

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN BENCH, PUNE  
OA NO. 7 OF 2014 (THC)**

**IN THE MATTER OF:**

Janardhan Kundalikrao Pharande & Anr

..Applicant

Versus

MoEF&CC & Ors

..Respondents

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**DATE: 07.03.2021**

**PLACE: New Delhi**

**DRAWN & FILED BY:**



Sanjay Upadhyay, Eisha Krishn and Mansi Bachani

Advocates for the Respondent No.2

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possible manner and by utilizing the allotted resources to the fullest extent.

3. That before making submissions on the reasons to seek the said modifications, the Respondent No.2 wishes to trace a brief chronology of events that would aid in the holistic adjudication of the issue at hand.
4. That the final Judgment on the said issue was delivered on 16.05.2014. Subsequently, the case was re-opened on 28.07.2014. Thereafter, the Respondent No.2 has been filing Affidavits of compliance of the Judgment dated 16.05.2014 periodically starting from 24.09.2014, 10.08.2015, 10.09.2015, 01.10.2015, 20.05.2016, 20.08.2016, 27.09.2016, 19.12.2016, 25.03.2017, 18.07.2017, 28.08.2017, 29.11.2017, 02.02.2018 and 18.02.2019 followed by responses to the Joint Committee constituted by this Hon'ble Tribunal on 17.09.2019, 16.12.2019 and 25.01.2020.
5. That vide Order dated 04.02.2020, this Hon'ble Tribunal held the unit of the Applicant to be non-compliant and liable to pay compensation already assessed by the Monitoring Committee constituted by it. The order also directs that apart from the payment of compensation for the damage in the past, the unit needs to take steps for remediation, within three months and directs for closure, if non-compliance continues. The Respondent No.2 filed a Review Application dated 04.03.2020 and the hard copy was filed on 05.03.2020 on errors apparent on the face of the record and challenged the imposition of the Environmental Compensation on, inter alia, the ground that the Monitoring Committee had calculated the amount with no legal basis. The said Review was rejected on the

ground of limitation on 18.06.2020, despite the fact that the said year was a leap year and the date was calculated wrongly, for which, another review was filed on 24.06.2020, which is still pending adjudication of this Hon'ble Tribunal.

6. That subsequently, on 28.07.2020, this Hon'ble Tribunal directed that the recovered compensation may be spent for restoration of the environment by preparing an Action Plan by a Joint Committee of CPCB, MPCB and the area District Magistrate, with nodal agency being the State PCB. That a response to the MPCB has also been made in this regard, wherein a sum of Rs 20 Lakhs has been paid under protest and it has been apprised by way of a letter dated 11.12.2020 that the Respondent has not only been duly complying with the directions, but also requested that the amount that is being paid, is allowed to be spent in the ongoing remediation process.
7. That the Joint Committee, as constituted by this Hon'ble Tribunal has now filed a report on 18.02.2021 which acknowledges the work that has been done diligently by the Respondent No.2 in spite of the Covid-19 restrictions, and at the outset, the said Respondent agrees with other suggestions and undertakes to ensure compliance of the same, with some minor modification of the said Action Plan as laid down by the Committee, which is presented before this Hon'ble Tribunal for its consideration, especially with regard to the suggestions made for utilization of the compensation amount for remediation work by extending the same for municipal functions, rather than the remediation work under progress, which is not a mandate of the Industry, as laid down in the Action Plan. The

relevant extract of the Action Plan as submitted by the Joint Committee Report is as follows:

“... ”

Based on the issue of ground water pollution, pollution in River Nira in the stretch, action already initiated by the industry after intervention of Hon'ble NGT in the matter following action plan to utilize the environmental compensation is proposed:

- Bio mining of legacy waste dumped near River Nira reported by the Monitoring Committee constituted by Hon'ble NGT in the matter.
- Development of Solid Waste Management facility for the villages surrounding the industry.
- Development of Sewage Treatment plant for sewage and agriculture runoff for Buasaheb Nallah.
- Rain water harvesting in the area surrounding the industry
- Awareness drives to save environment.
- Tree Plantation drive.”

8. That the Respondent No.2 humbly submits that the abovementioned recommendations of the Action Plan especially Bio mining of legacy waste dumped near River Nira which is not attributable to the answering Respondent or the development of Solid Waste Management facility for the villages surrounding the industry or Development of Sewage Treatment plant for sewage and agriculture runoff for Buasaheb Nallah, among others obviously constitute municipal functions of the local authorities that they undertake in

furtherance of their administrative mandate and would be carried out in the normal discharge of their duties. Therefore, the Respondent would like to place on record its objections if asked to discharge any of these municipal burdens. The concerned local and municipal authorities may be directed as necessary to discharge these as part of their normal duties.

9. That further, it must be added that as regards the STP Plant, the answering Respondent has already committed to establish by way of Corporate Social Responsibility and it further submits that it is also willing and ready to increase the capacity of the Sewage Treatment Plant, which is currently operating at 600 KLD to 1200 KLD. Since the local and municipal bodies did not have the required data on sewage generated in the area, the STP Plant was set-up with 600 KLD capacity but now with the benefit of few months of operations, increasing the capacity to 1200 KLD can be targeted to be achieved by around end Dec'2021 for which the Respondent would request that local and municipal authorities be directed to cooperate and provide required assistance to the Respondent for the same.

10. It is the humble submission of the Respondent No.2 that the recovered environment compensation may therefore be specifically used for remediation of the aquifer which is at operating stage, and which would in turn result in the resources being utilized for implementing the Action Plan as approved by this Hon'ble Tribunal vide Order dated 10.08.2017, instead of spending money on regular municipal functions which cannot be the mandate of the Answering Respondent. This is also mandated by the CPCB Guidelines and is in accordance with law.

11. That further, the Respondent No.2 also submits that this Hon'ble Tribunal may also appoint a regulator/mechanism to oversee the compliance of the recommendations of the Joint Committee as well as the Action Plan as agreed by this Hon'ble Tribunal vide Order dated 10.08.2017. That the Respondent No.2 also undertakes to submit periodic receipts of expenses for the said compliances or a bank guarantee arrangement or any other appropriate mechanism that this Hon'ble Tribunal deems fit and proper.

12. That the Respondent No.2 seeks that this Hon'ble Tribunal may be pleased to allow such modification, in the interest of justice, and no harm or prejudice would be caused to any party if the said modification as sought, is allowed and directions be issued to the local and municipal authorities to provide assistance and discharge their obligations.

**DATE: 07.03.2021**

**PLACE: New Delhi**

**DRAWN & FILED BY:**



Sanjay Upadhyay, Eisha Krishn and Mansi Bachani  
Advocates for the Respondent No.2



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

**ORIGINAL APPLICATION NO. 7 OF 2014**

**IN THE MATTER OF:**

Janardhan Kundalikrao Pharande & Anr .....Applicants

Versus

MoEF&CC & Ors. ....Respondent

**AFFIDAVIT**

I, Sanjay Gupta, aged about 54 years, S/o Late Shri V.N. Gupta, resident of A-1147, Sushant Lok, Phase-I, Gurugram, Haryana- 122002, presently in New Delhi, do hereby solemnly affirm and declare as under:

1. That I am the Officer of Respondent No.2 fully conversant with the facts and circumstances of the matter and am competent to swear this affidavit.
2. The contents of the accompanying response are true and correct to the best of my knowledge and have been drafted by the counsel on my instructions and nothing material has been concealed therefrom.

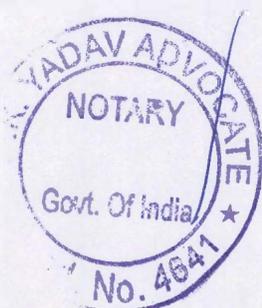
*Esma*

*Sanjay Gupta*

**DEPONENT**

**Verification:**

Verified at Noida on this 6<sup>th</sup> day of March, 2021 that the contents of the above affidavit are true and correct to the best of my knowledge and no part of it is false and nothing material has been concealed there from.



**ATTESTED**  
N.K. YADAV ADVOCATE, NOTARY

Regd. No. 4641  
GOVT. OF INDIA

=6 MAR 2021

*Sanjay Gupta*

**DEPONENT**



ENVIRO LEGAL DEFENCE FIRM &lt;eldflegal@gmail.com&gt;

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**SERVICE IN JANADHAN KUNDALIKRAO PHARANDE (OA NO. 7/2014)**

1 message

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**ELDF** <eldflegal@gmail.com>

Sun, Mar 7, 2021 at 2:16 PM

To: Mukesh Verma &lt;mvermadv@gmail.com&gt;, adv.siddharthmehta@gmail.com, sangramsinghbhonsle@gmail.com, Saurabh Kulkarni &lt;SDKADVOCATE@gmail.com&gt;

Cc: Eisha Krishn &lt;eisha@eldfindia.com&gt;, "Cc: Sanjay Upadhyay" &lt;sanjay@eldfindia.com&gt;

Dear Sirs,

Please find the attached copy of Response on behalf of the Respondent No. 2, Jubilant Ingrevia Ltd to the Joint Committee Report dated 18.02.2021

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Tilak Singh

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**Response on behalf of the Respondent No. 2.pdf**

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