

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
ORIGINAL APPLICATION NO. 108 OF 2022**

In the matter between:

Nandakumar Waman Pawar & Anr.

... Applicants

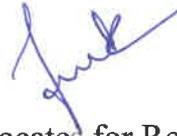
Versus

Maharashtra Industrial Development
Corporation & Ors.

... Respondents

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Advocates for Respondent No.5



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Nandakumar Waman Pawar & Anr. ... Applicants

Vs.

Maharashtra Industrial Development
Corporation & Ors. ... Respondents

**OBJECTIONS TO JTC REPORT DATED 19.06.2025 ON BEHALF
OF RESPONDENT NO.5:**

I, Manoj Banwari Lal Jalan the member of Respondent No. 5, the Authorised Signatory of Respondent No.5, having office address at Phase 1, MIDC, Dombivali, Dist. Thane – 421 203, do hereby solemnly affirm and state as under:

1. I am the Authorized Signatory of the Respondent No.5, having my address as mentioned above and I am competent, authorized, and able to depose the present Affidavit. I have perused and made myself conversant with the contents and record pertaining to the present Application and I am otherwise, well aware of the facts and circumstances of the present case from personal knowledge as also office records and thus, competent to depose the same. I say that I am

filing the present Affidavit to object to the Report dated 19th June 2025 filed by the Joint Director, Industrial Safety and Health, Kalyan (“JTC Report”) in compliance with Order dated 20th June 2025 passed by this Hon’ble Tribunal in the present proceedings. I crave leave to file a further detailed affidavit/additional affidavit along with supporting documents if the circumstances so warrant. For the reasons stated hereinbelow, the Joint Committee report may not be taken into consideration.



2. At the outset, I deny each and every finding made in the JTC Report which is contrary to and/or inconsistent with that which is stated in the present Affidavit and humbly submit that nothing contained in the JTC Report shall be deemed to have been admitted by or on behalf of Respondent No.5, merely for want of specific traverse. I clarify and submit that the averments made herein are in the alternative and without prejudice to one another. I also repeat, reiterate and confirm all that is stated in the earlier Interim Application No. 38 of 2023 seeking dismissal of the captioned original application on the ground of maintainability and Affidavit in Reply dated 8th March 2023 filed in the captioned Original Application and the same be treated as forming part thereof.

3. I say that the Applicant, by way of the Original Application, *inter alia* prays for demolition of alleged illegal industrial structures in Phase-I and Phase-II of the Dombivali Industrial Area.
4. I say that on 19th June 2025, Respondent No. 3-DISH submitted an affidavit along with the JTC Report of the factories located in Dombivali Phase-I and Phase-II regarding alleged illegal encroachment of industrial units. I say that on plain reading of the JTC Report filed by Respondent No. 3-DISH, it is evident that the same is misconceived and erroneous for the reasons more particularly set out hereinbelow.
5. At the outset, without even addressing the merits of the JTC Report, Respondent No. 5 states that the same deserves to be quashed and set aside for the following reasons:
6. **NO VIOLATION OF SCHEDULE-I OF THE NGT ACT:**
- a) I say that the Applicant has sought to raise several allegations in the captioned Original Application regarding illegal industrial encroachment in the industrial area of Dombivali of Phase-I and Phase-II as per MRTP Act, violations of registration norms under the Boilers Act, 1923, violation of Development Control



Regulations (“DCR”), violations under Maharashtra Industrial Development Corporation (“MIDC”) Act, 1961, non-compliance of Order dated 25th June 2021 passed by this Tribunal in O.A. No. 134 of 2021, etc.

b) I say that on 8th August 2024, this Hon’ble Tribunal directed the Committee constituted in Original Application No. 134 of 2021 comprising members of Maharashtra Pollution Control Board (“MPCB”), Central Pollution Control Board (“CPCB”), Chief Fire Officer, Maharashtra Industrial Development Corporation (“MIDC”), Controller of Explosives, Additional/ Joint Director of Industrial Safety and Health, Mumbai and chaired by the Director of Industrial Safety and Health (“DISH”) to conduct a study with respect to the allegations made in the present original application, more particularly, regarding alleged illegal encroachment and additional construction undertaken by each of the industrial units in Dombivali Industrial Area Phase-I and Phase-II and submit report within a period of three months.

c) It is submitted that this Hon’ble Tribunal ought not to entertain any of these allegations as it does not fall under the ambit of this Hon’ble Tribunal. It is well-settled principle of law that the NGT

being a creation of the National Green Tribunal Act, 2010 (“NGT Act”) is bound by the same. The NGT Act, more particularly, Schedule-I of the NGT Act, lists the acts with respect to which the Hon’ble NGT has jurisdiction. It is pertinent to note that the aforesaid allegations made by the Applicant do not fall within the ambit of Schedule-I of the NGT Act.

- d) I say that the observations made in the JTC Report include alleged encroachment, additional construction and construction in marginal space, violations under the Boilers Act, 1923, etc., none of which comes under the ambit of Schedule-I of the NGT Act. There is no observation and/or conclusion drawn by the Committee in the JTC Report indicating any environmental damage or any environmental violations carried out by any industry, except to give a finding that there is alleged illegal encroachment and additional constructions carried out in some of the industrial units. Also, the allegations in the original application are made without providing any reasons or evidence to substantiate the same. Therefore, this Hon’ble Tribunal ought to completely disregard the JTC Report for looking into allegations which ought to have been agitated before an appropriate forum.



e) I say that the constitution of a committee for alleged violations that do fall under the ambit of Schedule-I of the NGT Act is untenable and without any basis. I submit that if the main original application cannot be heard by this Hon'ble Tribunal due to the aforesaid reasons, a committee constituted on the same subject along with the Joint Committee Report ought to be discarded.

7. ALLEGED ISSUES TAKEN UP BEFORE THE HON'BLE HIGH COURT:

a) I say that the Applicant has wilfully suppressed the fact that the same Applicant, the Petitioner therein, had filed a Civil Writ Petition bearing No.8372 of 2017 before the Hon'ble Bombay High Court with respect to similar cause of action as attempted to be raised in the captioned Original Application.

b) On 20th August 2018, the Applicant withdrew the Civil Writ Petition bearing No.8372 of 2017 with limited liberty to file a Public Interest Litigation in accordance with law.

c) Post withdrawing of the aforesaid Writ Petition, after over 4 years, the Applicant herein, without filing a Public Interest Litigation for which liberty was sought from the Hon'ble Bombay High Court

has filed the captioned original application on the basis of the similar cause of action and seeking similar reliefs before this Tribunal by totally suppressing the fact that the very applicant had filed a Writ Petition on the similar cause of action and the same was withdrawn. The very issues raised in the writ petition are being dealt with by the Joint Committee and for which the JTC Report has been submitted.



d) On a close reading of the entire Original Application, it is clear that the Original Application has been filed raising various dispute regarding the MRTP Act, 1961, DC Regulations, MIDC Act, 1961 and Boilers' Act 1923. It is reiterated that none of these disputes/issues can be entertained by this Hon'ble Tribunal as it does not fall under the ambit of Schedule I of the NGT Act. The only other relief sought to be prayed for in the captioned Original Application is prayer clause (iii) seeking implementation of Order dated 25th June 2021 passed by this Hon'ble Court in Original Application No. 134 of 2021. On 23rd March 2023, during the course of the hearing of the captioned original application, the Applicant has stated that the Applicant is not pressing prayer clause (iii)

regarding implementation of the order dated 25th June 2021 in OA No. 134 of 2021.

- e) In these aforesaid circumstances, it is evident that there has been a clear attempt to agitate the same grievance before multiple forums and nothing substantial remains in the matter and therefore, the original application as well as the JTC Report ought to be dismissed.

8. **COMPOSITION OF THE COMMITTEE:**

- a) I say that the JTC Report filed by Respondent No. 3-DISH has been prepared without following due procedure. I say that on 8th August 2024, this Hon'ble Tribunal directed that the Committee constituted in Original Application No. 134 of 2021 conduct the study with respect to the alleged illegal encroachment and additional construction carried out by each of the industrial units in Dombivali Industrial Area Phase-I and Phase-II and submit report within a period of three months.
- b) On 3rd January 2025, Counsel for Respondent No. 3-DISH prayed that the Committee constituted in Original Application No. 134 of 2021 may be exempted from the aforesaid scope of work since the

Committee formed in OA No. 134 of 2021 had a different purpose and scope and that the work of conducting survey concerning the illegal encroachments and additional constructions still falls within the purview of Respondent No.1 – MIDC. However, this Hon'ble Tribunal directed Respondent No. 3-DISH to carry out the study/survey as directed in Order dated 8th August 2024 by taking assistance from Respondent No. 1-MIDC.



I say that on 11th June 2025, during the course of the hearing of the captioned matter, a report dated 24th April 2025 was submitted by Respondent No. 3-DISH. However, the said report was signed by only Joint Director of Industrial Safety and Health and no signatures of other members of the said Committee were made and in fact, other members of the Committee stated that they had not even received copy of the aforesaid report. In light of this, this Hon'ble Tribunal directed Respondent No. 3-DISH to submit a report with signatures of all Committee Members.

d) I say that on 19th June 2025, Respondent No. 3-DISH submitted an affidavit along with the JTC Report of the factories located in Dombivali Phase-I and Phase-II regarding alleged illegal encroachment of industrial units. As per the JTC Report, a survey

was conducted by officers of Respondent No. 1-MIDC, Respondent No. 2-MPCB and Respondent No. 3-DISH along with officer of the Fire Service Department, who is not a member of the Joint Committee. It is pertinent to note that though CPCB is part of the Joint Committee, no representative was part of the site visit/surveys and a representative of CPCB has merely signed the JTC Report.

- e) I say that MIDC, MPCB, DISH and CPCB are appointed as members of the Joint Committee who are impleaded as Respondent Nos. 1, 2, 3 and 4 respectively. It is submitted that that a party Respondent cannot be a part of the Expert Committee constituted for the purpose of analysing the subject matter as it has a direct bearing on the outcome of the proceedings. Hence, for the reasons mentioned above, the JTC Report should be summarily dismissed as bad in law and set aside.

9. **JTC REPORT IS VAGUE AND WITHOUT SUBSTANCE:**

- a) I say that as per the directions of this Hon'ble Tribunal *vide* Order dated 8th August 2024, on 10th January 2025, the Committee held a meeting to ascertain how the study to look into allegations in the

captioned original application is to be conducted. On 14th August 2024, a hearing was held wherein the Applicant, and the representatives of Respondent No. 5 were present. I say that apart from these two meetings, no further particulars have been provided by the Joint Committee. Thereafter, the Report mentions that an actual survey was done by officers of MIDC, MPCB, DISH and Fire Service Department and observations made regarding 733 industrial units and remarks for each of them were noted in observation sheets that are attached to the JTC Report.

b) I say that the JTC Report has given its findings that out of 733 industrial units, 645 units were operational, and 88 units were found closed during the survey. Out of the 645 operational units, 525 units were found to have illegal encroachment and/or additional constructions and out of 88 closed units, 17 units were found to have illegal encroachment and/or additional constructions totalling to 542 industrial units.

c) I say that there are no particulars given by the Joint Committee regarding the methodology of the study carried out by the Joint Committee. The Committee has also failed to provide any details of when these surveys were conducted and the frequency of the

same. The observation sheets attached to the JTC Report give vague remarks regarding the industrial units and no particulars have been mentioned of when the site visit was carried out and by whom. I say that the purpose of setting up a committee is because the fact-finding exercise in many matters can be complex, technical and time-consuming, and may require conducting field visits. These Committees are set up with specific terms of reference outlining their mandate and therefore, these committees are expected to provide their expertise and give technically sound findings and conclusions.

- d) I say that the Joint Committee has submitted a vague report which has no substance and the JTC Report has failed to provide any cogent reasons or observations regarding the allegations made in the present Original Application. In these circumstances, the JTC Report has to be discarded *in toto*.

10. **DEROGATION OF PRINCIPLES OF NATURAL JUSTICE:**

- a) Without prejudice to the aforesaid contentions raised, I say that on 8th August 2024, this Hon'ble Tribunal constituted the Joint Committee to conduct a study with respect to the allegations made

in the present original application, more particularly, regarding alleged illegal encroachment and additional construction undertaken by each of the industrial units in Dombivali Industrial Area Phase-I and Phase-II. I say that as per the JTC Report, 733 industrial units were surveyed by the Committee, out of which 542 industrial units were found to have illegal encroachment and additional constructions.

- b) However, at no stage of the aforesaid study conducted by the Committee were the 733 industrial units involved or provided an opportunity to submit their say during the assessment or study of the alleged violations of industrial units and the preparation of the JTC Report. It is submitted that not all of these 733 industrial members are part of Respondent No. 5 association. I say that this is in direct contravention and violation of the 733 industrial unit's right to be represented and heard which flows from the principles of natural justice. The Committee was duty bound to ensure that there was procedural fairness but instead, the Committee analysed and prepared the JTC Report without going into any factual parameters in respect of the violations alleged in the present

original application. Hence, for the aforesaid reason, the Joint Committee ought to be dismissed as bad in law and set aside.

11. I say and submit that the averments contained in the Original Application lack any substance or material to adjudicate the same before this Hon'ble Tribunal. The original application has failed to provide any evidence to substantiate the allegations made in the captioned original application. Most of these allegations are regarding incidences that occurred 5-10 years prior to filing of the present original application making it barred by limitation. All these issues have been agitated by Respondent No. 5 in Interim Application No. 38 of 2023 in the present matter seeking dismissal of the original application on the ground of maintainability including suppression of material facts, approaching the Tribunal with unclean hands, no credibility and locus standi of the Applicant, barred by limitation, jurisdiction of the Tribunal, non-joinder of necessary parties, etc., and the same is currently pending for adjudication. In any event, the original application is clearly barred as none of the allegations form part of the Schedule-I of the NGT Act and therefore, the captioned original application ought to be dismissed, and the Joint Committee Report has to be discarded in its entirety.

12. In the aforesaid facts and circumstances, Respondent No. 5 submits that the Joint Committee Report dated 19th June 2025 must be set aside.

Solemnly affirmed at Mumbai)

Dated this 1st day of August, 2025)

M.B. Jalan

Respondent No. 5

Before me,

M. Jain
Advocates for Respondent No. 5



VERIFICATION

I, Manoj Banwari Lal Jalan the member of Respondent No. 5, the Authorised Signatory of Respondent No.5, having office address at Phase 1, MIDC, Dombivali, Dist. Thane – 421 203, do hereby state that I have submitted this Affidavit on solemn affirmation and oath. I have verified that the facts are true to my personal knowledge. I have not suppressed any material fact known to me and relevant to this matter.

Date: 01/08/2025

Place: Mumbai

M.B. Jalan

Deponent
Respondent No. 5

S.No. H68 P.No. 70
NOTARY Register No. 28-04-2025 Date 01-08-2025



BEFORE ME

K. Rikame

ADV. KASHINATH G. RIKAME
NOTARY
Government of India
Mumbai Dist.

01-08-2025

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**OBJECTIONS TO JTC REPORT DATED
19.06.2025 ON BEHALF OF
RESPONDENT NO. 5.**

Dated this 2nd day of August 2025

Vidhii Partners
Advocates for Respondent No.5
2nd Floor, Darabshaw House,
Shoorji Vallabhdas Marg,
Ballard Estate, Mumbai – 400 001