



महाराष्ट्र राज्य जैव विविधता मंडळ

MAHARASHTRA STATE BIODIVERSITY BOARD

(Established under section 22 of the Biological Diversity Act, 2002)

msbb.ngp@gmail.com; 0712-2522982 / 84; maharashtrabiodiversityboard.gov.in

जैव विविधता भवन, कदीमबाग, सिव्हील लाईन्स, नागपूर Jaiv Vividhata Bhavan, Kadimbag, Civil Lines, Nagpur 440001



No.:MSBB/Desk-3/NGT/306/2019-20

Nagpur. Date: 30/09/2020

To,

The Registry,
National Green Tribunal
Faridkot House, Copernicus Marg,
New Delhi - 110 001

Sub: Reply affidavit on behalf of Maharashtra State Biodiversity Board before the Hon'ble NGT, Principal Bench, New Delhi, in court case of Chandra Bhal Singh versus Union of India & others in O.A. No. 347 of 2016 as per order of 09-08-2019 & 18-03-2020.

With reference to above subject, notarized reply affidavit in court case of Chandra Bhal Singh versus Union of India & others in O.A. No. 347 of 2016 as per order of 18-03-2020 to be filed on the behalf of Maharashtra State Biodiversity Board before the National Green Tribunal, Principal Bench, New Delhi, is enclosed herewith.

It is requested you to file aforesaid affidavit in NGT, Principal Bench, New Delhi before 30 Sept. 2020.

Encl : As above


Principal Chief Conservator of Forest &
Member Secretary
Maharashtra State Biodiversity Board

Copy to – The Secretary, National Biodiversity Authority, Taramani, Chennai.

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Original Application No. 347 of 2016

Chandra Bhal Singh

... APPLICANT

VERSUS

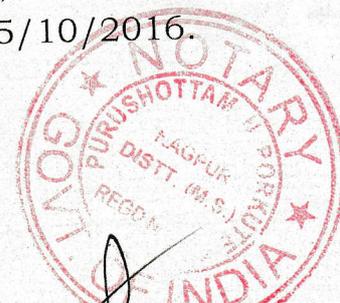
Union of India (MoEF&CC) & 37 ors

... RESPONDENTS

Compliance Report / Reply on behalf of Respondent no. 29
(Maharashtra State Biodiversity Board) in response to NGT, New
Delhi order dated 09/08/2019 & 18/03/2020

The Respondent No. 29 (Maharashtra State Biodiversity Board) most respectfully submits, the compliance report as under:-

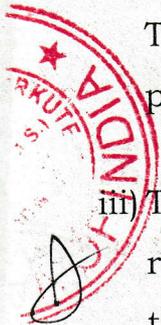
1. That the applicant had filed the Original Application no. 347 / 2016 before the Hon'ble National Green Tribunal, Principal Bench, New Delhi on dated 23rd May, 2016.
2. That, in the said Original Application, the Maharashtra State Biodiversity Board is respondent number 29. The State Government had prepared Maharashtra State Biological Diversity Rules, 2008 and as per Government Resolution no. WLP-1009/C.R 15/F-1, dated 02/01/2012, the State Government has constituted the Maharashtra State Biodiversity Board.
3. That in pursuance to the original application, the Maharashtra State Biodiversity Board has filed its parawise reply on 15/10/2016.



4. That after hearing a long argument and submissions made by various respondents and authorities, the Hon'ble NGT has passed order dated 09/08/2019 directing that :-

- i) "The Chief Secretaries of all the States, where the defaults are continuing, may consider giving a warning to the Panchayat Secretaries for their past failures, recording the same in their service record and give direction to the officers who are responsible for the job to ensure compliance with 100% constitution of BMCs and PBRs by 31/01/2020 failing which coercive measures may have to be considered against them. The Chief Secretaries may evolve a mechanism for ensuring a monthly meeting to be attended by the Chairman and Member Secretaries of State Biodiversity Boards, Secretaries, Panchayat, Environment and Forest starting from September, 2019.
- ii) The States will be accountable for the defaults and required to deposit a sum of Rs. 10 lakhs per month each from 01/02/2020 with the CPCB to be utilized for restoration of the environment. The States will be at liberty to recover the said amount from the persons committing the default.
- iii) The MoEF&CC and National Biodiversity Authority may hold a review meeting every month from September, 2019 till the above task is completed.
- iv) The MoEF&CC may file a compliance report after collecting the necessary data from all the States on or before 15/02/2020. The Monitoring Committee of the MoEF&CC may oversee the quality of PBRs on sample basis by evolving a suitable mechanism by competent authority.

5. In compliance to NGT's order dated 09/08/2019, The Maharashtra State Biodiversity Board has submitted the compliance report of constitution of BMCs & Documentation of PBRs till dt. 31/01/2020 on 13/02/2020.



STATUS OF BMCs FORMED

Sr no	Local Bodies	Target	Achievement	Percentage
1	Zilla Parishad	34	34	100%
2	Panchayat Samiti	351	351	
3	Gram Panchayat	27876	27876	
4	Nagar Parishad	238	238	
5	Nagar Panchayat	128	128	
6	Mahanagarpalika	27	27	
	Total	28654	28654	

STATUS OF PBRs PREPARED

Sr no	Local Bodies	Target	Achievement	Percentage
1	Zilla Parishad	34	3	51.76%
2	Panchayat Samiti	351	16	
3	Gram Panchayat	27876	14496	
4	Nagar Parishad	238	198	
5	Nagar Panchayat	128	99	
6	Mahanagarpalika	27	21	
	Total	28654	14833	

6 That after perusal of compliance report, the NGT has again passed order dated 18/03/2020 in which by continuing the previous orders (09/08/2019) the NGT issued following directions. The para no. 9, 11, 13 reproduced herewith :-

9. We find that since there are still defaults in the constitution of BMCs and preparation of PBRs within the stipulated time fixed by this Tribunal, the defaulting States are liable to pay compensation in term of order dated 09.08.2019 from 01.02.2020. The Act was enforced in 2002. The Rules came into force in 2004. Any further delay is not conducive to rule of law.

The States cannot be allowed to plead incompetence or inability of carrying out mandate of law, undermining public interest.

11. In view of the above, we do not find any merit in the applications seeking extension of time. The States may ensure compliance and for the delay, compensation has to be paid as already directed. Only exception which may have to be made is for Jammu & Kashmir and Ladakh on account of developments in the wake of Jammu & Kashmir Reorganization Act, 2019 and peculiar situation which prevailed as mentioned in the affidavit dated 11.02.2020 filed on behalf of the UT of J&K. The time in respect of UTs of J&K. and Ladakh will stand extended up to 31.10.2020. For delay beyond the said date, compensation at the same rate as applicable to other States/UTs will payable from 01.11.2020.

13. The MoEF&CC may continue to monitor the situation and file an updated status report as on 31.08.2020 before 30.09.2020. The stand of the applicant with regard to quality of the PBRs and other issues may be looked into and response filed before the next date by email at judicial-ngt@gov.in. CPCB may take steps to recover compensation from the defaulting States in terms of earlier orders.

7 That within a span of approximately 5 to 6 months, The Maharashtra State Biodiversity Board through continuous monitoring by means of review meetings and official correspondence, 28568 local bodies out of total 28649 has prepared their PBRs till 24/09/2020. In the last 6 months, number of local bodies in Maharashtra has been reduced from 28654 to 28649.

STATUS OF PBRs PREPARED

Sr no	Local Bodies	Target	Achievement	Percentage
1	Zilla Parishad	34	27	99.71%
2	Panchayat Samiti	351	277	
3	Gram Panchayat	27869	27869	
4	Nagar Parishad	238	238	
5	Nagar Panchayat	130	130	
6	Mahanagarpalika	27	27	
	Total	28649	28568	

8. It is respectfully submitted that, Maharashtra State has tried its best to complete the target of constitution of BMCs and preparation of PBRs within a stipulated period as per the NGT's orders dated 09/08/2019 and 18/03/2020. State has successfully completed the process of constitution of all the BMCs in the local bodies of the state. However, the process of documentation of PBRs could not be completed due to various reasons as given below:-

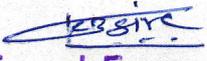
1. The Maharashtra state has been under lockdown since March 2020 end as the state is very severely affected by COVID-19 pandemic.
2. The Members of Technical Support Groups (TSG) and Non-Governmental Organizations (NGOs) which were entrusted the duty of helping in preparation of PBRs for the local bodies were unable to move and help local bodies in this task as there were restrictions in movement from one district to other district. Therefore, they were not able to reach at village level for preparation of PBR.
3. Government of Maharashtra has drastically curtailed the strength of staff attending the government offices to control the pandemic situation which affected the process of PBR preparation adversely.
4. The staff of related line departments such as Rural Development, Agriculture Department and Forest Department etc. have been deputed on various duties related to prevention of COVID-19 pandemic.



5. The process of primary data collection for preparation of PBRs got severely hampered due to pandemic situation. This has resulted in delay of preparation of PBRs.

Prayer Clause;

It is therefore, for the reasons mentioned in the above paras, most respectfully prayed that, considering the sincere efforts made by the State in this direction, the Hon'ble National Green Tribunal may kindly grant One month time up to October, 2020 for completing the work of preparation of PBRs in the State of Maharashtra.


Divisional Forest Officer
Maharashtra State Biodiversity Board
Deponent Respondent No. 29

Kalpana B. Temgire
Divisional Forest Officer (Biodiversity)
For Member Secretary
Maharashtra State Biodiversity Board
Maharashtra



NOTARIAL REG.
ENTRY NO. 9020
DATE 29/9/2020

VERIFICATION

I, Smt. Kalpana D/o Baban Temgire, aged 37, working as Divisional Forest Officer (Biodiversity), Maharashtra State Biodiversity Board, Jaivavividhata Bhavan, Civil Lines, Nagpur-440001, authorized by Maharashtra State Government to sign and verify the content of reply / affidavit, do hereby state on solemn affirmation that all the facts stated in the above said paragraphs No. 1 to 8 are true and correct to the best of my knowledge, belief and information on record and no new pleas have been pleaded and nothing has been concealed there from and verify the same.

Solemnly affirmed at Nagpur, State-Maharashtra on this day 29th of September, 2020.



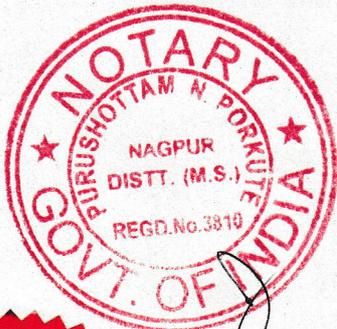
I know and identified the Deponent

*(R.H. VIRSEN
Advocate)*

K.B. Temgire
**Divisional Forest Officer
Maharashtra State Biodiversity Board**

Deponent Respondent No. 29

Kalpana B. Temgire
Divisional Forest Officer (Biodiversity)
For Member Secretary
Maharashtra State Biodiversity Board
Maharashtra



SWORN Solemnly affirmed
by Kalpana B. Temgire
who is Personally Known
to me / identified by
Adv. R. H. Virsen
before me on this the 29th
day of Sept at Nagpur
2020

M. Porkute
29/9/2020
**PURUSHOTTAM
N. PORKUTE
NOTARY
GOVT. OF INDIA
NAGPUR (M. S.)**

