of convenience, these are being reproduced hereunder:

RULINGS WHICH MANDATE THAT THERE CANNOT BE ANY CONCRETE UPTO 1 METRE FROM THE SKIN I.E. THE TRUNK OF A TREE:

(A) ORDER DATED 23RD APRIL, 2014 IN M.A. NO. 205 OF 2014 (ANNEXURE-'A-6'):

“It is stated on behalf of the Respondents that they would ensure **keeping one meter area from the trunk of the trees open and non-concretized** without any obstruction to the storm drain near the trees. It is further stated that wherever some roots of the trees have been exposed:



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1. root protection will be done by immediately filling the exposed portion with soil on top priority.

2. Undertake earth filling simultaneously with the carrying on of all the construction work of the storm water drain on fixing shuttering to RCC framework immediately.”

(Emphasis supplied).

(B) ORDER DATED April 23, 2013, in Application No. 82 of 2013, Aditya N. Prasad Vs. Union of India & Ors. (ANNEXURE-‘A-7’):

(i) All the sign boards, names, advertisements, any kind of boards or signages, electric wires and high tension cables or otherwise are removed from the trees forthwith.

(ii) They shall also **ensure that the concrete surrounding the trees within one metre of the trees are removed forthwith** and all the trees are looked after well and due precaution is taken in future so that **no concrete or construction or repairing work is done atleast within one metre radius of the trunk of trees.** The Vice- Chairperson, the Commissioner, the Chief Engineer, the Director General and all other senior most officers of the Departments/authorities concerned shall be personally responsible for carrying out this order. (Emphasis supplied).

(C) Order of National Capital Territory of Delhi dated 22nd July, 2019 based on Orders of The National Green Tribunal (ANNEXURE-‘A-8’):

“This is for the general information and compliance by all the HOS of Govt., Govt. Aided & Pvt. Recognized Schools of GNCT of Delhi,





that the Hon'ble NGT in original application OA No.82 of 2013 vide its order dated 23.04.2013, directed that

i. All the sign boards, names, advertisements, any kind of boards or signages, electric wires and high tension cables or other damaging elements are removed from the trees forthwith.

ii. **The concrete surrounding the trees within one meter of the trees are removed forthwith and due precaution taken in future that no concrete or construction of repairing work is done at least within one meter radius of the trunk of trees.**

(Emphasis supplied).

NGT ORDERS WHICH REFER TO TREES ABOVE A CONCRETE SLAB:

(A) Order dated 29th January, 2014 Original Application No. 126/2013 (CZ) (THC) Vijay Saini Vs. State of Rajasthan & Ors (ANNEXURE-'A-9'):

“The importance of protecting trees in the urban areas need not be emphasized, more particularly when it is observed that the survival rate of the newly planted trees is generally low and hardly any site is left in urban areas due to expansion of colonies and laying and expansion of the roads and close proximity of residential buildings as well as **concretisation of the entire compounds** and pavements along the roads. Therefore, the need for protecting, preserving and allowing the existing trees to survive is utmost important and since these trees provide much needed greenery and reduce air



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Pollution in the fast expanding Urban Areas they become virtually the lungs of the cities and towns.”

(B) Order dated July, 21, 2015 of THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI in Original Application No. 167/2015 - Indian Council for Enviro-Legal Action (ICELA) Vs. Dy. Commissioner & Anr. (ANNEXURE-‘A-10’):

“...following measures need to be taken for the purpose of maintaining health of the trees i) opening of **covered area below the tree covered with the marble stones or concrete** in order to expose the soil and facilitate aeration and water percolation as well as for the spread of aerial roots; ii) drilling holes in the uppar chabutara, if any, around the trees for making openings for aeration and water percolation; ...”

Accordingly, the Applicant submits that **if concrete is not allowed upto 1 metre from the skin of the trunk of a tree, then concrete cannot be allowed under the trees also.** This is because, if concrete is placed under the roots of the trees, then there cannot be any deep roots of the trees and that the requisite natural nutrition required for the trees coming from naturally occurring deep soil would not be available. Nor would be available the requisite constant flow of water which gets distributed through the whole of the tree from the wide net of the roots.

To reiterate, this Hon'ble Tribunal be pleased to consider the critical environmental aspects, whereby, it is impossible for a tree of the



local variety, i.e. which grows in the very high rainfall area (Mumbai has an annual rainfall of about 100 inches) i.e. the tropical trees, to accomplish its full biological growth with respect to height, diameter of the trunk and the canopy, if its saplings are sown atop a concrete slab. Such trees require deep and widespread roots and can only be optimally placed on the mother earth. Accordingly, this Hon'ble Tribunal may be pleased to declare that plantation atop a concrete slab of a basement or a podium would be untenable.

3.3 GROUND NO. 3: RG on a concrete slab would inhibit water percolation and would constrain the water table of the entire area leading to damage and even destruction of trees in the surrounding areas:

The Applicant submits that if the tree plantation is allowed atop a concrete slab of a basement or a podium, then there cannot be any water percolation as there would be no naturally occurring deep soil left. Since the neighbouring roads are also either tarred or concretised, thus there would hardly be any land available for water percolation. This would not only have serious effect on trees within the compound, but it would have a cascading effect on trees on the roads and in the entire neighbourhood as lack of water percolation would bring down the water table and starve full grown trees of naturally occurring nutrients and water, especially in summer months.



Accordingly, it would be in the fitness of things to remove the concrete slab below the RG and fill it up with the naturally occurring soil, so that the requisite measure of water percolation could take place.

3.4 GROUND NO. 4: Environmental laws have been made under Article 253 of the Constitution of India – They supersede all state laws:

The Applicant submits that the question of plantation of trees is a question related to environment and accordingly, the Hon'ble National Green Tribunal from time to time, as have been copiously quoted in the previous paragraphs, has given orders related to tree plantation and removal of concrete around the trees.

The Applicant further submits that the environmental laws in India have been enacted based on an international treaty. For this reason, all the state laws which undermine the question of environment would become subservient to the Environment Protection Act, 1986, rules and Notifications as also other legislations, and likewise, are also subservient to the Orders of this Hon'ble Tribunal insofar as they implement the laws related to environment. These include the Environment Protection Act, 1986, The Air (Prevention and Control of Pollution) Act, 1981, and the Water (Prevention and Control of Pollution) Act, 1974, all of which have a bearing on trees.

More specifically, the preamble of Environment Protection Act, 1986 reads as under (annexed as ANNEXURE-'A-13'):



“An Act to provide for the protection and improvement of environment and for matters connected there with:

“WHEREAS the decisions were taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, to take appropriate steps for the protection and improvement of human environment;

AND WHEREAS it is considered necessary further to implement the decisions aforesaid in so far as they relate to the protection and improvement of environment and the prevention of hazards to human beings, other living creatures, plants and property;

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:- ...”

In view of the above, the enactment and enforcement of the Environment Protection Act, 1986 emanates from Article 253 of the Constitution of India (relevant part annexed as ANNEXURE-‘A-14’) which reads as under:

“253. Legislation for giving effect to international agreements.—Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing



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any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.”

Considering the Constitutional provisions stated above, it would be in the fitness of things that notwithstanding any law to the contrary, which exists in the State, the expediency of protecting the environment become overwhelming.

It is thus reiterated that any orders of the Hon'ble Tribunal related to plantation of trees on mother earth would supersede any state law or provision to the contrary.

3.4 GROUND NO. 4: From the cleanest city, Mumbai has become the second-most polluted city in the world – action on a war scale and with an unprecedented force is required to save the city:

The Applicant submits that Mumbai was one of the cleanest cities in the country particularly so, because it is an island surrounded by the sea on all sides. Now, it has become the second-most polluted city in the world, beating Delhi with a large margin.

One of the major causes of this is that lakhs of trees have been uprooted to give way for massive building projects. And when the new layout is developed, there is no place to plant trees because almost the entire plot is either covered by a basement slab or by a podium slab.

On such a concrete slab, all that is done is an absolutely inconsequential and manipulated compliance related to tree plantation.





where a small rectangle is made on the podium and then small trees, which essentially are plants are densely packed and the number of trees is then declared to have been planted. In fact, in many cases, it has been seen that trees are planted even on the pots, which are generally only for small plants.

With such cosmetic plantation of a completely inconsequential nature, the massive canopy and full height of about 80 feet and a trunk diameter of 1 m is not accomplished. Thus devoid of the requisite foliage, pollution load gets enhanced and that is how, with lakhs of trees been uprooted to constructed massive building projects and in place the requisite number of trees of the right measure are not planted in the requisite manner, that this has led to pollution explosion.

2 news reports, which have been published recently are hereto annexed as under:

(A) *News Report in the Times of India dated 14th February, 2023 (ANNEXURE-'A-15'): "Mumbai second-most polluted in weekly world ranking, Delhi not among the worst 10"*

(B) *News Report of The Weather Channel dated 14th February, 2023 (ANNEXURE-'A-16'): "Pollution – Not Love – Is In Mumbai's Air This Valentine's; Ciy Names World's 2nd Most Polluted City Last Week"*



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Accordingly, it would be in the fitness of things that this Hon'ble Tribunal tender a strict interpretation of the legal provisions traversed through above, and mandate that all the projects where Commencement Certificates were issued after the cut-off dated of 23rd December, 2013, including those who got amended Commencement Certificates, to remove all the concrete below the statutorily mandatory RGs, to fill them with earth, and thereupon do the requisite plantation on the Mother Earth of local tree variety i.e. of tropical trees in a manner that such trees are able to accomplish their biological growth parameters, with respect to the trunk diameter, height and the canopy diameter.

4.0 LIMITATION:

It is submitted that the Applicant is seeking general directions to implement the ruling of this Hon'ble Tribunal given in Appeal No. 22 of 2016 (WZ) passed on 13th September, 2022, and thus the said ruling be extended to all other similar infringing projects. Just as in the case of removal of concrete around the trees which concreting was done over several decades, the Applicant is seeking the removal of concrete where trees have to be statutorily planted after the cut-off date of 17th December, 2013 set by the Hon'ble Supreme Court. Accordingly, since this is a recurring and continuing cause of action, hence every day would give rise to a fresh period of limitation. In this reference, Applicant quoted to provisions of section 22 of the Limitation Act, 1963, which would, in addition apply in this case:



“In the case of a continuing breach of contract or in the case of a continuing tort, a fresh period of limitation begins to run at every moment of the time during which the breach or the tort, as the case may be, continues.”

Needless to add that not planting legally stipulated trees in the requisite manner, would constitute a civil wrong and a public hazard and nuisance, as its continuance would injure humans with each passing day. Thus, this is a case of recurring cause of action for which limitation would apply afresh on each passing day, till the time the infringement continues.

Accordingly, this Original Application is within the limitation period under section 14 and 15 of The National Green Tribunal Act, 2010.

5.0 PRAYERS:

Considering the above, the following prayers are being made:

- (A) THAT the principle derived by the Hon'ble Tribunal in Appeal No. 22 of 2016 (WZ), vide Order dated 13th September, 2022, be applied on all other projects in Mumbai, where Recreation Ground has been put either above a concrete slab of the podium, or above a concrete slab of a basement, so as to enable plantation and pursuant thereto, all the constructions which took place after the cut-off date of 17th December, 2013, where the Recreation Ground has been shown to be above the podium concrete slab or a basement concrete slab be demolished, filled with earth, and then the plantation be done on the Mother Earth



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of the local variety of tropical trees in the requisite manner after keeping the biologically required distances for the trees to reach their full potential of trunk diameter, height and canopy diameter.

- (B) THAT an independent expert committee be set up to objectively scrutinise all the building plans, which were given Commencement Certificate (including Commencement Certificate on amended plans) after the cut-off date of 17th December, 2013, and where the statutory RG has been placed on top of a concrete slab such as a basement or a podium.
- (C) THAT the said independent committee identify the infringement through computer software so that there is no scope of an error.
- (D) THAT consequent upon the findings of the independent committee, the Municipal Corporation be directed to effect the demolition of the infringing areas, after following the due process of the law, so that Recreation Ground could be placed on mother earth to enable plantation.
- (E) THAT interim orders be issued whereby all the on-going construction taking place, where the statutory Recreation Ground has been placed above a concrete slab be stayed.



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(E) That orders be issued to State Level Environment Impact Assessment Authority that no Environment Clearance be given to projects where the statutory RG has been shown above a concrete slab.

(D) THAT any other order may be passed which may be required considering the facts and circumstances of the case.

[Signature]
SIGNATURE OF APPLICANT

VERIFICATION

I, Santosh Daundkar, resident of 10/37 BIT Chawl, KK Marg, Mumbai Central, Mumbai 400 008, do hereby verify that the contents of aforesaid paras 1 to 3 are true to my personal knowledge and the rest of the paragraphs are believed to be true on legal advice and that I have not suppressed any material fact in this amended Application.

[Signature]
SIGNATURE OF THE APPELLANT

DATE: May, 2023

PLACE: Mumbai

BEFORE ME

M. H. CHOWDARY
PUBLIC NOTARY
GOVT OF INDIA

23 MAY 2023

REGISTERED VIDE
Sr. No. 191
Page No. 21
Date: 23 MAY 2023
OF NOTARY



BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT PUNE

MEMORANDUM OF APPLICATION

(Under Sections 15 of read with section 18 National Green Tribunal Act, 2010)

APPLICATION NO. OF 2023

BETWEEN:

Santosh Daundkar ... APPLICANT

AND

State Level Environment Impact Assessment Authority and Others

... RESPONDENTS

AFFIDAVIT IN SUPPORT OF THE APPELLANT

1. I, Santosh Daundkar, the Applicant above-named, residing at Mumbai, do hereby solemnly affirm and state as under:

2. I repeat, reiterate and adopt each and every statement in the Application as if the same were set out herein and from a part of this affidavit. I crave leave to refer to any reply upon the Petition.

3. I say that if ad-interim/interim relief is not granted, grave loss, harm, injury and prejudice will be caused which is unjust and improper.

4. I, therefore, pray that the Application be made absolute with costs and ad-interim/interim reliefs may be granted.

Solemnly affirmed at Mumbai

Dated this day of May, 2023.

12 3 MAY 2023

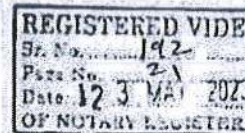
BEFORE ME

APPLICANT

BEFORE ME

M. H. CHOWDHARY PUBLIC NOTARY (GOVT OF INDIA)

12 3 MAY 2023





BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT PUNE

MEMORANDUM OF APPLICATION

(Under Sections 15 of read with section 18 National Green Tribunal Act,
2010)

APPLICATION NO. 28 OF 2023

BETWEEN:

Santosh Daundkar

... APPLICANT

AND

State Level Environment Impact Assessment Authority and Others

... RESPONDENTS

COMPILATION NO. 2



ANNEXURE-'A-1'

Item Nos. 03 & 04

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
SPECIAL BENCH**

(By Video Conferencing)

Appeal No. 22/2016(WZ)
M.A. No. 198/2016(WZ) & M.A. No. 199/2016(WZ)

Anil Tharthare

Appellant

Versus

The Secretary, Environment Dept.
State of Maharashtra & Ors.

Respondent(s)

WITHAppeal No. 23/2016(WZ)
M.A. No. 196/2016 & M.A. No. 197/2016

Vasundhara Sanwardhan Trust

Appellant

Versus

Secretary, Env't. Dept., State of Maharashtra & Ors.

Respondent(s)

Date of hearing: 13.09.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Appellant: Mr. Aditya Pratap, Advocate in Appeal 22/2016(WZ)

Respondent(s): Mr. Saket Mone, Advocate for R-4
Mr. Manoj Wad, Advocate for R-5
Mr. T.N. Subramaniam, Advocate for R-6
Mr. Suneet Tyagi, Advocate for R-7
Mr. R.R. Mahabal, Advocate
Mr. Girish Utangale, Advocate for R-4 in Appeal 23/2016(WZ)

Shane Cardoz

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ORDER

The issue - validity of EC for housing project at Bandra, Mumbai

1. This order will deal with Appeal Nos. 22 and 23 of 2016(WZ) as both the appeals relate to the same project i.e. validity of the Environmental Clearance (EC) granted by SEIAA, Maharashtra on 22.03.2016 for proposed residential building on plot CTS No. 629(Pt), of Bandra, Mumbai by M/s Kalpataru Properties Pvt. Ltd. Details of the project mentioned in the impugned EC are :

- . Estimated cost of the project is Rs. 299 crores.
- . FSI, non-FSI and built up areas are:

FSI Area (Sq. mt)	Non-FSI Area (Sq. mt.)	Total BUA Area (Sq. mt.)
47,265.822	32,799.83	80,065.652

- . Number of buildings and its configuration and number of tenants and shops:

<i>xxx</i>	<i>xxx</i>	<i>xxx</i>									
The above ground structures will comprise of:											
16	Number of Buildings & its configuration	<table border="1"> <thead> <tr> <th>Building</th> <th>No. of Wings</th> <th>configuration</th> </tr> </thead> <tbody> <tr> <td>1 building</td> <td>Wing A & B</td> <td>3 Basements + Stilt + 30 upper floors</td> </tr> <tr> <td></td> <td>Wing C</td> <td>3 Basements + Stilt + 22 upper floors</td> </tr> </tbody> </table>	Building	No. of Wings	configuration	1 building	Wing A & B	3 Basements + Stilt + 30 upper floors		Wing C	3 Basements + Stilt + 22 upper floors
Building	No. of Wings	configuration									
1 building	Wing A & B	3 Basements + Stilt + 30 upper floors									
	Wing C	3 Basements + Stilt + 22 upper floors									
17	Number of tenants and shops	511 flats									

Alena Singh



2. The EC also mentions environmental management plan and budgetary allocation for the same. There is also mention of traffic management plan. General conditions for pre-construction and construction phase are also specified.

Case of the Appellants

3. Main grounds for challenging the impugned EC are that Recreation Ground (RG) has not been provided at ground level but on slab above the basement where plantation is not possible, in violation of judgement of the Hon'ble Supreme Court in *Municipal Corporation of Greater Mumbai and Ors. vs. Kohinoor CTNL Infrastructure Company Private Limited and another*, (2014) 4 SCC 538 (Kohinoor case). Fire safety norms have been ignored. Setback for light and open spaces has not been provided as per Development Control Regulations (DCR). In the meeting of SEAC dated 25th to 27th June, 2014, recommendation was made to leave margin of 6m from boundary of the plot but the said condition has not been incorporated in the EC. The area exceeds 1.5 lakh sq. m. and thus, the project is 'B-1' category project but has been wrongly appraised as 'B-2' category project. Project wrongly provides for two rehabilitation tenements to each person instead of one.

4. The appeal came up for hearing on 05.05.2016 and notice was issued to the Project Proponent (PP), SEIAA Maharashtra, MHADA and the Group Housing Society. The contesting respondents have filed their respective replies.

Stand of the PP

5. Stand of the PP is that the judgment of the Hon'ble Supreme Court in Kohinoor case, supra, only deprecates practice of providing RG on



Shane Singh

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podium as per DCR 38 (34) and thus is not applicable as in the present case, podium has not been provided. Requirement of 6 meter open space is not binding as the Municipal Corporation has modified DCR 43 to the effect that open space of 6 meter will not be insisted if the building abuts road with width of 6 meters or more. In the present case, the plot under redevelopment abuts 3 roads having width more than 6 meters. Thus, as per relaxation in DCR 33(10), read with the Notification dated 6th December, 2008, provision for additional 6 meters open space is not binding. Out of 128 members, 104 members have already vacated their respective flats to enable the redevelopment. The appellant is a minority member who is creating hurdles in the redevelopment process.

Order of the Tribunal dated 4.7.2017

6. The matter came up for hearing on 04.07.2017 to consider the interim prayer to stop the ongoing project. The Tribunal rejected M.A. No. 75/2017 as follows:

“xxxxxx.....xxx

Undoubtedly, the recreation ground area referred to at entry No.31 in the EC dated 22nd March 2016 is at the ground level. Informed decision apparently was taken by the SEIAA on the basis of lay out plan describing the recreational ground area, particularly it being on the basement and the specified the number of trees, shrubs and bushes would have in the recreational ground area. There is nothing before us to suggest at this stage that recreational ground area on the basement at the ground level with the trees, shrubs and bushes grown thereon will any way have any adverse impact on the environment. The recreational ground area i.e. the open area at the ground level will obviously be available to the occupants of the developed project.

Considering the balance of convenience, we are not inclined to grant stay to the ongoing construction. M.A. No. 75/2017 therefore, is dismissed.”

The Tribunal recorded the statement of the PP as follows:

“xxxxxx.....xxx

Alina Singh



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... the Respondent No.6-Project Proponent shall ensure that R.G. ground admeasuring 2672.50 sq.mtr. area shall be left open to the sky in the project and shall further ensure that the plan (trees, shrubs and bushes) as described in entry No.31 of the EC. dated 22nd March 2016 shall be successfully planted, nursed and grown in the R.G. area, and they shall take every care to see that the plantation grows wherever planted in the R.G. area.”

Consideration of the issue by the Tribunal

7. We find that only issue for consideration is the compliance of the condition of RG in terms of law laid down by the Hon'ble Supreme Court in Kohinoor case, supra. In the said case, the Hon'ble Supreme Court dealt with the issue of mandatory minimum RG to be provided in Mumbai in a housing project to give effect to the sustainable development principle of environmental law. Questions framed and answers given are as follows:

Questions

- “17.1. (i) What should be the correlation between DCR 23 and DCR 38(34) regarding the recreational area? Is it permissible to reduce the minimum recreational area provided under DCR 23 on any ground?
- 17.2. (ii) Whether the exemption from DCR 31(1) under DCRs 33(7), 33(8), and 33(9) is justified, valid and legal particularly in the island city of Greater Mumbai? If so, to what extent and in which context?
- 17.3. (iii) What is the impact of the addition of FSI in the island city on the traffic situation? How can it be controlled?
- 17.4. (iv) Whether the present mechanism for protection against the fire hazards is adequate and is being implemented effectively? If not, what should be the mechanism for enforcement with respect to the provisions concerning the fire safety?”

Answers

71.2.1. Issue (i) — The minimum recreational space as laid down under Development Control Regulation (DCR) 23, cannot be reduced on the basis of DCR 38(34). The recreational space, if any, provided on the podium as per DCR 38(34)(iv), shall be in addition to that provided as per DCR 23.

71.2.2. Issues (ii) and (iii) — The Government of Maharashtra, the Development Plan Drafting Committee, and the appellant Municipal Corporation shall consider the



Alma Singh

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suggestions as contained in paras 60 and 61 above, while framing the Development Plan for Greater Mumbai.

71.2.3. Issue (iv) — The second proviso to DCR 43(1)(A), concerning fire protection requirements, is held to be bad in law. We hold that even for the reconstruction proposals of plots up to the size of 600 sq m under DCR 33(7), open space of the width of 6 m at least on one side at ground level within the plot, accessible from the roadside will have to be maintained for the manoeuvrability of a fire engine, **unless the building abuts two roads of 6 m or more on two sides, or another access of 6 m to the building is available, apart from the road abutting the building.**

71.3. The decision as contained in paras 71.2.1 and 71.2.3 above, will apply to those constructions where plans are still not approved, or where the commencement certificate (CC) has not yet been issued. All authorities concerned are directed to ensure strict compliance accordingly.

71.4. The Government of Maharashtra shall issue the necessary notification within four weeks of this order, reconstituting the "Technical Committee for the High-Rise Buildings", as directed in paras 64 to 66, including the additional terms of reference, as mentioned in para 67 above. The appellant is directed to render assistance and provide the required honorarium, as mentioned in para 68 above.

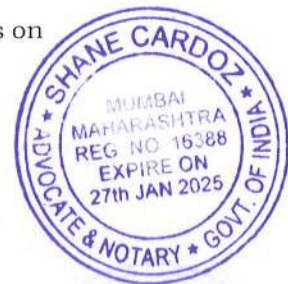
8. In the light of above, we hold that RG has to be provided on ground to enable plantation. SEIAA, Maharashtra has thus to ensure availability of space as per above norms. The area has not only to be open to sky but must also enable plantation of trees. If the PP fails to provide RG as per norms, the project may not be allowed to proceed and till compliance, no third-party rights may be created. SEIAA, Maharashtra may verify facts on the ground and take its decision within one month from today.

The appeals are disposed of.

All pending MAs will stand disposed of.

A copy of this order be forwarded to SEIAA, Maharashtra by mail for compliance.

Adarsh Kumar Goel, CP



Shane Singh

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Sudhir Agarwal, JM

Dinesh Kumar Singh, JM

Prof. A. Senthil Vel, EM

Dr. Vijay Kulkarni, EM

Dr. Afroz Ahmad, EM

September 13, 2022
Appeal No. 22/2016(WZ)
M.A. No. 198/2016(WZ) &
M.A. No. 199/2016(WZ)
Appeal No. 23/2016(WZ)
M.A. No. 196/2016 &
M.A. No. 197/2016
DV



Abha Singh

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ANNEXURE-'A-2'

F. No. 22-34/2018-IA.III
 Government of India
 Ministry of Environment, Forest and Climate Change
 (Impact Assessment Division)

Indira Paryavaran Bhawan
 Jor Bagh Road, Aliganj,
 New Delhi – 110003

E-mail: sharath.kr@gov.in
 Tel: 011-24695319

Dated: 4th January, 2019

OFFICE MEMORANDUM

Sub.: Standardization of Environment Clearance conditions – reg.

The Ministry of Environment, Forest and Climate Change has notified the Environmental Impact Assessment (EIA) Notification, 2006 under the provisions of the Environment (Protection) Act, 1986, which regulates development and their expansion/modernization of 39 sectors/activities listed in the Schedule to the EIA Notification, 2006. There are two Category of projects viz. Category 'A' projects that are handled at the level of MoEF&CC and Category 'B' projects that are handled by the respective State Environment Impact Assessment Authority (SEIAA) following the procedure prescribed under the EIA Notification, 2006.

2. All projects or activities included as Category 'A' in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment and Forest and Climate Change (MoEF&CC) on the recommendations of an Expert Appraisal Committee (EAC) constituted by the Central Government for the purposes of this notification.
3. The Standard Environmental Clearance conditions have been prepared for expediting the process of Environmental Clearance without compromising environmental norms and the rigor of environment impact assessment.
4. The standard Environment Clearance conditions shall be considered by the concerned EAC with due diligence while recommending the Environmental Clearance. The expert appraisal committee can modify, prescribe additional conditions based on the project specific requirements.
5. The recommended conditions by the EAC shall be brought in the minutes of the meeting of the EAC.

Page 1 of 2

Shane Singh




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6. The standard Environment Clearance conditions are herewith issued for the following sectors:

S.No.	Sector	Project / Activity
I.	Infrastructure	7(a) Airports 7(d) Common hazardous waste treatment, storage and disposal facilities (TSDFs) 7(da) Bio-medical waste treatment facility 7(e) Port, Harbour, Break water and Dredging 7(g) Aerial Ropeways 7(h) Common Effluent Treatment Plants 7(i) Common Municipal Solid Waste Management Facility
II.	Building/construction Projects, Area Development Projects	8 (a) Building and construction projects 8(b) Township and Area Development Projects.

7. This issues with the approval of competent authority.


(Sharath Kumar Pallerla)
Director (IA-III-Policy)

To

1. Chairman, Central Pollution Control Board (CPCB).
2. Chairman of all the Expert Appraisal Committees
3. Chairperson/Member Secretaries of all the SEIAAs/SEACs
4. All the Officers of I.A. Division
5. Chairpersons/Member Secretaries of all SPCBs/UTPCCs

Copy for information to:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. PPS to Secretary(EF&CC)
4. PPS to AS(AKJ) / AS (AKM)
5. PS to JS (RSP)/ JS(JT)/JS(GM)
6. Website, MoEF&CC
7. Guard file.



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Standard EC Conditions for Project/Activity 8(a/b): Building and Construction projects / Townships and Area Development projects

I. Statutory compliance:

- i. The project proponent shall obtain all necessary clearance/ permission from all relevant agencies including town planning authority before commencement of work. All the construction shall be done in accordance with the local building byelaws.
- ii. The approval of the Competent Authority shall be obtained for structural safety of buildings due to earthquakes, adequacy of firefighting equipment etc as per National Building Code including protection measures from lightening etc.
- iii. The project proponent shall obtain forest clearance under the provisions of Forest (Conservation) Act, 1986, in case of the diversion of forest land for non-forest purpose involved in the project.
- iv. The project proponent shall obtain clearance from the National Board for Wildlife, if applicable.
- v. The project proponent shall obtain Consent to Establish / Operate under the provisions of Air (Prevention & Control of Pollution) Act, 1981 and the Water (Prevention & Control of Pollution) Act, 1974 from the concerned State Pollution Control Board/ Committee.
- vi. The project proponent shall obtain the necessary permission for drawl of ground water / surface water required for the project from the competent authority.
- vii. A certificate of adequacy of available power from the agency supplying power to the project along with the load allowed for the project should be obtained.
- viii. All other statutory clearances such as the approvals for storage of diesel from Chief Controller of Explosives, Fire Department, Civil Aviation Department shall be obtained, as applicable, by project proponents from the respective competent authorities.
- ix. The provisions of the Solid Waste (Management) Rules, 2016, e-Waste (Management) Rules, 2016, and the Plastics Waste (Management) Rules, 2016 shall be followed.
- x. The project proponent shall follow the ECBC/ECBC-R prescribed by Bureau of Energy Efficiency, Ministry of Power strictly.

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II. Air quality monitoring and preservation

- i. Notification GSR 94(E) dated 25.01.2018 of MoEF&CC regarding Mandatory Implementation of Dust Mitigation Measures for Construction and Demolition Activities for projects requiring Environmental Clearance shall be complied with.
- ii. A management plan shall be drawn up and implemented to contain the current exceedance in ambient air quality at the site.
- iii. The project proponent shall install system to carryout Ambient Air Quality monitoring for common/criterion parameters relevant to the main pollutants released (e.g. PM₁₀ and PM_{2.5}) covering upwind and downwind directions during the construction period.
- iv. Diesel power generating sets proposed as source of backup power should be of enclosed type and conform to rules made under the Environment (Protection) Act, 1986. The height of stack of DG sets should be equal to the height needed for the combined capacity of all proposed DG sets. Use of low sulphur diesel. The location of the DG sets may be decided with in consultation with State Pollution Control Board.
- v. Construction site shall be adequately barricaded before the construction begins. Dust, smoke & other air pollution prevention measures shall be provided for the building as well as the site. These measures shall include screens for the building under construction, continuous dust/ wind breaking walls all around the site (at least 3 meter height). Plastic/tarpaulin sheet covers shall be provided for vehicles bringing in sand, cement, murrum and other construction materials prone to causing dust pollution at the site as well as taking out debris from the site.
- vi. Sand, murrum, loose soil, cement, stored on site shall be covered adequately so as to prevent dust pollution.
- vii. Wet jet shall be provided for grinding and stone cutting.
- viii. Unpaved surfaces and loose soil shall be adequately sprinkled with water to suppress dust.
- ix. All construction and demolition debris shall be stored at the site (and not dumped on the roads or open spaces outside) before they are properly disposed. All demolition and construction waste shall be managed as per the provisions of the Construction and Demolition Waste Rules 2016.
- x. The diesel generator sets to be used during construction phase shall be low sulphur diesel type and shall conform to Environmental (Protection) prescribed for air and noise emission standards.

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- xi. The gaseous emissions from DG set shall be dispersed through adequate stack height as per CPCB standards. Acoustic enclosure shall be provided to the DG sets to mitigate the noise pollution. Low sulphur diesel shall be used. The location of the DG set and exhaust pipe height shall be as per the provisions of the Central Pollution Control Board (CPCB) norms.
- xii. For indoor air quality the ventilation provisions as per National Building Code of India.

III. Water quality monitoring and preservation

- i. The natural drain system should be maintained for ensuring unrestricted flow of water. No construction shall be allowed to obstruct the natural drainage through the site, on wetland and water bodies. Check dams, bio-swales, landscape, and other sustainable urban drainage systems (SUDS) are allowed for maintaining the drainage pattern and to harvest rain water.
- ii. Buildings shall be designed to follow the natural topography as much as possible. Minimum cutting and filling should be done.
- iii. Total fresh water use shall not exceed the proposed requirement as provided in the project details.
- iv. The quantity of fresh water usage, water recycling and rainwater harvesting shall be measured and recorded to monitor the water balance as projected by the project proponent. The record shall be submitted to the Regional Office, MoEF&CC along with six monthly Monitoring reports.
- v. A certificate shall be obtained from the local body supplying water, specifying the total annual water availability with the local authority, the quantity of water already committed, the quantity of water allotted to the project under consideration and the balance water available. This should be specified separately for ground water and surface water sources, ensuring that there is no impact on other users.
- vi. At least 20% of the open spaces as required by the local building bye-laws shall be pervious. Use of Grass pavers, paver blocks with at least 50% opening, landscape etc. would be considered as pervious surface.
- vii. Installation of dual pipe plumbing for supplying fresh water for drinking, cooking and bathing etc and other for supply of recycled water for flushing, landscape irrigation, car washing, thermal cooling, conditioning etc. shall be done.
- viii. Use of water saving devices/ fixtures (viz. low flow flushing systems; use of low flow faucets tap aerators etc) for water conservation shall be incorporated in the building plan.



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- ix. Separation of grey and black water should be done by the use of dual plumbing system. In case of single stack system separate recirculation lines for flushing by giving dual plumbing system be done.
- x. Water demand during construction should be reduced by use of pre-mixed concrete, curing agents and other best practices referred.
- xi. The local bye-law provisions on rain water harvesting should be followed. If local bye-law provision is not available, adequate provision for storage and recharge should be followed as per the Ministry of Urban Development Model Building Byelaws, 2016. Rain water harvesting recharge pits/storage tanks shall be provided for ground water recharging as per the CGWB norms.
- xii. A rain water harvesting plan needs to be designed where the recharge bores of minimum one recharge bore per 5,000 square meters of built up area and storage capacity of minimum one day of total fresh water requirement shall be provided. In areas where ground water recharge is not feasible, the rain water should be harvested and stored for reuse. The ground water shall not be withdrawn without approval from the Competent Authority.
- xiii. All recharge should be limited to shallow aquifer.
- xiv. No ground water shall be used during construction phase of the project.
- xv. Any ground water dewatering should be properly managed and shall conform to the approvals and the guidelines of the CGWA in the matter. Formal approval shall be taken from the CGWA for any ground water abstraction or dewatering.
- xvi. The quantity of fresh water usage, water recycling and rainwater harvesting shall be measured and recorded to monitor the water balance as projected by the project proponent. The record shall be submitted to the Regional Office, MoEF&CC along with six monthly Monitoring reports.
- xvii. Sewage shall be treated in the STP with tertiary treatment. The treated effluent from STP shall be recycled/re-used for flushing, AC make up water and gardening. As proposed, no treated water shall be disposed in to municipal drain.
- xviii. No sewage or untreated effluent water would be discharged through storm water drains.
- xix. Onsite sewage treatment of capacity of treating 100% waste water to be installed. The installation of the Sewage Treatment Plant (STP) shall be certified by an independent expert and a report in this regard shall be submitted to the Ministry before the project is commissioned for operation. Treated waste water shall be reused on site for landscape,

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flushing, cooling tower, and other end-uses. Excess treated water shall be discharged as per statutory norms notified by Ministry of Environment, Forest and Climate Change. Natural treatment systems shall be promoted.

- xx. Periodical monitoring of water quality of treated sewage shall be conducted. Necessary measures should be made to mitigate the odour problem from STP.
- xxi. Sludge from the onsite sewage treatment, including septic tanks, shall be collected, conveyed and disposed as per the Ministry of Urban Development, Central Public Health and Environmental Engineering Organization (CPHEEO) Manual on Sewerage and Sewage Treatment Systems, 2013.

IV. Noise monitoring and prevention

- i. Ambient noise levels shall conform to residential area/commercial area/industrial area/silence zone both during day and night as per Noise Pollution (Control and Regulation) Rules, 2000. Incremental pollution loads on the ambient air and noise quality shall be closely monitored during construction phase. Adequate measures shall be made to reduce ambient air and noise level during construction phase, so as to conform to the stipulated standards by CPCB / SPCB.
- ii. Noise level survey shall be carried as per the prescribed guidelines and report in this regard shall be submitted to Regional Officer of the Ministry as a part of six-monthly compliance report.
- iii. Acoustic enclosures for DG sets, noise barriers for ground-run bays, ear plugs for operating personnel shall be implemented as mitigation measures for noise impact due to ground sources.

V. Energy Conservation measures

- i. Compliance with the Energy Conservation Building Code (ECBC) of Bureau of Energy Efficiency shall be ensured. Buildings in the States which have notified their own ECBC, shall comply with the State ECBC.
- ii. Outdoor and common area lighting shall be LED.
- iii. Concept of passive solar design that minimize energy consumption in buildings by using design elements, such as building orientation, landscaping, efficient building envelope, appropriate fenestration, increased day lighting design and thermal mass etc. shall be incorporated in the building design. Wall, window, and roof u-values shall be as per ECBC specifications.



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- iv. Energy conservation measures like installation of CFLs/ LED for the lighting the area outside the building should be integral part of the project design and should be in place before project commissioning.
- v. Solar, wind or other Renewable Energy shall be installed to meet electricity generation equivalent to 1% of the demand load or as per the state level/ local building bye-laws requirement, whichever is higher.
- vi. Solar power shall be used for lighting in the apartment to reduce the power load on grid. Separate electric meter shall be installed for solar power. Solar water heating shall be provided to meet 20% of the hot water demand of the commercial and institutional building or as per the requirement of the local building bye-laws, whichever is higher. Residential buildings are also recommended to meet its hot water demand from solar water heaters, as far as possible.

VI. Waste Management

- i. A certificate from the competent authority handling municipal solid wastes, indicating the existing civic capacities of handling and their adequacy to cater to the M.S.W. generated from project shall be obtained.
- ii. Disposal of muck during construction phase shall not create any adverse effect on the neighboring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in approved sites with the approval of competent authority.
- iii. Separate wet and dry bins must be provided in each unit and at the ground level for facilitating segregation of waste. Solid waste shall be segregated into wet garbage and inert materials.
- iv. Organic waste compost/ Vermiculture pit/ Organic Waste Converter within the premises with a minimum capacity of 0.3 kg /person/day must be installed.
- v. All non-biodegradable waste shall be handed over to authorized recyclers for which a written tie up must be done with the authorized recyclers.
- vi. Any hazardous waste generated during construction phase, shall be disposed off as per applicable rules and norms with necessary approvals of the State Pollution Control Board.
- vii. Use of environment friendly materials in bricks, blocks and other construction materials, shall be required for at least 20% of the construction material quantity. These include Fly



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Ash bricks, hollow bricks, AACs, Fly Ash Lime Gypsum blocks, Compressed earth blocks, and other environment friendly materials.

- viii. Fly ash should be used as building material in the construction as per the provision of Fly Ash Notification of September, 1999 and amended as on 27th August, 2003 and 25th January, 2016. Ready mixed concrete must be used in building construction.
- ix. Any wastes from construction and demolition activities related thereto shall be managed so as to strictly conform to the Construction and Demolition Rules, 2016.
- x. Used CFLs and TFLs should be properly collected and disposed off/sent for recycling as per the prevailing guidelines/ rules of the regulatory authority to avoid mercury contamination.

VII. Green Cover

- i. No tree can be felled/transplant unless exigencies demand. Where absolutely necessary, tree felling shall be with prior permission from the concerned regulatory authority. Old trees should be retained based on girth and age regulations as may be prescribed by the Forest Department. Plantations to be ensured species (cut) to species (planted).
- ii. A minimum of 1 tree for every 80 sqm of land should be planted and maintained. The existing trees will be counted for this purpose. The landscape planning should include plantation of native species. The species with heavy foliage, broad leaves and wide canopy cover are desirable. Water intensive and/or invasive species should not be used for landscaping.
- iii. Where the trees need to be cut with prior permission from the concerned local Authority, compensatory plantation in the ratio of 1:10 (i.e. planting of 10 trees for every 1 tree that is cut) shall be done and maintained. Plantations to be ensured species (cut) to species (planted). Area for green belt development shall be provided as per the details provided in the project document.
- iv. Topsoil should be stripped to a depth of 20 cm from the areas proposed for buildings, roads, paved areas, and external services. It should be stockpiled appropriately in designated areas and reapplied during plantation of the proposed vegetation on site.

VIII. Transport

- i. A comprehensive mobility plan, as per MoUD best practices guidelines (URDPFI), shall be prepared to include motorized, non-motorized, public, and private networks. Road should be designed with due consideration for environment, and safety of users. The road system can be designed with these basic criteria.

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- a. Hierarchy of roads with proper segregation of vehicular and pedestrian traffic.
 - b. Traffic calming measures.
 - c. Proper design of entry and exit points.
 - d. Parking norms as per local regulation.
- ii. Vehicles hired for bringing construction material to the site should be in good condition and should have a pollution check certificate and should conform to applicable air and noise emission standards be operated only during non-peak hours.
 - iii. A detailed traffic management and traffic decongestion plan shall be drawn up to ensure that the current level of service of the roads within a 05 kms radius of the project is maintained and improved upon after the implementation of the project. This plan should be based on cumulative impact of all development and increased habitation being carried out or proposed to be carried out by the project or other agencies in this 05 Kms radius of the site in different scenarios of space and time and the traffic management plan shall be duly validated and certified by the State Urban Development department and the P.W.D./ competent authority for road augmentation and shall also have their consent to the implementation of components of the plan which involve the participation of these departments.

IX. Human health issues

- i. All workers working at the construction site and involved in loading, unloading, carriage of construction material and construction debris or working in any area with dust pollution shall be provided with dust mask.
- ii. For indoor air quality the ventilation provisions as per National Building Code of India.
- iii. Emergency preparedness plan based on the Hazard identification and Risk Assessment (HIRA) and Disaster Management Plan shall be implemented.
- iv. Provision shall be made for the housing of construction labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, crèche etc. The housing may be in the form of temporary structures to be removed after the completion of the project.
- v. Occupational health surveillance of the workers shall be done on a regular basis.
- vi. A First Aid Room shall be provided in the project both during construction and operations of the project.



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X. Corporate Environment Responsibility

- i. The project proponent shall comply with the provisions contained in this Ministry's OM vide F.No. 22-65/2017-1A.III dated 1st May 2018, as applicable, regarding Corporate Environment Responsibility.
- ii. The company shall have a well laid down environmental policy duly approved by the Board of Directors. The environmental policy should prescribe for standard operating procedures to have proper checks and balances and to bring into focus any infringements/deviation/violation of the environmental / forest / wildlife norms / conditions. The company shall have defined system of reporting infringements / deviation / violation of the environmental / forest / wildlife norms / conditions and / or shareholders / stake holders. The copy of the board resolution in this regard shall be submitted to the MoEF&CC as a part of six-monthly report.
- iii. A separate Environmental Cell both at the project and company head quarter level, with qualified personnel shall be set up under the control of senior Executive, who will directly to the head of the organization.
- iv. Action plan for implementing EMP and environmental conditions along with responsibility matrix of the company shall be prepared and shall be duly approved by competent authority. The year wise funds earmarked for environmental protection measures shall be kept in separate account and not to be diverted for any other purpose. Year wise progress of implementation of action plan shall be reported to the Ministry/Regional Office along with the Six Monthly Compliance Report.

XI. Miscellaneous

- i. The project proponent shall prominently advertise it at least in two local newspapers of the District or State, of which one shall be in the vernacular language within seven days indicating that the project has been accorded environment clearance and the details of MoEFCC/SEIAA website where it is displayed.
- ii. The copies of the environmental clearance shall be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.
- iii. The project proponent shall upload the status of compliance of the stipulated environment clearance conditions, including results of monitored data on their website and update the same on half-yearly basis.



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- iv. The project proponent shall submit six-monthly reports on the status of the compliance of the stipulated environmental conditions on the website of the ministry of Environment, Forest and Climate Change at environment clearance portal.
- v. The project proponent shall submit the environmental statement for each financial year in Form-V to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently and put on the website of the company.
- vi. The project proponent shall inform the Regional Office as well as the Ministry, the date of financial closure and final approval of the project by the concerned authorities, commencing the land development work and start of production operation by the project.
- vii. The project authorities must strictly adhere to the stipulations made by the State Pollution Control Board and the State Government.
- viii. The project proponent shall abide by all the commitments and recommendations made in the EIA/EMP report, commitment made during Public Hearing and also that during their presentation to the Expert Appraisal Committee.
- ix. No further expansion or modifications in the plant shall be carried out without prior approval of the Ministry of Environment, Forests and Climate Change (MoEF&CC).
- x. Concealing factual data or submission of false/fabricated data may result in revocation of this environmental clearance and attract action under the provisions of Environment (Protection) Act, 1986.
- xi. The Ministry may revoke or suspend the clearance, if implementation of any of the above conditions is not satisfactory.
- xii. The Ministry reserves the right to stipulate additional conditions if found necessary. The Company in a time bound manner shall implement these conditions.
- xiii. The Regional Office of this Ministry shall monitor compliance of the stipulated conditions. The project authorities should extend full cooperation to the officer (s) of the Regional Office by furnishing the requisite data / information/monitoring reports.
- xiv. The above conditions shall be enforced, inter-alia under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and the Public Liability Insurance Act, 1991 along with their amendments and Rules and any other orders passed



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by the Hon'ble Supreme Court of India / High Courts and any other Court of Law relating to the subject matter.

- xv. Any appeal against this EC shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.



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ANNEXURE-'A-3'



STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY

SEAC-2016/C.R.424/TC-1 Environment department,
Room No. 217, 2nd floor,
Mantralaya, Annexe,
Mumbai- 400 032.
Date:May 12, 2017

To,
Residential Project
at At CTS no. 101, Survey 38 (pt) Village Tirandaz, Powai, Mumbai, Maharashtra.

Subject: Environment Clearance for Proposed Residential Project at CTS no. 101, Survey 38 (pt) Village Tirandaz, Powai, Mumbai by M/s. Skyline Mansions Pvt. Ltd.

Sir,

This has reference to your communication on the above mentioned subject. The proposal was considered as per the EIA Notification - 2006, by the State Level Expert Appraisal Committee-II, Maharashtra in its th meeting and recommend the project for prior environmental clearance to SEIAA. Information submitted by you has been considered by State Level Environment Impact Assessment Authority in its Meeting Number 111th meetings.

2. It is noted that the proposal is considered by SEAC-II under screening category 8 a (B1) as per EIA Notification 2006.

Brief Information of the project submitted by you is as below :-

1.Name of Project	Residential Project
2.Type of institution	Private
3.Name of Project Proponent	Mr. Jaysinh Dave
4.Name of Consultant	ABC Techno Labs India Private Limited
5.Type of project	Residential Project
6.New project/expansion in existing project/modernization/diversification in existing project	New Project
7.If expansion/diversification, whether environmental clearance has been obtained for existing project	NA
8.Location of the project	At CTS no. 101, Survey 38 (pt) Village Tirandaz, Powai, Mumbai, Maharashtra.
9.Taluka	Mumbai
10.Village	Tirandaz
11.Area of the project	Municipal Corporation of Greater Mumbai (MCGM)
12.IOD/IOA/Concession/Plan Approval Number	Obtained IOD/IOA/Concession/Plan Approval Number: Building No. 2 - CE/1193/BPES/AS & Building No.3 - CE/1194/BPES/AS Approved Built-up Area: 1,90,533.95 sq.m Concession approved by Municipal Commissioner Under File no. CE/1193/BPES/AS & CE/1194/BPES/AS dated 03.01.2017
13.Note on the initiated work (If applicable)	Not applicable
14.LOI / NOC / IOD from MHADA/ Other approvals (If applicable)	Not applicable
15.Total Plot Area (sq. m.)	1,23,647.25 m2
16.Deductions	86,446.21 m2
17.Net Plot area	37,201.01 m2
18.Proposed Built-up Area (FSI & Non-FSI)	FSI area (sq. m.): 91,409.47 m2 Non FSI area (sq. m.): 99,124.48 m2 Total BUA area (sq. m.): 1,90,533.95 m2
19.Total ground coverage (m2)	12,962.0 m2
20.Ground-coverage Percentage (%) (Note: Percentage of plot not open to sky)	34 % of Net Plot Area
21.Estimated cost of the project	5120000000

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(Signature)
Shri Satish.M.Gavai (Member
Secretary SEIAA)

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22. Production Details				
Serial Number	Product	Existing (MT/M)	Proposed (MT/M)	Total (MT/M)
1	Not applicable	Not applicable	Not applicable	Not applicable
23. Total Water Requirement				
Dry season:	Source of water	Municipal Water Supply		
	Fresh water (CMD):	567		
	Recycled water - Flushing (CMD):	281		
	Recycled water - Gardening (CMD):	69		
	Swimming pool make up (Cum):	Not applicable		
	Total Water Requirement (CMD):	921		
	Fire fighting - Underground water tank(CMD):	900		
	Fire fighting - Overhead water tank(CMD):	450		
	Excess treated water	294		
Wet season:	Source of water	Municipal Water Supply		
	Fresh water (CMD):	567		
	Recycled water - Flushing (CMD):	281		
	Recycled water - Gardening (CMD):	Not applicable		
	Swimming pool make up (Cum):	Not applicable		
	Total Water Requirement (CMD):	852		
	Fire fighting - Underground water tank(CMD):	900		
	Fire fighting - Overhead water tank(CMD):	450		
	Excess treated water	363		
Details of Swimming pool (If any)	Not applicable			

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Secretary SEIAA)

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24.Details of Total water consumed									
Particulars	Consumption (CMD)			Loss (CMD)			Effluent (CMD)		
	Existing	Proposed	Total	Existing	Proposed	Total	Existing	Proposed	Total
Domestic	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
25.Rain Water Harvesting (RWH)	Level of the Ground water table:		6 - 7 Mtrs						
	Size and no of RWH tank(s) and Quantity:		7 RWH tanks with 390 cum. capacity						
	Location of the RWH tank(s):		On ground						
	Quantity of recharge pits:		5 Nos.						
	Size of recharge pits :		5 Nos.						
	Budgetary allocation (Capital cost) :		39.15 Lakhs						
	Budgetary allocation (O & M cost) :		1.5 Lakhs						
	Details of UGT tanks if any :		For each wing of Bldg. 2 respectively: A,B,C,D,E & F 1. Domestic Water tank Capacity: 426.0 m ³ 2. Raw Water tank Capacity: 320 m ³ 3. Fire Fighting tank Capacity: 600 m ³ For Bldg. 3: 1. Domestic Water tank Capacity: 140 m ³ 2. Raw Water tank Capacity: 70 m ³ 3. Fire Fighting tank Capacity: 300 m ³						
26.Storm water drainage	Natural water drainage pattern:		As per gravity						
	Quantity of storm water:		0.930 Cum/Sec for building No-2 and 0.185 Cum/Sec for building No-3						
	Size of SWD:		Varies from 300 mm to 1000 mm						
27.Sewage and Waste water	Sewage generation in KLD:		720 KLD						
	STP technology:		Moving bed biofilm reactor (MBBR)						
	Capacity of STP (CMD):		1 STP of 720 KLD Capacity						
	Location & area of the STP:		Above Ground						
	Budgetary allocation (Capital cost):		108 Lakhs						
	Budgetary allocation (O & M cost):		22.85 Lakhs/Year						



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28.Solid waste Management		
Waste generation in the Pre Construction and Construction phase:	Waste generation:	28000 cum
	Disposal of the construction waste debris:	Will be Utilized in low-land leveling & base preparation of internal roads. Some quantity of Excavation soil will be use for backfilling and remaining will be hand over to authorize vendor.
Waste generation in the operation Phase:	Dry waste:	1124 kg/day
	Wet waste:	1686 kg/day
	Hazardous waste:	Spent oil or oil grease for DG sets, paints etc.
	Biomedical waste (If applicable):	Not Applicable
	STP Sludge (Dry sludge):	22 kg/day
	Others if any:	Not Applicable
Mode of Disposal of waste:	Dry waste:	Handed over to authorize vendor for further handling and disposal.
	Wet waste:	Will be converted to compost using Organic Waste Converter.
	Hazardous waste:	Handed over to authorized Vendor/Recycler
	Biomedical waste (If applicable):	Not Applicable
	STP Sludge (Dry sludge):	Will be used as manure for gardening
	Others if any:	Not Applicable
Area requirement:	Location(s):	On ground
	Area for the storage of waste & other material:	93 m ²
	Area for machinery:	2.6 M x 7.2 M x 2.7M
Budgetary allocation (Capital cost and O&M cost):	Capital cost:	45 Lakhs
	O & M cost:	2.95 Lakhs/Annum

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29.Effluent Charecterestics					
Serial Number	Parameters	Unit	Inlet Effluent Charecterestics	Outlet Effluent Charecterestics	Effluent discharge standards (MPCB)
1	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Amount of effluent generation (CMD):		Not applicable			
Capacity of the ETP:		Not applicable			
Amount of treated effluent recycled :		Not applicable			
Amount of water send to the CETP:		Not applicable			
Membership of CETP (if require):		Not applicable			
Note on ETP technology to be used		Not applicable			
Disposal of the ETP sludge		Not applicable			



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a) Construction phase (with Break-up):							
Serial Number	Attributes	Parameter	Total Cost per annum (Rs. In Lacs)				
1	Water for Dust Suppression	Dust control	3.0				
2	Site Sanitation, Safety & Disinfection	Workers Health	4.0				
3	Environmental Monitoring	Air, Water, Soil, Noise Sampling & testing	4.0				
4	Health Check up	Routine Health checkup of Workers	2.0				
b) Operation Phase (with Break-up):							
Serial Number	Component	Description	Capital cost Rs. In Lacs	Operational and Maintenance cost (Rs. in Lacs/yr)			
1	Sewage Treatment Plant	Sewage treatment	108	22.85			
2	Solid waste management	Disposal of Wet and Dry waste	45	2.95			
3	Landscape	Green belt development	105	6.0			
4	Rain water harvesting	Infrastructure of RWH	39.13	1.5			
5	Energy Saving	Energy saving features	227	27.2			
6	Environment Management	Environmental monitoring	Not applicable	6			
39.Storage of chemicals (inflammable/explosive/hazardous/toxic substances)							
Description	Status	Location	Storage Capacity in MT	Maximum Quantity of Storage at any point of time in MT	Consumption / Month in MT	Source of Supply	Means of transportation
Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
40.Any Other Information							
No Information Available							

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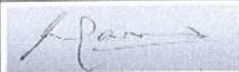
	CRZ/ RRZ clearance obtain, if any:	Not applicable
	Distance from Protected Areas / Critically Polluted areas / Eco-sensitive areas/ inter-State boundaries	Sanjay gandhi national parkt - 4.9 Km
	Category as per schedule of EIA Notification sheet	8 a (B1)
	Court cases pending if any	Not applicable
	Other Relevant Informations	Not applicable
	Have you previously submitted Application online on MOEF Website.	Yes
	Date of online submission	27-11-2015

3. The proposal has been considered by SEIAA in its Meeting Number 111th meeting & decided to accord environmental clearance to the said project under the provisions of Environment Impact Assessment Notification, 2006 subject to implementation of the following terms and conditions:

Specific Conditions:

General Conditions:

I	E-waste shall be disposed through Authorized vendor as per E-waste (Management and Handling) Rules, 2016.
II	The Occupancy Certificate shall be issued by the Local Planning Authority to the project only after ensuring sustained availability of drinking water, connectivity of sewer line to the project site and proper disposal of treated water as per environmental norms.
III	This environmental clearance is issued subject to obtaining NOC from Forestry & Wild life angle including clearance from the standing committee of the National Board for Wild life as if applicable & this environment clearance does not necessarily imply that Forestry & Wild life clearance granted to the project which will be considered separately on merit.
IV	PP has to abide by the conditions stipulated by SEAC & SEIAA.
V	The height, Construction built up area of proposed construction shall be in accordance with the existing FSI/FAR norms of the urban local body & it should ensure the same along with survey number before approving layout plan & before according commencement certificate to proposed work. Plan approving authority should also ensure the zoning permissibility for the proposed project as per the approved development plan of the area.
VI	If applicable Consent for Establishment" shall be obtained from Maharashtra Pollution Control Board under Air and Water Act and a copy shall be submitted to the Environment department before start of any construction work at the site.
VII	All required sanitary and hygienic measures should be in place before starting construction activities and to be maintained throughout the construction phase.
VIII	Adequate drinking water and sanitary facilities should be provided for construction workers at the site. Provision should be made for mobile toilets. The safe disposal of wastewater and solid wastes generated during the construction phase should be ensured.
IX	The solid waste generated should be properly collected and segregated. dry/inert solid waste should be disposed off to the approved sites for land filling after recovering recyclable material.
X	Disposal of muck during construction phase should not create any adverse effect on the neighboring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in approved sites with the approval of competent authority.
XI	Arrangement shall be made that waste water and storm water do not get mixed.
XII	All the topsoil excavated during construction activities should be stored for use in horticulture / landscape development within the project site.
XIII	Additional soil for leveling of the proposed site shall be generated within the sites (to the extent possible) so that natural drainage system of the area is protected and improved.
XIV	Green Belt Development shall be carried out considering CPCB guidelines including selection of plant species and in consultation with the local DFO/ Agriculture Dept.
XV	Soil and ground water samples will be tested to ascertain that there is no threat to ground water quality by leaching of heavy metals and other toxic contaminants.
XVI	Construction spoils, including bituminous material and other hazardous materials must not be allowed to contaminate watercourses and the dumpsites for such material must be secured so that they should not leach into the ground water.

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XXVII	Any hazardous waste generated during construction phase should be disposed off as per applicable rules and norms with necessary approvals of the Maharashtra Pollution Control Board.
XXVIII	The diesel generator sets to be used during construction phase should be low sulphur diesel type and should conform to Environments (Protection) Rules prescribed for air and noise emission standards.
XIX	The diesel required for operating DG sets shall be stored in underground tanks and if required, clearance from concern authority shall be taken.
XX	Vehicles hired for bringing construction material to the site should be in good condition and should have a pollution check certificate and should conform to applicable air and noise emission standards and should be operated only during non-peak hours.
XXI	Ambient noise levels should conform to residential standards both during day and night. Incremental pollution loads on the ambient air and noise quality should be closely monitored during construction phase. Adequate measures should be made to reduce ambient air and noise level during construction phase, so as to conform to the stipulated standards by CPCB/MPCB.
XXII	Fly ash should be used as building material in the construction as per the provisions of Fly Ash Notification of September 1999 and amended as on 27th August, 2003. (The above condition is applicable only if the project site is located within the 100Km of Thermal Power Stations).
XXIII	Ready mixed concrete must be used in building construction.
XXIV	Storm water control and its re-use as per CGWB and BIS standards for various applications.
XXV	Water demand during construction should be reduced by use of pre-mixed concrete, curing agents and other best practices referred.
XXVI	The ground water level and its quality should be monitored regularly in consultation with Ground Water Authority.
XXVII	The installation of the Sewage Treatment Plant (STP) should be certified by an independent expert and a report in this regard should be submitted to the MPCB and Environment department before the project is commissioned for operation. Discharge of this unused treated effluent, if any should be discharge in the sewer line. Treated effluent emanating from STP shall be recycled/refused to the maximum extent possible. Discharge of this unused treated effluent, if any should be discharge in the sewer line. Treatment of 100% gray water by decentralized treatment should be done. Necessary measures should be made to mitigate the odour problem from STP.
XXVIII	Permission to draw ground water and construction of basement if any shall be obtained from the competent Authority prior to construction/operation of the project.
XXIX	Separation of gray and black water should be done by the use of dual plumbing line for separation of gray and black water.
XXX	Fixtures for showers, toilet flushing and drinking should be of low flow either by use of aerators or pressure reducing devices or sensor based control.
XXXI	Use of glass may be reduced up to 40% to reduce the electricity consumption and load on air conditioning. If necessary, use high quality double glass with special reflective coating in windows.
XXXII	Roof should meet prescriptive requirement as per Energy Conservation Building Code by using appropriate thermal insulation material to fulfill requirement.
XXXIII	Energy conservation measures like installation of CFLs /TFLs for the lighting the areas outside the building should be integral part of the project design and should be in place before project commissioning. Use CFLs and TFLs should be properly collected and disposed off/sent for recycling as per the prevailing guidelines/rules of the regulatory authority to avoid mercury contamination. Use of solar panels may be done to the extent possible like installing solar street lights, common solar water heaters system. Project proponent should install, after checking feasibility, solar plus hybrid non-conventional energy source as source of energy.
XXXIV	Diesel power generating sets proposed as source of backup power for elevators and common area illumination during operation phase should be of enclosed type and conform to rules made under the Environment (Protection) Act, 1986. The height of stack of DG sets should be equal to the height needed for the combined capacity of all proposed DG sets. Use low sulphur diesel. The location of the DG sets may be decided with in consultation with Maharashtra Pollution Control Board.
XXXV	Noise should be controlled to ensure that it does not exceed the prescribed standards. During nighttime the noise levels measured at the boundary of the building shall be restricted to the permissible levels to comply with the prevalent regulations.
XXXVI	Traffic congestion near the entry and exit points from the roads adjoining the proposed project site must be avoided. Parking should be fully internalized and no public space should be utilized.
XXXVII	Opaque wall should meet prescriptive requirement as per Energy Conservation Building Code, which is proposed to be mandatory for all air-conditioned spaces while it is aspiration for non-air-conditioned spaces by use of appropriate thermal insulation material to fulfill requirement.
XXXVIII	The building should have adequate distance between them to allow movement of fresh air and passage of natural light, air and ventilation.
XXXIX	Regular supervision of the above and other measures for monitoring should be in place all through the construction phase, so as to avoid disturbance to the surroundings.
XL	Under the provisions of Environment (Protection) Act, 1986, legal action shall be initiated against the project proponent if it was found that construction of the project has been started without obtaining environmental clearance.
XLI	Six monthly monitoring reports should be submitted to the Regional office MoEF, Bhopal with copy to this department and MPCB.

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Shri Satish.M.Gavai (Member
Secretary SEIAA)



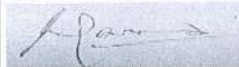
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XLII	Project proponent shall ensure completion of STP, MSW disposal facility, green belt development prior to occupation of the buildings. As agreed during the SEIAA meeting, PP to explore possibility of utilizing excess treated water in the adjacent area for gardening before discharging it into sewer line. No physical occupation or allotment will be given unless all above said environmental infrastructure is installed and made functional including water requirement in Para 2. Prior certification from appropriate authority shall be obtained.
XLIII	Wet garbage should be treated by Organic Waste Converter and treated waste (manure) should be utilized in the existing premises for gardening. And, no wet garbage will be disposed outside the premises. Local authority should ensure this.
XLIV	Local body should ensure that no occupation certification is issued prior to operation of STP/MSW site etc. with due permission of MPCB.
XLV	A complete set of all the documents submitted to Department should be forwarded to the Local authority and MPCB.
XLVI	In the case of any change(s) in the scope of the project, the project would require a fresh appraisal by this Department.
XLVII	A separate environment management cell with qualified staff shall be set up for implementation of the stipulated environmental safeguards.
XLVIII	Separate funds shall be allocated for implementation of environmental protection measures/EMP along with item-wise breaks-up. These cost shall be included as part of the project cost. The funds earmarked for the environment protection measures shall not be diverted for other purposes and year-wise expenditure should reported to the MPCB & this department.
XLIX	The project management shall advertise at least in two local newspapers widely circulated in the region around the project, one of which shall be in the Marathi language of the local concerned within seven days of issue of this letter, informing that the project has been accorded environmental clearance and copies of clearance letter are available with the Maharashtra Pollution Control Board and may also be seen at Website at http://ec.maharashtra.gov.in .
L	Project management should submit half yearly compliance reports in respect of the stipulated prior environment clearance terms and conditions in hard & soft copies to the MPCB & this department, on 1st June & 1st December of each calendar year.
LI	A copy of the clearance letter shall be sent by proponent to the concerned Municipal Corporation and the local NGO, if any, from whom suggestions/representations, if any, were received while processing the proposal. The clearance letter shall also be put on the website of the Company by the proponent.
LII	The proponent shall upload the status of compliance of the stipulated EC conditions, including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of MoEF, the respective Zonal Office of CPCB and the SPCB. The criteria pollutant levels namely, SPM, RSPM, SO ₂ , NO _x (ambient levels as well as stack emissions) or critical sector parameters, indicated for the project shall be monitored and displayed at a convenient location near the main gate of the company in the public domain.
LIII	The project proponent shall also submit six monthly reports on the status of compliance of the stipulated EC conditions including results of monitored data (both in hard copies as well as by e-mail) to the respective Regional Office of MoEF, the respective Zonal Office of CPCB and the SPCB.
LIV	The environmental statement for each financial year ending 31st March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of EC conditions and shall also be sent to the respective Regional Offices of MoEF by e-mail.

Government of Maharashtra



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4. The environmental clearance is being issued without prejudice to the action initiated under EP Act or any court case pending in the court of law and it does not mean that project proponent has not violated any environmental laws in the past and whatever decision under EP Act or of the Hon'ble court will be binding on the project proponent. Hence this clearance does not give immunity to the project proponent in the case filed against him, if any or action initiated under EP Act.

5. In case of submission of false document and non-compliance of stipulated conditions, Authority/ Environment Department will revoke or suspend the Environmental Clearance without any intimation and initiate appropriate legal action under Environmental Protection Act, 1986.

6. The Environment department reserves the right to add any stringent condition or to revoke the clearance if conditions stipulated are not implemented to the satisfaction of the department or for that matter, for any other administrative reason.

7. Validity of Environment Clearance: The environmental clearance accorded shall be valid as per EIA Notification, 2006, and amendments by MoEF&CC Notification dated 29th April, 2015.

8. In case of any deviation or alteration in the project proposed from those submitted to this department for clearance, a fresh reference should be made to the department to assess the adequacy of the condition(s) imposed and to incorporate additional environmental protection measures required, if any.

9. The above stipulations would be enforced among others under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and rules there under, Hazardous Wastes (Management and Handling) Rules, 1989 and its amendments, the public Liability Insurance Act, 1991 and its amendments.

10. Any appeal against this environmental clearance shall lie with the National Green Tribunal (Western Zone Bench, Pune), New Administrative Building, 1st Floor, D- Wing, Opposite Council Hall, Pune, if preferred, within 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

Shri Satish.M.Gavai (Member Secretary SEIAA)

Copy to:

1. SHRI ANAND. B. KULKARNI, CHAIRMAN-SEIAA
2. SHRI UMAKANT DANGAT, CHAIRMAN-SEAC-I
3. SHRI JOHNY JOSEPH, CHAIRMAN-SEAC-II
4. SHRI ANIL .D. KALE, CHAIRMAN SEAC-III
5. SECRETARY MOEF & CC
6. IA- DIVISION MOEF & CC
7. MEMBER SECRETARY MAHARASHTRA POLLUTION CONTROL BOARD MUMBAI
8. REGIONAL OFFICE MOEF & CC NAGPUR
9. MUNICIPAL COMMISSIONER MUMBAI
10. MUNICIPAL COMMISSIONER NAVI MUMBAI
11. REGIONAL OFFICE MPCB MUMBAI
12. REGIONAL OFFICE MPCB NAVI MUMBAI
13. REGIONAL OFFICE MIDC ANDHERI
14. REGIONAL OFFICE MIDC KOPER KHAIIRANE NAVI MUMBAI
15. MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO. LTD
16. COLLECTOR OFFICE MUMBAI
17. COLLECTOR OFFICE MUMBAI SUB-URBAN



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Shri Satish.M.Gavai (Member
Secretary SEIAA)

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ANNEXURE-'A-4'

higher than the main road from where the cul-de-sac road takes off. The turning space, in each case, should not be less than 81sq.m. in area, no dimension being less than 9 m.

TABLE 7
Width of access for industrial zones

Access length in meters (m)	Width of means of access in meter (m.)
(1)	(2)
Upto 100	9.00
Above 100 upto 300	12.00
Above 300	15.00

- (2) Access for residential, commercial and industrial zones as in table 6 and 7 above-
- shall be clear of marginal open spaces but not less than 3m. from the building line;
 - may be reduced by 1 m. their in prescribed widths if the plots are on only one side to the access;
 - shall be measured in length from the point of its origin to the next wider public street it meets.
- (3) In the interest of the general development of any area, the Commissioner may require the means of access to be of larger width than that required under these Regulations.
- (4) Notwithstanding the above, in partially built-up plots where the area still to be built upon does not exceed 5,000 sq.m. an access of 3.6m. width may be considered adequate. If such an access is through a built over arch, this access shall have a height of not less than 4.5m. If such access is atleast 3 m. in width, it shall be considered as adequate means of access for areas to be built upon not exceeding 5,000 sq.m. provided such area is used for low income group housing and the F.S.I. would be 75 per cent of the F.S.I. permissible in the zone.
- (5) In the case of a plot, surrounded on all sides by other plots i.e. a land-locked plot which has no access to any street or road, the Commissioner may require access through an adjoining plot or plots which shall, as far as possible be nearest to the street or road to the land locked plot, at the cost of owner of the land-locked plot and such other conditions as the Commissioner may specify.
- (6) Notwithstanding the provisions regarding access in these Regulations, an access provided in Town Planning Schemes and in Improvement Trust Schemes shall be deemed to be adequate.

23. Recreational / Amenity Open Spaces.-

- (1) *Open spaces in residential and commercial layouts-*
- (a) *Extent.* -In any layout or sub-division of vacant land in a residential and commercial zone, open spaces shall be provided as under:

(i)	Area from 1001 SQ.M. to 2500 SQ.M.	15 per cent
(ii)	Area from 2501 SQ.M. to 10,000 SQ.M.	20 per cent
(iii)	Area above 10,000 SQ.M.	25 per cent

These open spaces shall be exclusive of areas of accesses/internal roads/designations or reservations, development plan roads and areas for road-widening and shall as far as possible be provided in one place. Where however, the area of the layout or sub-division is more than 5000 sq. m., open spaces may be provided in more than one place, but at least one of such places shall be not less than 1000 sq. m. in size. Such



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recreational spaces will not be necessary in the case of land used for educational institutions with attached independent playgrounds. Admissibility of FSI shall be as indicated in Regulations 35.

- (b) *Minimum area.*- No such recreational space shall measure less than 125 sq.m.
- (c) *Minimum dimensions.*-The minimum dimension of such recreational space shall not be less than 7.5m., and if the average width of such recreational space is less than 16.6 m, the length thereof shall not exceed 2 1/2 times the average width.
- (d) *Access.*-Every plot meant for a recreational open space shall have an independent means of access, unless it is approachable directly from every building in the layout.
- (e) *Ownership.*-The ownership of such recreational space shall vest, by provision in a deed of conveyance, in all the property owners on account of whose holdings the recreational space is assigned.
- (f) *Tree growth.*-Excepting for the area covered by the structures permissible under (g) below, the recreational space shall be kept permanently open to the sky and accessible to all owners and occupants as a garden or a playground etc. and trees shall be grown as under:-
- (a) at the rate of 5 tree per 100 sq.m. or part thereof of the said recreational space to be grown within the entire plot.
- (b) at the rate of 1 tree per 80 sq. m. or part thereof to be grown in a plot for which a sub-division or layout is not necessary.
- (g) *Structures/uses permitted in recreational open spaces* -(i) In a recreational open spaces exceeding 400 sq.m. in area (in one piece), elevated/underground water reservoirs, electric sub-stations, pump houses may be built and shall not utilise more than 10 per cent of the open space in which they are located.
- (ii) In a recreational open space or playground of 1000 sq.m. or more in area (in one piece and in one place), structures for pavilions, gymnasias, club houses and other structures for the purpose of sports and recreation activities may be permitted with built-up area not exceeding 15 per cent the total recreational open spaces in one place. The area of the plinth of such a structure shall be restricted to 10 per cent of the area of the total recreational open space. The height of any such structure which maybe single storey shall not exceed 8m. A swimming pool may also be permitted in such a recreational open space and shall be free of FSI. Structures for such sports and recreation activities shall conform to the following requirements: -
- (a) The ownership of such structures and other appurtenant users shall vest, by provision in a deed of conveyance, in all the owners on account of whose cumulative holdings the recreational open space is required to be kept as recreational open space or ground viz 'R. G', in the layout or sub-division of the land.
- (b) The proposal for construction of such structure should come as a proposal from the owner/owners/society/societies or federation of societies without any profit motive and shall be meant for the beneficial use of the owner/owners/members of such society/societies/federation of societies.
- (c) Such structures shall not be used for any other purpose, except for recreational activities, for which a security deposit as decided by the Commissioner will have to be paid to the Corporation.
- (d) The remaining area of the recreational open space or playground shall be kept open to sky and properly accessible to all members as a place of recreation, garden or a playground.
- (e) The owner/owners/or society or societies or federation of the societies shall submit to the Commissioner a registered undertaking agreeing to the conditions in (a) to (d) above.
- (2) *Open spaces in industrial plots/layout of industrial plots.*- (a) In any industrial plot admeasuring 1000 sq.m. or more in area 10 per cent of the total area shall be provided as an amenity open space subject to a maximum of 2500 sq.m. and
- (i.) such open space shall have proper means of access and shall be so located that it can be conveniently utilised by the persons working in the industry;



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- (ii.) the parking and loading and unloading spaces as required under these Regulations shall be clearly shown on the plans ;
- (iii.) such open spaces shall be kept permanently open to sky and accessible to all the owners and occupants and trees shall grown therein at the rate of 5 trees for every 100 sq.m. of the said open space to be grown within the entire plot or at the rate of 1 tree for every 80 sq.m. to be grown in a plot for which a sub-division or layout is not necessary.
- (b) In case of sub-division of land admeasuring 8000 sq.m. or more in area in an industrial zone, 5 per cent of the total area in addition to 10 per cent in (a) above shall be reserved as amenity open space, which shall also serve as general parking space. When the additional amenity open space exceeds 1500 sq.m. the excess area may be used for construction of buildings for banks, canteens, welfare centres, offices, crèches and other common purposes considered necessary for industrial users as approved by the Commissioner.

24. Minimum Widths of Pathways.-

The approach to a building from a road/street/internal means of access shall be through a paved pathway of width specified in Table 8 here-under, the length of pathway being determined by the distance from the farthest plot or building to the internal road proposed under Regulation 21 or to an existing road from which it takes off.

TABLE 8
WIDTHS OF PATHWAYS

Types of Development (1)	Length of pathway in meters (2)(m)	Width in meters (3)(m)
(i) High Density Housing	upto 50	3.00
	upto 40	2.5
	upto 30	2.0
	upto 20	1.5
(ii) A building of any other type	upto 20	1.5

25. **Shopping Centres/Departmental Stores.** -In layouts or sub-divisions of area in excess of 2 ha. in residential and commercial zones, plots may be provided for shopping centres/departmental stores. Such centre/stores may have an aggregate area upto 5 per cent of the area of the plot. The conditions governing the layout of such a centre/store shall be as under:-

- (i) The centre/store may be at one place or may be distributed within the layout to make it accessible from the different parts of layout ;
- (ii) These centre/stores shall not abut any roads more than 31 m. wide ;
- (iii) Within a layout the centre/stores may be provided on the ground and upper floors or on the ground floor and the upper floors may be used for residential purposes and conveniences like banks or places for medical or dental practitioners.
- (iv) Uses shall be as defined in clause (20) of sub-Regulations (3) of Regulations 2 Additional uses may include:-
- (a.) Stores or shops for the conduct of retail business. There will, however, be no storage or sale of combustible material except with the Commissioner's permission;
- (b.) Personal services' establishments only in the suburbs and extended suburbs;
- (c.) Hair dressing saloons and beauty parlours;
- (d.) Frozen food stores;
- (e.) Shoe shops, sports shops, shoe repairs and shoe shining shops;
- (f.) Shops for the collection and distribution of clothes and other materials for cleaning, pressing and dyeing establishments;



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ANNEXURE-'A-5'

Original Notifications shall be referred for perspicuity

- v) The Owner/Developer shall not be entitled for any monetary compensation or TDR of the plot handedover to MCGM.
- vi) The minimum area of the subplot/plots of an erstwhile contiguous land, of which the entire potential is proposed to be utilized on the other subplot/plots of the same erstwhile contiguous land, shall be 2000 sq.mt.

27. Layout/Plot Recreational Ground/Open Spaces(LOS) in Layout/Plot

(1) LOS in residential and commercial layouts:

- (a) **Extent:** In any layout or sub-division/amalgamation/ for the development of individual plots with single building in a residential and commercial zone, LOS shall be provided as under.

(i)	Area from 1001 sq. m to 2500 sq. m.	15 per cent
(ii)	Area from 2501 sq. m to 10,000 sq. m	20 per cent
(iii)	Area above 10,000 sq. m	25 per cent

These LOS shall be exclusive of areas of accesses/internal roads/ existing amenity or reservations, DP roads and areas for road-widening and shall as far as possible be provided in one place. Where however, the area of the layout or sub-division/amalgamated/plot area is more than 5000 sq. m, LOS may be provided in more than one place, but at least one of such places shall be not less than 1000 sq. m in size. Such LOS will not be necessary in the case of land used for educational institutions with attached independent playgrounds.

In case of provisions of Regulation No 33 the LOS shall be as stipulated in the relevant regulations if specified separately, or else the LOS as specified above shall be provided.

Provided further that the provisions of LOS in case of the redevelopment schemes under the regulation no 33(5),33(7),33(8), 33(15) and 33(20) (A) may be reduced due to planning constraints, minimum of at least 10% shall be maintained. Provided further that in case of redevelopment proposal under Regulation No 33(5), the existing area of LOS shall be maintained. If it is more than 10% of layout.

- (b) **Minimum area:** No such LOS shall measure less than 125 sq. m.
- (c) **Minimum dimensions:** The minimum dimension of such LOS shall not



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Original Notifications shall
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be less than 7.5 m, and if the average width of such LOS is less than 16.6 m, the length thereof shall not exceed 2 1/2 times the average width.

(d) **Access:** Every plot meant for a LOS shall have an independent means of access, unless it is approachable directly from every building in the layout.

(e) **Ownership:** The ownership of such LOS shall vest by provision, in a deed of conveyance, in all the property owners on account of whose holdings the-LOS is assigned.

(f) **Tree growth:** Excepting for the area covered by the permissible structures mentioned under (g) below, the LOS shall be kept permanently open to the sky and accessible to all owners and occupants as a. LOS and trees shall be grown as under: -

(a) at the rate of 5 trees per 100 sq. m or part thereof of the said LOS to be grown within the entire plot

(b) at the rate of 1 tree per 100 sq. m or part thereof to be grown in a plot for which LOS is not necessary

(c) In between the trees planted along the boundary of plot shrubs with grass shall be planted.

(g) **Structures/uses permitted in LOS:**

(i) In a LOS exceeding 400 sq. m in area (in one piece), elevated/underground water reservoirs/tanks, electric sub-stations, pump houses, facility for treatment of wet waste in situ may be built and shall not utilize more than 10 per cent of the LOS in which they are located.

(ii) In a LOS of 1000 sq. m or more in area (in one piece and in one place), structures for pavilions, gymnasias, club houses, swimming pools and other structures for the purpose of sports and recreation activities may be permitted with BUA not exceeding 15 per cent of the total required LOS. The area of the plinth of such a structure shall be restricted to 10 per cent of the area of the total required LOS in these regulations. The total height of any such structure, which may be Ground + one storey shall not exceed 8 m. The height may be increased to 13 m to accommodate badminton court/squash court. Where club house is proposed in LOS, then provision for gymnasium/fitness centre/yogalaya in club house shall be insisted upon. Structures for such sports and recreation activities shall conform to the following requirements: -

(a) The ownership of such structures and other appurtenant users shall vest, by provision in a deed of conveyance, in all the owners on account



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Original Notifications shall
be referred for perspicuity

of whose cumulative holdings the LOS is required to be kept as LOS in the layout or sub-division/amalgamation/plot of the land.

(b) The proposal for construction of such structure should come as a proposal from the owner/owners/society/societies or federation of societies shall be meant for the beneficial use of the owner/owners/members of such society/societies/federation of societies.

(c) Such structures shall not be used for any other purpose, except for recreational activities.

(d) The remaining area of the LOS shall be kept open to sky and accessible to all members as a place of recreation.

(e) The owner/owners/or society or societies or federation of the societies shall submit to the Commissioner a registered undertaking agreeing to the conditions in (a) to (d) above.

(f) LOS in a private layout shall be for the exclusive use of the residents of such private layout only and shall not be subjected to acquisition by MCGM/Appropriate Authority. Further in such cases area of existing Recreational Open Space shall have to be maintained by residents of such private layout.

(h) Structures/Uses permitted in layout open spaces:

"Construction of Solid Waste Management System as per the National Building Code of India, Part 9 Plumbing Services, Section 1-Water Supply, Drainage & Sanitation (including Solid Waste Management) paragraph 6 /bio degradable waste treatment plant, in the layout LOS, having area 2000 Sq.mt. & above within 10% of the LOS area."

(2) LOS in industrial plots/layout of industrial plots in any industrial plot admeasuring 1000 sq. m or more in area, 15 per cent of the total area shall be provided as LOS subject to:

- (i.) Such LOS shall have proper means of access and shall be so located that it can be conveniently utilized by the persons working in the industry;
- (ii.) Such LOS shall be kept permanently open to sky and accessible to all the owners and occupants and trees shall be grown therein at the rate of 5 trees for every 100 sq. m of the said open space or at the rate of 1 tree for every 100 sq. m in other cases. In between the trees planted along the boundary of plot, shrubs with grass shall be planted.



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Original Notifications shall
be referred for perspicuity

Note:

1. The area of LOS shall be calculated on the area excluding the areas under DP road/ setback/ reservations area to be handed over to appropriate authority

2. The minimum 60% of the required LOS shall be provided exclusively on the ground and at least 50% of this shall be provided on mother earth to facilitate the percolation of water and balance 40% of required LOS may be provided on podium area extending beyond the building line. The LOS on mother earth shall not be paved and all LOS shall be accessible to all the occupants of the plot/layout. Rest of the compound pavement other than stated above shall be paved with perforated paving having adequate strength, in order to facilitate percolation of rain water into the ground.

The entire LOS may be provided on top most podium open to sky subject to condition that 1.5 m. unpaved distance shall be kept for planting of trees and thereafter marginal open space required as per these Regulations 47(1) for the maneuvering of fire fighting engine (& other equipments) on site from where light & ventilation is derived shall be provided on two sides. The area of said 1.5 m. wide strip shall not be counted in required LOS. If LOS is proposed on podium, then no parking shall be allowed on the same and rain water harvesting shall also be provided on podium.

3. Recreational Open Space of private layout which is reflected in DP as reservation of POS or existing POS shall remain as layout open space only and shall not be subjected to acquisition. Further in such cases area of existing Layout Recreational Open Space shall have to be maintained by the owner/Co Op Hsg. So/federation etc. as the case may be.

28. Substation

(A) Electrical Consumer Substation (CSS)/Distribution Substation (DSS):

In case of development/redevelopment of any land, building or premises, provision for electric sub-stations may be permitted as under



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ANNEXURE-'A-6

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

M.A. No. 205/2014

In

Original Application No. 82 of 2013

Aditya N. Prasad Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER
HON'BLE DR. R.C. TRIVEDI, EXPERT MEMBER

Present: Applicant: Mr. Aditya N. Prasad who appears in person
Respondent No. 5, 10&12: Mr. D. Rajeshwar Rao and Mr. Charanjeet Singh, Adv.
Respondent No. 14: Mr. Vikas Malhotra and Mr. M.P. Sahay, Advocates.
For Forest Dept. : Mr. Sanjay Dewan, Advocate and Mr. Ravinder Yadav, Ex Engineer for PWD

Date and Remarks	Orders of the Tribunal
Item No. 6 April 23, 2014	<p style="text-align: center;"><u>M. A. No. 205 of 2014</u></p> <p>We have heard the Applicant who appears in person and the Learned Counsel appearing for the Respondent's Authorities.</p> <p>It is stated on behalf of the Respondents that they would ensure keeping one meter area from the trunk of the trees open and non-concretized without any obstruction to the storm drain near the trees. It is further stated that wherever some roots of the trees have been exposed:</p> <ol style="list-style-type: none"> 1. root protection will be done by immediately filling the exposed portion with soil on top priority. 2. Undertake earth filling simultaneously with the carrying on of all the construction work of the storm water drain on fixing shuttering to RCC framework immediately. <p>It is further stated that wherever necessary the work will be carried on manually rather than mechanically to protect roots of the trees which have already been marked green and are to remain part of the green belt of the road under construction.</p> <p>In view of the statement made on behalf of the Department nothing survives in this Application. The Department shall abide by its word and in the event of default the Applicant would be at liberty to file an appropriate Application of which we inform the Respondents</p>



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at this juncture that we will be compelled to take very serious view of the matter. It is in the interest of the Project work being continued and in the interest of justice and sustainable development that we are permitting this activity which places higher degree of obligations on the Respondents to ensure that no trees are damaged any further.

M.A. No. 205 Of 2014 stands disposed of accordingly.

The Forest Department shall also supervise the work.

List on 28th April, 2014 the date already fixed.

SN

.....,CP
(Swatanter Kumar)

.....,JM
(U.D. Salvi)

.....,EM
(Dr. D.K. Agrawal)

.....,EM
(B.S. Sajwan)

.....,EM
(Dr. R.C. Trivedi)

Shana Singh



ANNEXURE-'A-7'

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Application No. 82 of 2013

Aditya N. Prasad Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE DR. D. K. AGRAWAL, EXPERT MEMBER
HON'BLE DR. G. K. PANDEY, EXPERT MEMBER
HON'BLE DR. R. C. TRIVEDI, EXPERT MEMBER

Present: **Applicant:** Mr. Rajiv Dutta, Sr. Advocate, Mr. Kumar Dushyant Singh, Advocate and Mr. Arijeet Singh, Advocate
Respondent No. 1 to 14: Ms. Neelam Rathore, Advocate along with Ms. Syed Amber
Respondent No. 2: Ms. Puja Kalra, Advocate
Respondent No. 3 & 4: Mr. Balendu Shekhar, Advocate
Respondent No. 5&12: Mr. D. Rajeshwar Rao, Advocate
Respondent No. 6: Mr. Sunil Satraparthy, Advocate
Respondent No.7: Mr. M. Dutta, Advocate
Respondent No.8: Ms. Sakshi Popli, along with Mr. Deshpal Advocate
Respondent No.10: Mr. M Tya, Advocate
Respondent No.11: Mr. Bharat Khanna, Manager Legal

Date and Remarks	Orders of the Tribunal
<p>Item No. 8 April 23, 2013</p>	<p>Service is complete, except to Respondent No.13.</p> <p>Learned counsel appearing for Respondent No.1 and 14 submits that she will take instructions from Respondent No.13 for appearing on their behalf on the next date of hearing before the Tribunal.</p> <p>The learned counsel appearing for the respective parties pray for time to file their Replies. Reply, if any, be filed within two weeks from today. Rejoinder, if any, thereto be filed within one week thereafter.</p> <p>The learned counsel appearing for the Applicant has placed on record a report on tree census conducted by the NGO wherein it is pointed out that nearly 89% of the trees at Sarvodaya Enclave alone suffer from concretization. He also brings to our notice an article appearing in the Times of India dated 22nd April, 2013, titled "Ads nail city's greens". In this article, it is shown that the Delhi Transport Corporation (DTC) has fixed its Bus Stop boards in the and trees, advertising boards on the trees. Not only this, even electric line wirings of high tension have been tightened fitted on the trees. Apparently, from these indisputable facts, it is clear that all public authorities and Respondents have failed to discharge their</p>



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statutory obligations. They have not only violated various statutes but in turn have also infringed their legal obligations arising out of the Environment Act. It is the obligation of the State to provide healthy environment to the citizens and prevent reckless injury to the trees, which ultimately results in their felling. This is a clear infringement of law and failure on the part of the authorities concerned to discharge their statutory obligations.

The learned counsel appearing for Respondent No.1 and 14 submits that they have issued directions under the Central Laws but still the authorities concerned in this regard are not carrying out orders in true spirit.

In the light of the above and at the oral request of the applicant, DTC is also impleaded as Respondent No.15.

In the meanwhile, we direct all the public authorities, more particularly Municipal Corporation of Delhi, DDA, DTC, DMRC, NHAI and all Government respondents in this petition including the Director General of CPWD, the Chief Engineer, PWD, to ensure that

- (i) All the sign boards, names, advertisements, any kind of boards or signages, electric wires and high tension cables or otherwise are removed from the trees forthwith.
- (ii) They shall also ensure that the concrete surrounding the trees within one metre of the trees are removed forthwith and all the trees are looked after well and due precaution is taken in future so that no concrete or construction or repairing work is done atleast within one metre radius of the trunk of trees. The Vice-Chairperson, the Commissioner, the Chief Engineer, the Director General and all other senior most officers of the Departments/authorities concerned shall be personally responsible for carrying out this order.
- (iii) The Departments/authorities concerned shall

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take all and every prohibitive measures to prevent the defacing of the trees in any manner whatsoever, save only its trimming in accordance with law.

- (iv) All the respondents whose boards are fixed on the trees shall be prosecuted by the respective authorities under in accordance with the relevant law.

Copy of this order be given Dasti today itself.

List on 17th May, 2013.

.....,CP
(Swatanter Kumar)

.....,JM
(U.D. Salvi)

.....,EM
(Dr. D. K. Agrawal)

.....,EM
(Dr. G. K. Pandey)

.....,EM
(Dr. R. C. Trivedi)



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ANNEXURE-'A-8'

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION; SCIENCE & TV BRANCH
OLD GARGICOLLEGE BUILDING, LAJPAT NAGAR-IV; NEW DELHI-110024
Ph. No.: 26280408/10/12; email: sciencebranch@gmail.com

No.DE.40-15(5)/Plantation/2019-20/SCB/547-551

Dated:- 22/7/19

CIRCULAR

Sub: Hon'ble National Green Tribunal (NGT) order reg. up keep of Trees/Plants.

This is for the general information and compliance by all the HOS of Govt., Govt. Aided & Pvt. Recognized Schools of GNCT of Delhi, that the Hon'ble NGT in original application OA No.82 of 2013 vide its order dated 23.04.2013, directed that

- All the sign boards, names, advertisements, any kind of boards or signages, electric wires and high tension cables or other damaging elements are removed from the trees forthwith.
- The concrete surrounding the trees within one meter of the trees are removed forthwith and due precaution taken in future so that no concrete or construction or repairing work is done at least within one meter radius of the trunk of trees.

Concretization around trees not only hampers root aeration but also the percolation of water which could ultimately lead to the death of the tree. Concretization around the trees should be de-concretized manually without the use of JCB machine etc. so that the roots are not damaged and an area of 6' x 6' should be left de-concretized around the base of the tree and area should be leveled with earth/soil.

Thus it is again brought to the notice that concretization of tree not only damages the tree, it is also an offence under section 8 of Delhi Preservation of Trees Act, 1994. In addition it will also amount to Contempt of Hon'ble Court being violation of Hon'ble NGT orders. In view of the above, a strict compliance is to be made by all Heads of schools of GNCT of Delhi

Enclosed: General Notice from Dy. Conservator of Forests (West Forest Division)
dt. 04.07.2019

Sushma Setia
(Dr. Sushma Setia)

Dy. Director of Education (Sc. & TV)

No.DE.40-15(5)/Plantation/2019-20/SCB/547-551

Dated:- 22/7/19

Copy to:-

1. P.S. to Secy. (Education), Delhi.
2. P.A. to Director of Education, Delhi.
3. All Zonal and District DDEs
4. DDE Land and Estate
5. OS (IT) with the request to upload the same in the Public Circulars.

Sushma Setia
(Dr. Sushma Setia)

Dy. Director of Education (Sc. & TV)



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GOVT. OF N.C.T. OF DELHI
DEPARTMENT OF FOREST & WILDLIFE
OFFICE OF THE DEPUTY CONSERVATOR OF FOREST
WEST FOREST DIVISION; MANDIR LANE; NEW DELHI-60

No. F. 3 (173) WFD/Tcoff/18-19/3054-64

Dated 4-07-19

GENERAL NOTICE

It is for general information to of all Govt. Departments/Civic Agencies and General Public that Hon'ble NGT in original application OA No. 82 of 2013 vide order dated 23.04.2013 directed that:-

1. All the sign boards, names, advertisements, any kind of boards or electric wires and high tension cables or other damaging elements are removed from the trees forthwith.
2. The concrete surrounding the trees within one metre of the trees are removed forthwith and due precaution taken in future so that no concrete or construction or repairing work is done at least within one metre radius of the trunk of trees.

It is again brought to the notice to all Govt. Departments/Civic Agencies and General Public that concretization of trees not only damages the tree, it is also an offence under Section 8 of Delhi Preservation of Trees Act, 1994. In addition it will also amount to contempt of court being violation of Hon'ble NGT orders.

All Govt. Department and Civic Agencies may please ensure removal of all the sign boards, names, advertisements, any kind of boards or electric wires and high tension insulated cables etc. placed on trees.

The trees concretized should be de-concretized manually without use of JCB machines etc so that the roots are not damaged. During fresh construction of roads/pavements, the Govt. Departments may add a fresh clause in their tender documents that 6'x6' are around the trees shall be left de-concretized/soil filed.

459/12288/1
12/7/19

Any sign board
to be removed
by 19/7/19
DDA

DDA

[Signature]

No. F.

BY. CONSERVATOR OF FORESTS
(WEST FOREST DIVISION)

Dated

Copy to:-

1. The Director, Education Department, Old Sectt., Delhi-110054, for information and necessary action.
2. The Director (Hort.), (North/South) MCD, 16th Floor, Dr. S.P. Mukerjee Civic Centre, Jawahar Lal Nehru Marg, New Delhi-110002, for information and necessary action.
3. The Director (Hort.) DDA, South/North/West, Vikas Minar, New Delhi-110002, for information and necessary action.
4. The Director (Hort), Department of Environment, GNCT of Delhi, 11th Floor, MSO Building, I.P. Estate, New Delhi-110002, for information and necessary action.
5. The Dy. Director (Hort), PWD, M-124, 11th Floor, MSO Building, ITO, New Delhi-110002, for information and necessary action.

10/7/19



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6. The DGM (CSR), NDPL, Distt., Office, T-Block, Mangol Puri, Delhi-110083, information and necessary action.
7. The Director, Dte. of Health Service, Washya Sewa Nideshalya, F-17, Karkardooma, New Delhi-110092, for information and necessary action.
8. The Director (Hort), NDMC, Palika Kendra, New Delhi-110001, for information and necessary action.
9. The Pr. Chief Engineer Northern Railways, Baroda House, Delhi/the Divisional Engineer (Hort), Office of the Northern Railway Divisional Office, State Entry Road New Delhi, for information and necessary action.
10. The Chief Executive Officer, Delhi Cantonment Board, Delhi-110010, for information and necessary action.
11. The CEO/Director, DUSIB (Delhi Urban Shelter Improvement Board) ITO, New Delhi, for information and necessary action.

Wt 4.9.19
 DY. CONSERVATOR OF FORESTS
 (WEST FOREST DIVISION)



Alena Singh

ANNEXURE-'A-9'BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH, BHOPALOriginal Application No. 126/2013 (CZ) (THC)

Vijay Saini Vs. State of Rajasthan & Ors.

CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE MR. P.S.RAO, EXPERT MEMBERPRESENT : Applicant : Shri Vijay Saini
Respondent No.3 : Shri Om. Shankar Shrivastav, Advocate
R.P.C.B. : Shri Suman Mandal, Advocate for
Shri Sandeep Singh, Advocate
Respondent No.2 : Shri Pramod Pandey, JDA

Date and Remarks	Orders of the Tribunal
Order no. 2 29 th January, 2014	<p>Applicant, Shri Vijay Saini is present in person. Shri Pramod Pandey, Dy. Conservator Forests and Officer in-charge on behalf of the Respondent No. 2 Jaipur Development Authority is present. Shri Om Shankar Shrivastav, Learned Counsel appears on behalf of the Respondent No.3, Municipal Corporation, Jaipur. Shri Suman Mandal, Learned Counsel is directed to take notice since he is appearing on behalf of the Rajasthan Pollution Control Board (RPCB) before this Tribunal. Here one of the reliefs which has been prayed is for taking effective measures for the protection of the trees including de-concretisation at their base where either the roads have been built or concrete tiles were laid all around the trees preventing percolation of water in the soil and choking the trees completely. The Principal Bench, National Green Tribunal at New Delhi in the case of Misc. Application No. 474/2013, in Original Application No. 82/2013 (Shri Aditya N. Prasad Vs. Union of India) passed an order on 12.07.2013 in this regard which was a follow up of the earlier order dtd. 23.04.2013 in the aforesaid case. We would accordingly direct Shri Pramod Pandey who is appearing on behalf of</p>



O.A. 126/2013

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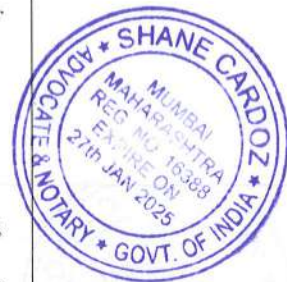
29th January,
2014

Respondent No. 2 and Shri Om Shankar Shrivastav, Learned Counsel for the Respondent no. 3 to undertake the task in accordance with the directions issued by the Principal Bench of National Green Tribunal in Original Application No. 82/2013 for de-concretisation at the base of the trees for a minimum of atleast 1 mt. X 1 mt. area in the city of Jaipur.

The Ministry of Urban Development, Govt. of India has also, issued guidelines on greening and landscaping in Urban Areas to all the State Governments in the year 2000 and reiterated in 2013 for ensuring compliance. Accordingly we would direct the Secretary, Urban Development & Housing, State of Rajasthan to comply with the aforesaid directions issued by the Govt. of India and also by the National Green Tribunal in the case of Shri Aditya N. Prasad Vs. Union of India . We also direct all the local authorities covered under the Rajasthan Municipality Act as well as the Panchayati Raj Act to carry out the necessary task of removing the concrete / pakka road at the base of the trees and clear the area 1 mt. Around. We grant 4 weeks time to the Respondents to complete the aforesaid task and submit a compliance report. The Registrar is directed to immediately send a copy of our order to the Secretary, Urban Development & Housing, Govt. of Rajasthan, Jaipur. Shri Suman Mandal, Learned Counsel appearing on behalf of the RPCB is also directed to convey our order to the Member Secretary, RPCB as well as the Secretary, Urban Development & Housing, Govt. of Rajasthan.

O.A. 126/2013

We also find from the material placed before us that debarking of the trees has been going on in the cities causing slow death of the



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29th January,
2014

trees which was noticed by the Hon'ble High Court of Rajasthan which issued necessary directions on 28.11.2011 in Writ Petition which was pending before the Hon'ble Court before it was transferred to this Tribunal. The Respondents shall submit a compliance report in terms of the aforesaid order dtd. 28.11.2011 passed in DB Writ Petition (PIL) No. 7693/2011. We have also been informed that the State Government had prepared a draft Bill under the name and style 'Rajasthan Trees (Plantation and Protection in Urban Areas) 2013'. It was stated that this Bill was approved in the State Cabinet and the same is likely to be tabled before the newly elected Vidhansabha constituted after the elections held in the year 2013. We would like to know from the respondent that can the State Government promulgate an ordinance for immediate implementation of this Bill.

The importance of protecting trees in the urban areas need not be emphasized, more particularly when it is observed that the survival rate of the newly planted trees is generally low and hardly any site is left in urban areas due to expansion of colonies and laying and expansion of the roads and close proximity of residential buildings as well as concretisation of the entire compounds and pavements along the roads. Therefore, the need for protecting, preserving and allowing the existing trees to survive is utmost important and since these trees provide much needed greenery and reduce air Pollution in the fast expanding Urban Areas they become virtually the lungs of the cities and towns. The problem which has been highlighted by the Applicant who has taken all the trouble of following up the matter at his own cost and even approaching this Tribunal from Jaipur, is laudable as he has no personal interest in this matter. The indifference shown by the Administration needs to

O.A. 126/2013

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<p>29th January, 2014</p>	<p>be removed and it is shaken up and the aforesaid issues are taken up in all earnest.</p> <p>Matter be listed on 04.03.2014.</p> <p>.....JM (DALIP SINGH)</p> <p>.....EM (P.S.RAO)</p>  <p>The logo of the National Green Tribunal, New Delhi, is centered at the bottom of the page. It features a circular emblem with a laurel wreath border. Inside the wreath, there is a central figure of a person with arms raised, positioned below a pair of scales of justice. The text 'NATIONAL GREEN TRIBUNAL, NEW DELHI' is written in a semi-circle around the central figure.</p>
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Asha Singh

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No. 167/2015

Indian Council for Enviro-Legal Action (ICELA) Vs. Dy. Commissioner & Anr.

**CORAM: HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

**Present: Applicant/Appellant(s) :Mr. Rahul Shukla, Adv.
Respondent No. 1 & 2 :Mr. Krishna K. Singh, Ratnesh K. Shukla, Adv.**

Date and Remarks	Orders of the Tribunal
<p style="text-align: center;">Item No. 2 July 21, 2015</p>	<p>Heard. Perused.</p> <p>The Applicant is seeking directions to the respondents – Deputy Commissioner Kurukshetra and Kurukshetra Development Board to de-concretize/remove the marble flooring around the ancient holy Banyan tree at Kurukshetra and expose the soil for aeration and absorption of nutrients and also for spread of its aerial roots; and for further direction to remove all the electric wires, sound fixtures, chains, nets, bells, sign boards or any other superficial attachment thereon; and for restraining the respondents from according any sanction or any permission or to do any act which would disturb/pollute/contaminate/degrade the health and ecology of the trees and generally to de-concretize the area around the trees in other parts of Kurukshetra.</p> <p>On the first day appearance, the learned Counsel appearing for the Respondents fairly conceded to the case of the applicant that trees at Kurukshetra need to be de-concretized and assured us of such acts which would free trees from concretization and other artificial things threatening their growth.</p> <p style="text-align: right;">Today, the learned Counsel appearing for the</p>

Shane Singh



Respondents has filed the affidavit dated 20.07.2015 sworn by the Chief Executive Officer, Kurukshetra Development Board and made a statement that the prayers at prayer clause (a) & (b) have been duly complied with and as regards the general prayer at prayer clause (c) steps would be taken as have been taken or advised in respect of the trees referred to in the prayer clause (a) and such actions/steps would be limited to the trees falling within the limits of Respondent No. 2 – Kurukshetra Development Board.

We have perused the affidavit dated 20.07.2015. It reveals that on the directions issued by the Hon'ble High Court of Punjab and Haryana, Respondent No. 1 had appointed a Committee to take over the management of Tirath Jyotisar and also appointed the Additional Deputy Commissioner as its Nodal Officer and the Committee so constituted took over the control of the Tirath and consulted the scientists of Forest Research Institute (FRI in short), Dehradun for preservation of Holy trees at Tirath Jyotisar. It further reveals that the Expert Committee from FRI visited the Tirath site on 16.08.2012 and suggested measures as discussed in para-4 of the affidavit. We find from the advice of the Expert Committee of FRI that following measures need to be taken for the purpose of maintaining health of the trees i) opening of covered area below the tree covered with the marble stones or concrete in order to expose the soil and facilitate aeration and water percolation as well as for the spread of aerial roots; ii) drilling holes in the upper chabutara, if any, around the trees for making openings for

Abha Singh



aeration and water percolation; iii) periodical irrigation at the base of the trees; iv) removal of wire-electric and sound fixtures attached to the tree; v) removal of chains, bells, clamps, sign boards attached to the tree; vi) pruning of top dead branches, followed by application of Choubatia Paste; vii) removal of net, if any, from canopy; viii) provide props to support inclining tree; ix) canopy size-pruning for balance; x) reduction, removal of fruiting body of fungi, parasites, etc.

All these measures need to be taken for maintaining health of every tree. As regards the trees around historical Shiva temple, we are told that there are three trees and their care as suggested by the Committee would be undertaken and completed within 30 days.

We see no reason for continuing with this application, moreover when no dispute of any nature exists between the parties. We, therefore, pass the following direction:

1. The Respondents shall de-concretize and take all such measures as recorded hereinabove in respect of the trees standing within their limits expeditiously and without any laxity.

Accordingly, Original Application No. 167/2015 stands disposed of without any order as to costs.

.....,JM
(U.D. Salvi)

.....,EM
(Ranjan Chatterjee)



Shane Cardoz

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ANNEXURE-'A-11'

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providing for recreational space at the ground level existed since the inception of DCR in 1991, and even prior thereto since 1967. It was always contemplated that the recreational space will be at the ground level, and not at an elevated level within buildings. This is clear from the provision with respect to the trees and playgrounds contained in DCR 23. Besides, he pointed out that clause (iii) of DCR 38(34) clearly provides that **'podium shall be used for the parking of vehicles'**, meaning thereby that it is essentially to be used for parking purposes. That apart, he submitted that there is clearly a risk involved in providing both parking as well as recreational space on the podium. DCR 38 (34) (iv) has been introduced by way of an amendment only from 6.1.2012, and it does not contain a non-obstante clause that the provision is notwithstanding the mandatory requirement under DCR 23. It cannot, therefore, be read in derogation of the main provision under DCR 23.

24. Mr. Divan then brought to our notice the harsh reality of the open spaces becoming smaller and smaller in the city of Mumbai. He placed the following hard statistics

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for our consideration. Greater Mumbai has just 1.91 sq. mts. of open space per person. Of this, less than 0.88 sq. mts. per person is accessible for recreational purpose. This is woefully inadequate as compared to the norms of 3 sq. mts. per capita as prescribed by the National Building Code of India 2005 and of 11 sq. mts. per capita recommended by the Urban Development Plans Formulation and Implementation Guidelines (1996) of the Ministry of Urban Affairs, Government of India. He pointed out that pouring of too much of cement and concrete is not conducive to good human living, and will ultimately affect meaningful 'life' within the meaning of Article 21 of the Constitution. Recreational spaces are intended to ensure that there are green "breathing spaces" between buildings and properties in the built-up environment. . Trees and the land around them at the ground level are necessary for controlling the air pollution from the point of view of health of human beings as well. The shifting of recreational space from the ground to podiums will result in higher level of concretization,

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diminishing green cover, and buildings being too close to each other, leading to increased city temperature

25. Having noted these submissions, it is seen that podium is permissible only on plots admeasuring 1500 sq. mts. or more. So this provision is not applicable to plots smaller than 1500 sq. mts. As can be seen from DCR 23 (1) (a), it speaks of a lay-out or sub-division of 'vacant land' and open spaces. The open spaces 'shall as far as possible' be provided in one place. If a lay-out or sub-division is more than 5000 sq. mts., open space can be provided in more than one place, but at least one such place 'shall be of not less than 1000 sq. mts.'. These provisions clearly show that they are mandatory. Besides under sub-clause (f) of DCR 23 there is a requirement of keeping the recreational open space permanently open to the sky and trees are to be grown in that space as laid down, i.e. five trees per hundred square meters of the recreational space within the plot. DCR 2 (64) defines '**open space**' to mean an area forming an integral part of a site left open to the sky. A '**site**' is defined under DCR 2 (83) to mean a parcel or piece of land enclosed by

Shane Cardoz



(24)

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definite boundaries. These DCR's when read together, very much make it clear that the recreational /amenity space has to be on the land i.e. on ground level and it has got to be 15%, 20% or 25% of the area depending upon its size. As rightly pointed out by learned senior counsel Mr. Nariman and Mr. Salve, the requirement of recreational space on the podium under DCR 38 (34) (iv) is discretionary. Besides, as the above referred clause (iii) lays down, podium shall be basically used for parking. Besides Clause (iv) does not contain a non-obstante clause to over-ride the requirement under DCR 23 making it mandatory to provide recreational space on the ground-floor. That being so, the provision under DCR 38 (34) cannot be read in derogation of the requirement under DCR 23 or else it will result into serious erosion in the basic requirements for a good life affecting the guarantee of right to life, under Article 21 of the Constitution of India. We have therefore to read down clause (iv) of the DCR 38(34) as inapplicable and not excluding the mandatory provision under DCR 23.



Alta Singh

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26. It is also relevant to note that the development schemes under DCRs 33(7), 33(9) and 33(10) provide for lesser Recreational area / Amenity spaces. Thus, under DCR 33(7) and 33(10) reduction in the Amenity open space is permitted to make the project viable, but still minimum 8 percent of the project area is required to be maintained as Amenity open space. Similarly, for the schemes under DCR 33(9) minimum 10 percent of the plot area is required to be retained as Recreational space. In other properties, where there are no such constraints to make the development schemes of rehabilitation or reconstruction of old buildings or slums viable, there is no reason why the Amenity open space at the ground level should be read as permissible, to be reduced. The only ground being given is to provide more parking and more accommodation, meaning thereby more construction, concretization and financial expediency. Such a purpose cannot be read into the provisions as they presently exist, nor is it desirable to do so from the point of view of the requirement of minimum open spaces at the ground level.



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Alena Singh

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27. Besides, as pointed out by Mr. Divan, the requirement of having trees and open land around them is necessary from an environmental point of view, since there is already excessive concretization, and a very serious reduction in open spaces at the ground level. It must be noted that the right to a clean and healthy environment is within the ambit of Article 21, as has been noted in **Court on its Own Motion v. Union of India** reported in 2012 (12) SCALE 307 in the following words:-

"The scheme under the Indian Constitution unambiguously enshrines in itself the right of a citizen to life under Article 21 of the Constitution. The right to life is a right to live with dignity, safety and in a clean environment."

The right to a clean and pollution free environment, is also a right under our common-law jurisprudence, as has been held by this Court in **Vellore Citizen's Welfare Forum v. Union of India and Ors** reported in (1996)5SCC647 where this Court held:-

"The Constitutional and statutory provisions protect a persons right to fresh air, clean water and pollution free environment, but the source of the right is



Abha Singh

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the inalienable common law right of a clean environment."

In the same judgment the Court emphasized the importance of Sustainable Development, and the need for a balance between development and ecological considerations, in the following words:-

"The traditional concept that development and ecology are opposed to each other, is no longer acceptable....

'Sustainable Development' is the answer...Sustainable Development as defined by the Brundtland Report means "development that meets the needs of the present without compromising the ability of the future generations to meet their own needs". We have no hesitation in holding that "Sustainable Development" as a balancing concept between ecology and development has been accepted as a part of the Customary International Law though its salient features have yet to be finalised by the International Law jurists."

28. Therefore, after reflecting upon the legal position, we are clearly of the opinion that having 15%, 20% or 25% of the area (depending upon the size of the lay-out) as the recreational/amenity area at the ground level is a minimum requirement, and it will have to be read as such. We therefore, answer the issue no. 1 by holding that it is not

Abha Singh



Page 34

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permissible to reduce the minimum recreational area provided under DCR 23 by relying upon DCR 38(34). However, if the developers wish to provide recreational area on the podium, over and above the minimum area mandated by DCR 23 at the ground level, they can certainly provide such additional recreational area.

Issue No.4 with respect to the protection against the fire hazards:-

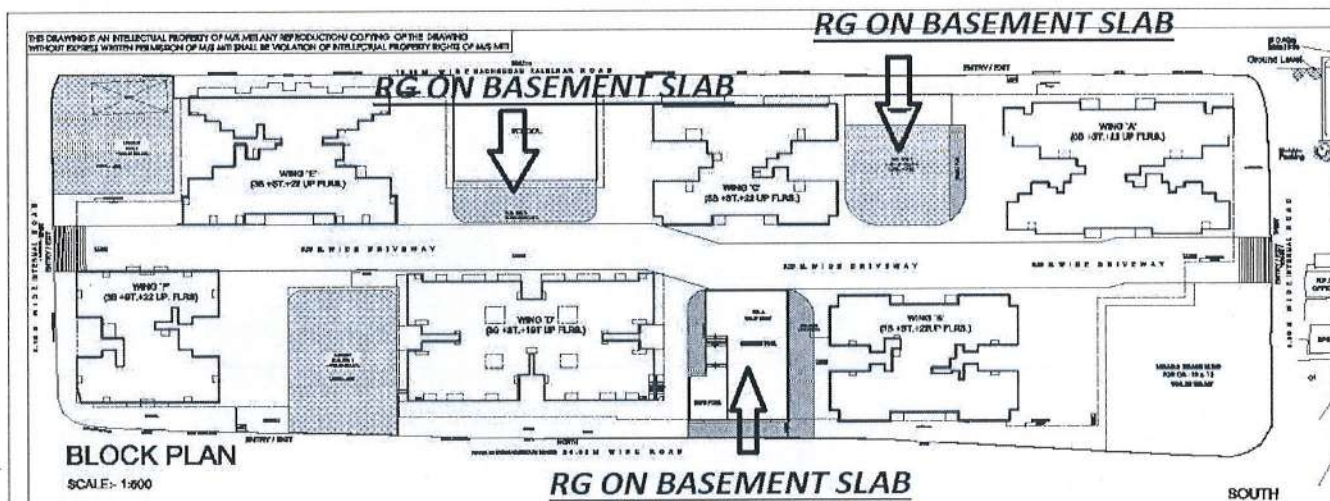
29. As stated earlier, this issue was decided to be gone into considering that the main building in the present complex is going to be of 48 storeys. This issue was decided to be gone into also in the backdrop of the recent fire that engulfed the six storey Secretariat building of Maharashtra, in Mumbai. It took a few days to extinguish the fire which resulted into a loss of lives. This Court sought the affidavit of the Chief Fire Officer of the appellant-Municipal Corporation on this issue. Shri Suhas Vishnu Joshi, Chief Fire Officer, Mumbai Fire Brigade, has affirmed his reply on 15.9.2013. In paragraph 3 of his affidavit, he has stated that the Fire Brigade of the appellant-Municipal Corporation has got special appliances such as Aerial Ladder Platform which can



Abha Singh

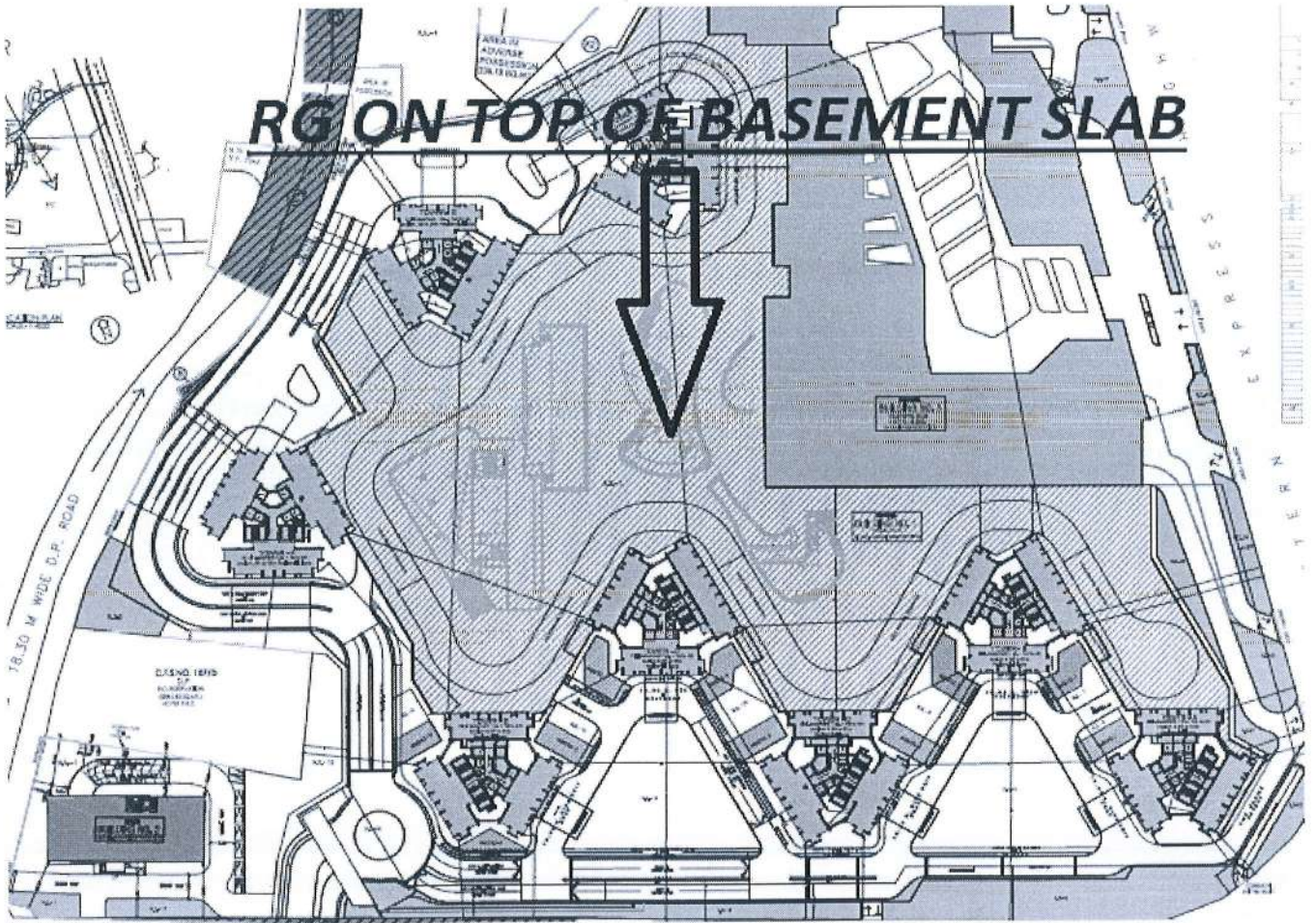
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ANNEXURE-'A-12' (Colly)



Alka Singh

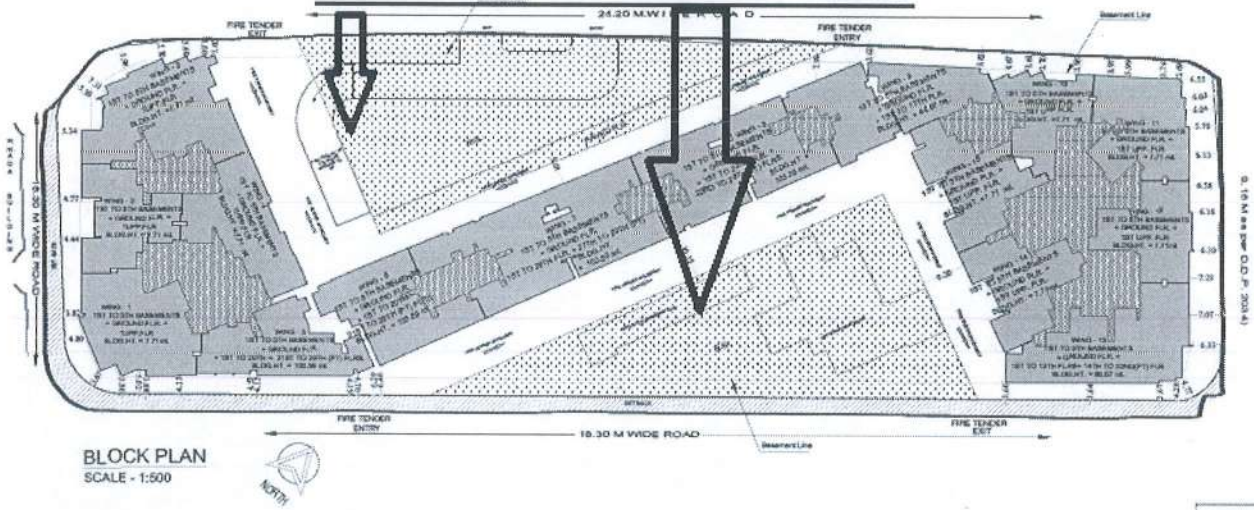
131



Anna Singh

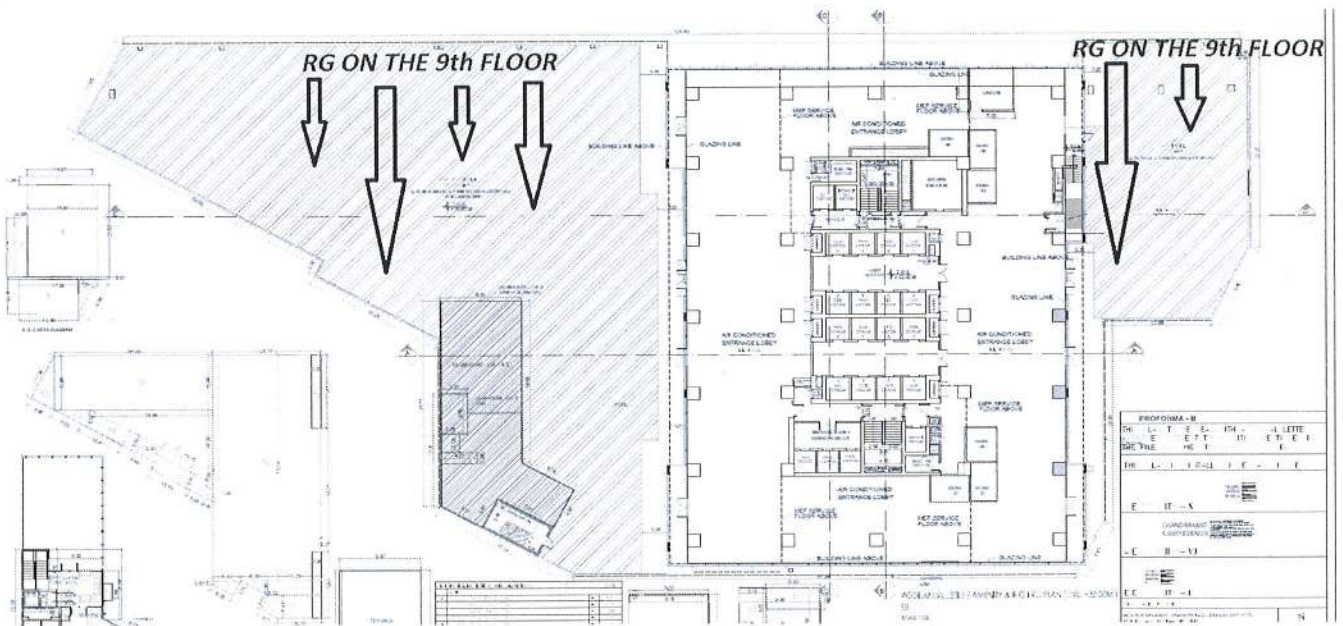
132

RG ABOVE BASEMENT SLAB



Abea Singh

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Sheela Singh

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ANNEXURE-'A-13'**The Environment (Protection)
Act, 1986**

No. 29 OF 1986

[23rd May, 1986]

**An Act to Provide for the Protection and Improvement of Environment
and for Matters Connected therewith.**

WHEREAS decisions were taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, to take appropriate steps for the protection and improvement of human environment;

AND WHEREAS it is considered necessary further to implement the decisions aforesaid in so far as they relate to the protection and improvement of environment and the prevention of hazards to human beings, other living creatures, plants and property;

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Environment (Protection) Act, 86.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and for different areas.

Short
title, ex-
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ANNEXURE-'A-14'

(Part XI.—Relations between the Union and the States.— Arts. 252—254.)

(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

253. Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

Legislation for giving effect to international agreements.

254. (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

Inconsistency between laws made by Parliament and laws made by the Legislatures of States.

(2) Where a law made by the Legislature of a State^{1***} with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.



¹The word *Abna Singh* "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventn Amendment) Act, 1956, s. 29 and Sch.

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ANNEXURE-'A-15'

Printed from
THE TIMES OF INDIA

Mumbai second-most polluted in weekly world ranking, Delhi not among worst 10

TNN | Feb 14, 2023, 05:16 PM IST



MUMBAI: With temperature rising over the past two days, Mumbaikars may be breathing better, but as per Swiss air tracking index IQAir (a real-time international air quality monitor), within a week between January 29 and February 8, Mumbai was the second most polluted city in the world. On January 29, Mumbai was ranked 10th in IQAir rankings for the poorest spots. It climbed to the top on February 2 before sliding down in subsequent days and then climbing back again to second position on February 8. On February 13, it was the third most unhealthy city worldwide for air quality, overtaking even Delhi which was India's most polluted metro till recently. IQAir partners with UNEP and Greenpeace and uses Central Pollution Control Board data (CPCB) in India to assess air quality. Categorisation into 'healthy', unhealthy' and 'hazardous' is as per US air

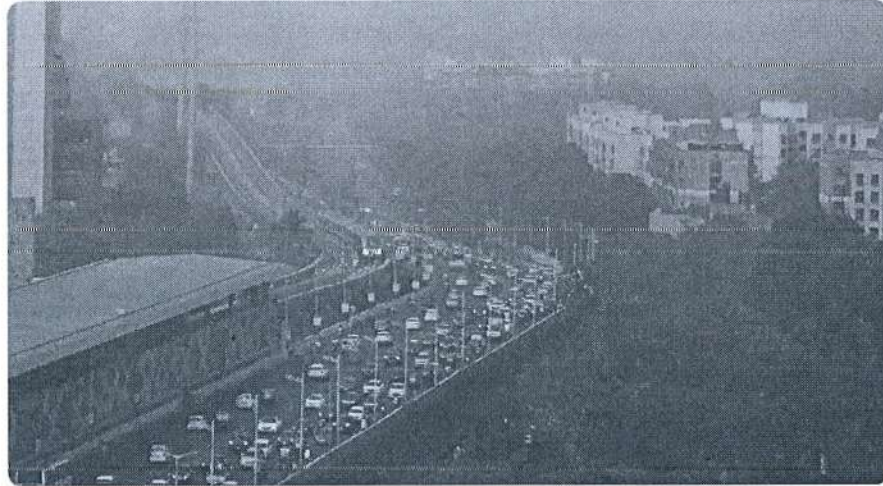
quality index (AQI) standards, which are more stringent than in India.



Shane Singh

Pollution — Not Love — Is In Mumbai's Air This Valentine's; City Named World's 2nd Most Polluted Last Week

By TWC India Edit Team · 4 days ago · TWC India



Representational image

(Uma Kadam/BCCL)

Tuesday, February 14: If you live in Mumbai, you and your partner are probably hoping for a low-key Valentine's celebration that would involve watching the sunset at Marine Drive or perhaps taking a romantic stroll along the Bandstand Promenade with it being a weekday. Unfortunately, the Maharashtra capital's overall mood is not very conducive to romance.

Despite the summer approaching the city with all the subtlety of a raging bull, Mumbai's air quality is yet to take a turn for the better. As per SAFAR (System of Air Quality and Weather Forecasting And Research), Mumbai's AQI stood at 201 as of 12

Alma Singh



PM today, putting it in the 'poor' category. The PM2.5 and PM10 levels stood at 91 and 180 units, respectively.

For context, an AQI between 0 and 50 is considered "good"; 51 to 100 is "satisfactory", 101 to 200 is "moderate", 201 to 300 "poor", 301 to 400 "very poor", and 401 to 500 "severe".

The city's air quality index (AQI) has been fluctuating between 'poor' and 'very poor' for pretty much the entirety of February. In fact, Mumbai exceeded the pollution hotspot Delhi's AQI by a large margin a couple of times, like on February 11, when it recorded a 'poor' 283 compared to the national capital's 'moderate' 156.

But Mumbai hasn't just been shattering records in India. The Swiss air tracking index IQAir (a real-time international air quality monitor) indicated that the Maharashtra capital was the second most polluted city in the world in the week between January 29 and February 8.

On January 29, Mumbai was ranked 10th in IQAir rankings for the poorest spots. It climbed to the top on February 2 before sliding down in subsequent days and then climbing back again to second position on February 8. On February 13, it was the third most unhealthy city worldwide in terms of air quality.

IQAir partners with UNEP and Greenpeace, and uses India's Central Pollution Control Board data (CPCB) to assess air quality. Categorisation into 'healthy', 'unhealthy' and 'hazardous' is as per US air quality index (AQI) standards, which are more stringent than those in India.

Data from the CPCB in India has also shown that 'poor' and 'very poor' days in Mumbai between November and January this winter were more than double the three previous winters.

Causes and impacts of Mumbai's toxic air quality

As for the reasons for this marked deterioration in the AQI, experts blame the dust and smoke instantly emanating from vehicles, roads and construction activities.

Abha Singh



According to a 2020 study by NEERI and IIT-B, road or construction dust is the source of over 71% of the particulate matter load in Mumbai's air. The remaining comes from industrial and power units, airports, and garbage dumps.

Lowered wind speed across the west coast due to the La Nina effect, an abnormal drop in surface temperature on the Pacific Ocean, has also contributed by reducing the dispersal of pollutants.

Due to high pollution, Mumbai has been witnessing a noticeable surge in respiratory ailments. Two decades ago, cardiac surgeon Dr O H Jaiswal would occasionally spot black lung patches. Today, it's alarmingly common, he says. "During heart surgeries, we routinely encounter lungs visibly affected by air pollution — we often see black lungs or lungs with patches, even in non-smokers," Jaiswal told TOI.

Therefore, until the high pollution levels persist, Mumbaikars with health issues would do well to reduce prolonged or heavy exertion and avoid intense activities. Asthmatics must keep medicine ready if symptoms of coughing or shortness of breath occur. Heart patients are advised to see a doctor in case of palpitations, shortness of breath, or unusual fatigue.

**

For weather, science, space, and COVID-19 updates on the go, download The Weather Channel App (on Android and iOS store). It's free!

The Weather Company's primary journalistic mission is to report on breaking weather news, the environment and the importance of science to our lives. This story does not necessarily represent the position of our parent company,

Alena Singh

TRUE COPY

H Partner
Wadia-Ghady & Co.
Advocates, Solicitors & Notaries
N. M. Wadia Building,
123, Mahatma Gandhi Road,
Fort, Mumbai - 400 023.



EXHIBIT 'B'

140

ITEM NO.24

COURT NO.17

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 11843/2023

(Arising out of impugned final judgment and order dated 27-01-2023 in WPL No. 35671/2022 passed by the High Court of Judicature at Bombay)

SAGAR DEVRE & ANR.

Petitioner(s)

VERSUS

NAREDCO WEST FOUNDATION & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.86768/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.86765/2023-PERMISSION TO FILE PETITION (SLP/TP/WP/..))

Date : 08-05-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE RAJESH BINDAL

TRUE COPY

For Petitioner(s)

Mr. Ashutosh Ghade, AOR
Mr. Vivek Shukla, Adv.
Mr. Ashutosh Ghade, Adv.
Mr. Raj Awasthi, Adv.
Ms. Sneha Balapure, Adv.

Partner
Wadia Ghandy & Co.
Advocates, Solicitors & Notaries
N. M. Wadia Building,
123, Mahatma Gandhi Road,
Fort, Mumbai - 400 023.

For Respondent(s)

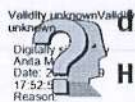
UPON hearing the counsel the Court made the following
O R D E R

Application for exemption from filing a certified copy of the impugned judgment is allowed.

Permission is granted to file Special Leave Petition.

Issue notice returnable on 31st July, 2023.

In the meanwhile, there will be stay of the



directions contained in the impugned order passed by the High Court.

(ANITA MALHOTRA)
AR-CUM-PS



(AVGV RAMU)
COURT MASTER

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EXHIBIT 'C'

ITEM NO.26

COURT NO.15

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL Diary No(s). 19266/2024

(Arising out of impugned final judgment and order dated 13-09-2022 in AN No. 22/2016 13-09-2022 in AN No. 23/2016 passed by the National Green Tribunal, western Zone, Pune)

CREDAI-MHCI

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

(IA No.107877/2024-CONDONATION OF DELAY IN FILING and IA No.107880/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.107882/2024-EXEMPTION FROM FILING O.T. and IA No.107874/2024-PERMISSION TO FILE APPEAL and IA No.107879/2024-CLARIFICATION/DIRECTION)

Date : 10-05-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Petitioner(s) Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. S Niranjana Reddy, Sr. Adv.
Mr. Prasad Dani, Adv.
Ms. Deepanwita Priyanka, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Issue notice.

Dasti in addition is permitted.

There shall be stay of paragraph 8 of the order impugned till the next date of hearing.

List after service is complete.



(INDU MARWAH)
AR-CUM-PS



TRUE COPY

Partner
Wadia Ghosh & Co.
(NIDHI WASON)
Advocates, Solicitors
N. M. COURT MASTER (NSH)

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EXHIBIT 'D'

Item No.6

(Pune Bench)

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.28/2023(WZ)

Santosh Daundkar

.....Applicant

Versus

SEIAA, Environment Department, Government of Maharashtra & Ors.

....Respondents

Date of hearing: 13.11.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Aditya Pratap, Advocate
Respondents : Mr. Aniruddha Kulkarni, Advocate for R-1
Mr. Prakash D. Shejal, Advocate for R-2 & 3
Mr. Samit Shukla, Advocate along-with
Mr. Shivhankar Swaminathan, Advocate and
Ms. Saakshi Saboo, Advocate for R-4 & 10
Mr. Aditya Udeshi, Advocate for R-5
Mr. Saket Mone, Advocate for R-7
Mr. Mayur Khandparkar, Advocate for R-8
Mr. Karan Bhide, Advocate for R-11 & 14
Mr. Rohaan Cama, Advocate for R-12
Mr. Bhakti Mehta, Advocate and
Mr. Siddharth Yadav and Mr. Pheroze Mehta, Advocates
representing Wadia Ghandy & Co., for R-12
Ms. Vaidehi Odhekar, Advocate h/f
Mr. Pankaj Rajmachikar, Advocate for R-13

ORDER

1. From the side of the applicant, learned counsel Mr. Aditya Pratap has appeared.

2. From the side of respondent No.7 – Money Magnum Nest Pvt. Ltd., learned counsel Mr. Saket Mone has appeared before us. He has filed a copy of the Judgment dated 10.05.2024 passed by the Hon'ble Supreme Court in Civil Appeal Diary No(s).19266/2024 (Arising out of impugned final judgment and order dated 13.09.2022 in AN No.22/2016 and AN No.23/2016 passed by this Tribunal), which is taken on record, wherein following order is passed:-



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"Issue notice.

Dasti in addition is permitted.

There shall be stay of paragraph 8 of the order impugned till the next date of hearing.

List after service is complete."

3. We find that the prayer made by the applicant in the present Original Application is to the effect that the order/judgment dated 13.09.2022 passed by the Tribunal in Appeal Nos.22 of 2016 and 23 of 2016 be applied in all other projects in Mumbai, where Recreation Ground (RG) has been put either above the concrete slab of podium or above the concrete slab of basement. In the order dated 13.09.2022 passed by the Tribunal in above-mentioned appeals, following is held in para no.8:-

"In the light of above, we hold that RG has to be provided on ground to enable plantation. SEIAA, Maharashtra has thus to ensure availability of space as per above norms. The area has not only to be open to sky but must also enable plantation of trees. If the PP fails to provide RG as per norms, the project may not be allowed to proceed and till compliance, no third-party rights may be created. SEIAA, Maharashtra may verify facts on the ground and take its decision within one month from today."

4. Since through the Judgment dated 10.05.2024, the Hon'ble Supreme Court has stayed the implementation of para no.8 of the above-mentioned order/judgment passed by the Tribunal, we deem it appropriate to place the proceedings in this matter *in abeyance* till the final Judgment is delivered by the Hon'ble Supreme Court in the said Civil Appeal. Registry shall place the present Original Application before this Tribunal thereafter only.

TRUE COPY


Partner

Wadia Ghady & Co.

Advocates, Solicitors & Notaries

November 13, 2024

N. M. Wadia Building Original Application No.28/2023(WZ)

123, Mahatma Gandhi Road,

Fort, Mumbai - 400 023.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM



K. Raheja Private Limited



CERTIFIED TRUE COPY OF THE RESOLUTION PASSED AT THE MEETING OF THE BOARD OF DIRECTORS OF K. RAHEJA PRIVATE LIMITED ("COMPANY") HELD ON MONDAY, NOVEMBER 11, 2024 AT THE REGISTERED OFFICE OF THE COMPANY.

Authority to represent / defend / sign / execute / file all documents before the National Green Tribunal or any other competent court: -

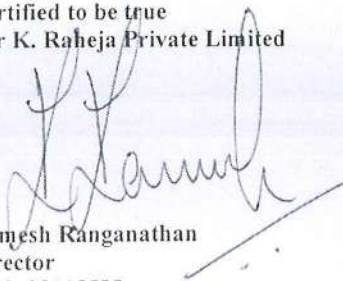
"RESOLVED THAT the consent of the Board of Directors of K. Raheja Private Limited ("the Company") is hereby accorded to file all and any Vakalatnama, affidavit, reply, application, deeds, documents, consents, in Application No. 168 of 2024, before the National Green Tribunal, Pune and/or adopt, defend, support, appear in any proceedings before any other Tribunal or Courts, including the High Courts, Supreme Court of India and/or any other statutory authorities including quasi-judicial or judicial authorities relating to/in respect of Company's property situated at Plot Nos. 249, 249A, C.S. No. 2/1629 and Plot No. 248, C.S. No. 1A/1629 at Worli, Mumbai - 400025.

RESOLVED FURTHER THAT any one of the Directors of the Company or Mr. Ashish Dhami or Mr. Sudhir Singhvi or Ms. Pragati Mehra or Mr. Ankit Agarwal, Authorised Signatories (hereinafter referred to as "Attorneys"), be and are hereby severally authorised to represent the Company and appear before any forum, Tribunal and to sign, declare, verify, affirm, execute and file necessary Applications, Affidavits, reply, written statement, Caveats, declarations, Plaints, Petitions, Appeals, Revisions, Pleadings, letters, including signing Vakalatnama/s and other documents and writings as may be required from time to time, in connection with the subject matter and/or arising out of the said Application No. 168 of 2024 in respect of Company's property situated at Plot Nos. 249, 249A, C.S. No. 2/1629 and Plot No. 248, C.S. No. 1A/1629 at Worli, Mumbai - 400025 and/or adopt, defend, prosecute, contest, settle, support any proceedings viz. any court proceedings / quasi-judicial / incidental proceedings before any Forum, Authority, Tribunal, Court, and to engage any advocates, legal counsels, solicitors, attorneys as may be required from time to time to represent the Company as may be necessary and required for the same and to issue Vakalatnama and other authority letter in their favour as may be necessary for the subject matter, for and on behalf of the Company.

RESOLVED FURTHER THAT a letter of authorization be issued along with a certified copy of this resolution to Mr. Ashish Dhami, Mr. Sudhir Singhvi, Ms. Pragati Mehra and Mr. Ankit Agarwal, as the Company's Attorneys and the Company does hereby declare that any and all lawful acts, deeds, matters, things and writings which may be done or executed, pursuant to this authorization, by the Attorneys, on behalf of the Company, shall be good, valid and effectual to all intents and purposes as if done and executed by the Company and the Company hereby assures that the same shall be considered as ratified and confirmed by the Company.

RESOLVED FURTHER THAT a certified true copy of this resolution to be provided to such persons/authorities as may be necessary to give effect to aforesaid resolution."

Certified to be true
For K. Raheja Private Limited


Ramesh Ranganathan
Director
DIN: 03118598

Mumbai, November 11, 2024



CIN : U45200MH1973PTC017018

K. Raheja Private Limited



November 11, 2024

To,
Mr. Ashish Dhani
Mr. Sudhir Singhvi
Ms. Pragati Mehra
Mr. Ankit Agarwal

Dear Sirs/Madam,

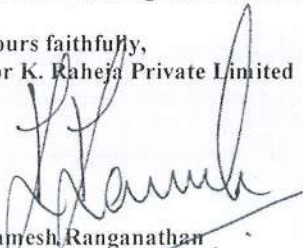
Sub: Authorization for filings and defending before the National Green Tribunal or any other competent court: -

The Board of Directors of the Company at their meeting held on November 11, 2024, has authorized you as Attorneys of the Company severally to do all such necessary acts, deeds, matters and things on behalf of the Company, in connection with filings to represent the Company and appear before any forum, Tribunal and to sign, affirm and file necessary Applications, Affidavits, reply, written statement, Caveats, declarations, Plaints, Petitions, Appeals, Revisions, Pleadings, letters, including signing Vakalatnama/s and other documents and writings as may be required from time to time, in connection with and/or arising out of the said Application No. 168 of 2024 in respect of Company's property situate at Plot Nos. 249, 249A, C.S. No. 2/1629 and Plot No. 248, C.S. No. 1A/1629 at Worli, Mumbai - 400025. A certified copy of the said resolution is enclosed herewith.

The Company does hereby declare that any and all lawful acts, deeds, matters, things and writings which may be done or executed pursuant to this authorization by the said Attorneys on behalf of the Company, shall be good, valid and effectual to all intents and purposes as if done and executed by the Company and the Company hereby assures that the same shall be considered as ratified and confirmed by the Company.

This letter is being issued under the signature of any one of the Director or the Company Secretary of the Company.

Yours faithfully,
For K. Raheja Private Limited


Ramesh Ranganathan
Director
DIN: 03118598

Encl: a/a



TRUE COPY


Partner
Wadia Ghady & Co.
Advocates, Solicitors & Notaries
N. M. Wadia Building,
123, Mahatma Gandhi Road,
Port, Mumbai - 400 023.

CIN : U45200MH1973PTC017018

Regd. Off. : Raheja Tower, Plot No.C-30, Block 'G', Next to Bank of Baroda, Bandra Kurla Complex, Bandra (E), Mumbai

Phone : +91-22-2656 4000 Website : www.krahejacorp.com

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BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION NO. 168 OF 2024 (WZ)

Pratap Lal Teli ... Applicant
Versus
SEIAA, Environment Department
Govt. of Maharashtra & Ors. ... Respondents

**LIMITED PRELIMINARY AFFIDAVIT ON
BEHALF OF RESPONDENT NO.6**

Dated the 31st day of December, 2024

31 DEC 2024



M/S. WADIA GHANDY & CO.
Advocates for Respondent No.6
N.M. Wadia Buildings
123, M.G. Road, Fort
Mumbai 400 001