

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**WESTERN ZONE AT PUNE****ORIGINAL APPLICATION NO. 45 OF 2021/WZ****IN THE MATTER OF:**

SYAMANTAK TRUST

...APPLICANT

VERSUS

STATE OF MAHARASHTRA & ORS.

...RESPONDENTS

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Through


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Place:- Pune/Delhi

Dated:- 21.01.2023

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE AT PUNE

ORIGINAL APPLICATION NO. 45 OF 2021/WZ

IN THE MATTER OF:

Syamantak Trust ...Applicant

Versus

State of Maharashtra & Ors. ...Respondents

REJOINDER ON BEHALF OF THE APPLICANT TO REPLY OF

RESPONDENT NO. 6 DATED 27.07.2022

MOST RESPECTFULLY SHOWETH:

1. That this Rejoinder is being filed in response to the Reply of the Respondent No. 6, i.e., the Minor Irrigation Department, Mumbai, Maharashtra, dated 27.07.2022. At the outset, the Applicant denies the contents of the Reply filed by Respondent No. 6 unless expressly admitted or are of matter of record.

2. That the Applicant has filed the above titled Original Application dated 23.06.2021 before the Hon'ble NGT against the gross violations of the Wetland (Conservation and Management) Rules, 2010 (hereinafter referred to as "**Rules, 2010**"), the Hon'ble Supreme Court order dated 14.10.2017 in ***M. K. Balakrishnan & Ors. v. Union of India & Ors. (WP (Civil) 230 of 2001)*** and the Wetland (Conservation and Management) Rules, 2017 (hereinafter referred to as "**Rules, 2017**") in the Dhamapur Lake area, Sindhudurg, through illegal reclamation and construction of residential property and concrete wall in the wetland area, illegal dumping of construction and demolition waste, installation of

borewell, all located within the High Flood Line (HFL) of the Dhamapur wetland area.

3. The Respondent has relied on the Site Visit Report dated 21.10.2021 prepared by the Committee appointed and constituted by the Hon'ble Tribunal vide its order dated 15.07.2021 (hereinafter referred to as "**Site Visit Report**"). The Response of the Applicant dated 29.01.2022 to the Site Visit Report and the Additional Affidavit dated 05.11.2022 of the Applicant should be read as part and parcel of this Rejoinder to the Reply of Respondent.

PARA WISE REPLY

4. That in response to paragraph 1, it is submitted that the Respondent or any other body does not have authority to grant NOC for any construction in the wetland area as any construction of permanent nature except a boat jetty is prohibited within 50 metres from HFL of the wetland as per Rule 4(1)(vi) of Rules, 2010 and Rule 4(2)(vi) of Rules, 2017. Hence, NOC cannot be granted for an activity or construction prohibited under the Rules, 2010 and Rules, 2017.
5. That paragraph 2 needs no response.
6. That the contention in paragraph 2.1 that the Respondent No. 6 has no right to take action against the construction by Respondent No. 7, unless it is an acquired land by Respondent No. 6, is denied. It is submitted that the Government Resolution document dated 17.02.2021 (**Annexure 6 of the Reply of the Respondent No. 6**) relied by the Respondent concerns with acquiring land and structure affected by reservoirs of minor irrigation projects depending on the flooding at the project site. The said Government resolution does not concern with or restrict the rights of the Respondent to take action against the illegal activities taking place

on the lake area based on the acquisition of land or structures by the Respondent.

7. That the paragraph 3 and paragraph 3.1 of the Reply need no response.
8. That the contention in paragraph 3.2 that for any development activity in the wetland area, prior NOC has to be taken from Respondent No. 6, is denied for being misleading and untrue. It is submitted that as per Rule 4(1)(vi) of Rules, 2010 and Rule 4(2)(vi) of Rules, 2017, any permanent construction except boat jetty is prohibited within 50 metres from the HFL of the wetland, hence, Respondent No. 6 or any other authority cannot grant NOC for any kind of construction in the said area.
9. That paragraph 3.3 needs no response.
10. That the contentions in paragraph 3.4 is the same as the contentions of paragraph 2.1 which are denied in paragraph 6 of the present Rejoinder and is not repeated here for the sake of brevity.
11. That paragraphs 4 and 4.1 need no response.
12. That the contents of paragraph 4.2- 4.4 is the same as contents of paragraph 3.2-3.4 to which response has been made in paragraphs 8-10 of the present Rejoinder and is not repeated here for the sake of brevity.
13. That the contentions made in paragraph 5 that the Respondent No. 6 is in no position to take any action against such construction as the land does not belong to them is denied. The response to this contention has been made in paragraph 6 of the present Rejoinder and is not repeated here for the sake of brevity.
14. That paragraph 6 and 7 pertains to facts and needs no response.

15. That the contentions in paragraphs 6.1 and 7.1 that the Respondent No. 6 is in no position to take any action against such construction as the land does not belong to them, is denied. The response to this contention has been made in paragraph 6 of the present Rejoinder and is not repeated here for the sake of brevity.
16. That paragraph 8 is partly denied. The contention that the construction of wall by Respondent No. 8 has been demolished, is being denied. The wall is in the submergence zone of the lake and hence, lies submerged inside the water. The Respondent has stated and agreed that the reclamation of wetland area through excavation of soil and construction of wall by Respondent No. 8 on the land owned by Respondent No. 8 is illegal as it falls within the submergence zone of the wetland area.
17. That the contentions in paragraph 8.1 are denied. The contention that the Respondent No. 6 is in no position to take any action against such constructions done in private lands as the land does not belong to Respondent No. 6, is denied. The response to the contention has been made in paragraph 6 of the present Rejoinder and is not repeated here for the sake of brevity.
18. The in response to paragraph 9, it is submitted the Respondent has merely attached a photograph of people on site in the process of removing the construction waste as on date 22.1.2022 to say that the debris has been removed. The Respondent is require to furnish proof of the removal of the construction debris.
19. Thus, in light of the above, the prayers in the Original Application should be allowed.

20) Pass any other order as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case.

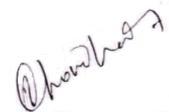


APPLICANT

THROUGH



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VERIFICATION

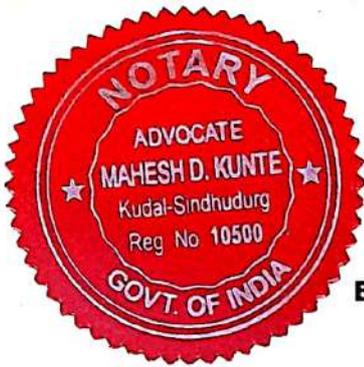
Verified by Sachin Anand Desai, authorised representative of Applicant Organisation, S/o Anand Desai, aged about 48 years, R/o Syamantak, 163, at post Dhamapur, Taluka Malvan, District Sindhudurga- 416605, do hereby verify that the contents of Paragraphs 1 to 20 are true to my personal knowledge and nothing material has been concealed therefrom.



APPLICANT

PLACE:

DATE:



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONAL BENCH AT PUNE

OA NO. 45 OF 2021

IN THE MATTER OF:

Syamantak Trust

...Applicant

Versus

State of Maharashtra & Ors.

...Respondents

AFFIDAVIT

I, Sachin Anand Desai, authorised representative of Syamantak Trust, S/o Anand Desai, aged about 48 years, R/o Syamantak, 163, at post Dhamapur, Taluka Malvan, District Sindhudurga- 416605 do hereby solemnly affirm and declare as under:

1. That I am the authorized representative of Applicant in the above titled Application and conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the contents of the accompanying Rejoinder are true and correct and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION

Verified on this 26th day of November 2022 that the contents of the present Affidavit are true and correct to my knowledge and belief and nothing material is concealed therefrom.

Sachin Anand Desai Solemnly Affirmed that this is my name and signature & that the contents of this affidavit are true.

Signature of Dependent

Signature of Notary

Signed before me

MAHESH D. KUNTE
NOTARY

Govt. of India
AARADHANA' Shriramwadi
Mumbai Goa Highway, Tal-Kuda
Dist-Sindhudurg, Maharashtra

DEPONENT

This document is noted at
Sr. No. 903
in the Notarial Register.