

BEFORE THE NATIONAL GREEN TRIBUNAL

WESTERN ZONE AT PUNE BENCH

O.A.NO. 78 OF 2022

(EARLIER APPEAL NO. 17 OF 2022)

IN THE MATTER OF:

NEW VIDHARBHA FOUNDATION

...APPLICANT

VERSUS

STATE ENVIRONMENT IMPACT ASSESSMENT
AUTHORITY, MAHARASHTRA AND ORS

...RESPONDENTS

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N.D.o.H. 11.01.2023

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FILED BY:



AKSHAR BHATT AND PRANNOY JOE SEBASTIAN

ADVOCATES FOR THE APPLICANT

D-243 LAXMI NAGAR, NEAR LAXMI NAGAR METRO STATION,

GATE NO.1, NEW DELHI-110092

DATE 10.01.2023

EMAIL-akshar@outlook.com

PLACE: PUNE

MOBILE-91+9818987688

- ii. The District Survey Report does not require approval from SEAC and SEIAA as there is no mandate of EIA, 2006.
 - iii. The District Survey Report requires approval from Department of Geology and Mines, Government of Maharashtra.
3. That the Applicant states that the above contentions raised by the Respondent No.1 are false and misleading. It is also stated that the said Respondent has provided no information to substantiate on these contentions and has merely listed them out.
4. That in Rejoinder to Contention No. (i) that the SEIAA has granted mining quantity as proposed by DMO and thus has no role in determining quantity. It is submitted that SEAC SEIAA/ is the nodal authority to determine the correctness of EC application at the state level. If authorities that determine the grant of EC themselves do not check the correctness of EC application, they must be held accountable for the same. As the project falls within the schedule of the EIA, a significant duty is cast on the SEAC/SEIAA while determining grant of EC. Grant of EC is not a mechanical process, but an intricate process and is covered under EIA, 2006 as amended from time to time.

5. That in Rejoinder to Contention No. (ii) The District Survey Report does not require approval from SEAC and SEIAA as there is no mandate of EIA, 2006, it is humbly submitted that the Respondent No.1 cannot indulge in conjectures and surmises, and approbate and reprobate according to its own will. That the Hon'ble NGT Principal Bench in *Satendra Pandey vs Ministry of Environment Forest and Climate Change* with O.A. No. 186/2016 has on 13. 09.2018 nullified the constitution of DEAC and DEIAA (**kindly see Page No. 251 to 267 of OA**). As DEAC and DEIAA stand invalidated, appraisal of the DSR must be carried out by SEAC and forward it to SEIAA for consideration and approval if it meets all the scientific/technical requirements. This has been further reiterated by the Hon'ble NGT in *Pawan Kumar Vs State of Bihar* [2020 SCC OnLine NGT 2848] DECIDED ON 14.10.2020 (**kindly see Page No. 351-390 of the OA**) and the Hon'ble Supreme Court in *State of Bihar vs Pawan Kumar* [(2022) 2 SCC 348] (**kindly see Page No. 538-543 of the OA**) DECIDED ON 10.11.2021. The Respondent No.1 has cheekily tried to warp around the fact that no mention of this is present within the EIA, 2006. It is humbly submitted that decisions of the Hon'ble Supreme Court of India are law of the land and is binding on all courts and the territory of India.
6. That in rejoinder to the Contention No. (iii) The District Survey Report requires approval from Department of Geology and Mines, Government of Maharashtra, it is humbly submitted that the Respondent No.1 has tried to

wriggle away from all responsibility. The decisions of the Hon'ble NGT and Hon'ble Supreme Court of India are law of the land and is binding on all courts and the territory of India. The Hon'ble Supreme Court in *State of Bihar vs Pawan Kumar [(2022) 2 SCC 348]* DECIDED ON 10.11.2021] has categorically stated that appraisal thereof, must be carried out by SEAC/SEIAA. The Respondent No.1 cannot traverse the law, and be allowed to shed responsibility in this regard.

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ADVOCATES FOR THE APPLICANT

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MAHARASHTRA AND ORS.

...RESPONDENTS

AFFIDAVIT

I, Aditya Damle, S/o Mohan Damle aged about 42 years, currently serving as President of New Vidharbha Foundation, the Applicant, R/o B/305 Rama Empire Apartment, Birla Mandir Road, Jatharpeth, Akola -444005 do affirm and state as under:

1. That I am presently the President and Authorized Representative of New Vidharbha Foundation and well conversant with the facts and circumstances in the abovementioned case and as such, I am competent to swear this affidavit.
2. That the contents of the accompanying rejoinder to the reply of Respondent No.1 is true and correct and nothing material has been concealed therefrom.

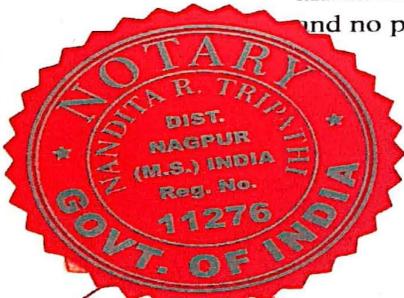
Aditya Damle
DEPONENT
(A. Damle)

VERIFICATION

Verified on this 7th day of January, 2023 that the contents of the above mentioned affidavit are true and correct and nothing material has been concealed therefrom and no part of it is false.

Sworn before me on this 7 day of Jan 2023 at Nagpur to Shri/Smt./Ku Aditya Damle R/o Nagpu who has been identified by Shri/Smt Self Advocate Nagpur

Aditya Damle
DEPONENT
(A. Damle)



NOTARIAL REG
0314 NANDITA R. TRIPATHI
NOTARY
7 Jan 2023 Maharashtra State
Nagpur Dist Nagpur



Rejoinder to Reply Filed by R1 in New Vidharbha Foundation Vs SEIAA, Maharashtra & Ors.

Akshar Bhatt <akshar@outlook.com>

Tue 1/10/2023 5:14 PM

To: adv.pushkarsapre@gmail.com <adv.pushkarsapre@gmail.com>;aniruddha1488@gmail.com <aniruddha1488@gmail.com>;dmoakola2@gmail.com <dmoakola2@gmail.com>

 1 attachments (2 MB)

Rejoinder to Reply.pdf;

Respected Sir,

Mr. Aniruddha Kulkarni - Adv for R1

Mr. Pushkar Sapre- Adv for R2 and R3.

Kindly find rejoinder to Reply Filed by R1 in New Vidharbha Foundation Vs SEIAA, Maharashtra and Ors.

This service through email shall be constituted as effective service.

Regards,

Akshar Bhatt

Advocate for Applicant