

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN BENCH, NEW DELHI
O.A. NO. 14 OF 2025**

Kailas Narke

.... Applicant

Versus

Maharashtra Enviro Power Ltd. & 10 Ors.

...Respondent(s)

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DATE: 21.01.2026**PLACE: Pune****DRAWN BY:**


ARVIND SONI & SHUBHAM SONI
(ADVOCATES FOR THE APPLICANTS)

SETTLED BY:

Shri. Sanjay Upadhyay
[Senior Advocate]

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**REJOINDER ON BEHALF OF THE APPLICANT TO THE REPLY DATED
23.09.2025 AND ADDITIONAL REPLY DATED 01.12.2025 FILED ON
BEHALF OF RESPONDENT NO. 1 (MAHARASHTRA ENVIRO POWER
LTD. -MEPL)**

MOST RESPECTFULLY SHEWETH: -

1. That this Hon'ble Tribunal is presently seized of the Original Application No. 14 of 2025 wherein serious concerns have been raised about the unabated discharge/seepage of polluted water from "M/s Maharashtra Enviro Power Ltd." (hereinafter referred as "**Respondent No. 1**") operating its Common Hazardous Waste Treatment, Storage and Disposal Facility (hereinafter referred as "CHWTSDF") at Plot No. P-56, Ranjan Gaon, MIDC, Taluka Shirur, Dist. Pune, Maharashtra in sheer and utter violation and disregard of the environmental laws of the land more particularly Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and Environment Protection Act, 1986 thereby causing serious pollution in the surrounding areas thus damaging the quality of air, water, soil and ground water resources in the nearby areas and also causing an adverse impact on the health of nearby residents.
2. That the CHWTSDF was established as a facility on 27.10.2005 without prior environmental clearance (EC) of the Captive Power Plant which is an integral part of the facility, despite there being a specific requirement of the same as per the Environmental Impact Assessment (EIA) Notification 1994 read with

the amended EIA Notification of 1997. Further, the Rapid Environmental Impact Assessment (REIA) was conducted prior to setting up this Facility by the Regional Research Laboratory CSIR, Bhopal in May 2005, wherein the water quality of region, including groundwater and surface water during winter season were assessed for selected environmental parameters, the physical parameters were found to be normal, but subsequently degeneration has been noticed in those parameters.

3. That a Reply dated 23.09.2025 was filed by the Maharashtra Enviro Pollution Ltd. (MEPL) (hereinafter referred to as “Respondent No.1”) was taken on record by this Hon’ble Tribunal vide Order dated 25.09.2025. The Applicant had sought liberty to file the rejoinder to the said reply of the Respondent No.1. Further, this Hon’ble Tribunal directed the MPCB (Respondent No. 2 and Respondent No. 3) to file an additional affidavit indicating details of non-compliances by Respondent No.1, the period of such violations, and their rectification, for the purpose of quantification of Environmental Damage Compensation (EDC).
4. That this Hon’ble Tribunal on 25.09.2025 also recorded the Applicant’s submissions that the Respondent No.1 is operating a CHWTSDF without Environmental Clearance till 2019 and sought a reply from Respondent No.1 on the said issue. Thereafter, the Additional Reply dated 01.12.2025 was also filed by the Respondent No. 1 which was taken on record on 03.12.2025.
5. That the present Rejoinder is being filed on behalf of the Applicants to the Reply dated 23.09.2025 and additional Reply dated 01.12.2025 filed on behalf of the Respondent No.1, in terms of the liberty granted by this Hon’ble Tribunal vide Order dated 25.09.2025.

6. That the Applicant seeks to place on record its Preliminary Submissions, before submitting its para wise reply on merits, which in the humble opinion are crucial for a holistic adjudication of the present Application.

PRELIMINARY SUBMISSIONS

ON THE ISSUE OF THE CREDENTIALS OF APPLICANT

7. That this Hon'ble Tribunal in "*Municipal Corporation of Greater Mumbai vs. Ankita Sinha & Ors. 2021 INSC 624*" while concluding that Hon'ble National Green Tribunal has *suo-moto* jurisdiction in discharge of its function under the NGT Act, 2010 has also observed: -

*"16.6 Another distinguishing feature of the environmental forum is on the aspect of locus standi which was made as wide as is available to the High Courts and the Supreme Court. Thus, **any person or organization who may be interested in the subject matter is permitted to approach the NGT***

...

V. NON-ADJUDICATORY ROLES OF NGT

*17.1 As can be seen, the Parliament intended to confer wide jurisdiction on the NGT so that it can deal with the multitude of issues relating to the environment which were being dealt with by the High Courts under Article 226 of the Constitution or by the Supreme Court under Article 32 of the Constitution. The Tribunal is also expected to proceed with such matters with the understanding that environment and environmental principles are part of Article 21 of the Constitution. [See *Vellore Citizens' Welfare Forum vs. UOI*12; *M.C. Mehta vs. UOI*13 etc.]*

17.2 The Schedule I of the NGT Act is concerned with implementation of few environmental related enactments such as the Water Act, the Air

*Act, the Environment Act, the Forest Conservation Act etc. As one looks at these enactments, an expanded role for the NGT is clearly discernible. **The activities of the NGT are not only geared towards the protection of the environment but also to ensure that the developments do not cause serious and irreparable damage to the ecology and the environment.** These would suggest a broad canvas for the NGT Act as also its creation.*

*17.3 For the environmental forum, tasked with implementation of the statutes mentioned in Schedule I of the NGT Act, the concept of *lis*, would obviously be beyond the usual understanding in civil cases where there is a party (whether private or government) disturbing the environment and the other one (could be an individual, a body or the government itself), who has concern for the protection of environment. **Therefore, the NGT is primarily concerned with protection of the environment and also preservation of the natural resources.** As the specialized forum, the NGT would be expected to take preventive action, besides settling and adjudicating disputes and pass orders on all environment related questions.*

*17.4 **The NGT is not just an adjudicatory body but has to perform wider functions in the nature of prevention, remedy and amelioration.** This aspect was specifically flagged in the 186th Law Commission Report, “The Environment Court, in our view, must have power to frame schemes and monitor them and also have power to modify the schemes from time to time. If one looks at the problems raised in several cases and the directions issued by the Supreme Court, it will be observed that such a power is necessary to be vested in these Courts. The Environment Court must be able to provide an “environmental solution” to grave*

problems like the one mentioned above and unless it has power to frame comprehensive schemes which will involve issuing directions to various departments, the solution cannot be implemented. Such a comprehensive jurisdiction is now being exercised both by the Supreme Court and High Courts. In our view, the proposed Courts must have similar powers. They will also have to monitor the schemes till they are successfully implemented on ground and, if necessary, modify the schemes from time to time.”

“VII. UNIQUENESS OF NGT VIS-A-VIS OTHER TRIBUNALS

22.1 While we see many tribunals functioning within their specified domains, variances do exist in the manner in which they are designed to function. The statutory Tribunals were categorized to fall under four subheads; Administrative Tribunals under Article 323A; Tribunals under Article 323B; Specialized sector Tribunals and most prominently; Tribunals to safeguard rights under Article 21. As already noted, the duties of NGT brings it within the ambit of the fourth category, creating a compelling proposition for wielding much broader powers as delineated by the statute.

*22.2 The ideal was to create a fairly proactive and responsive Institution which could step into varying roles, as the situation demanded. Commenting on the specialized and unique role of the NGT, Justice Ashok Bhushan in *State of Meghalaya vs. All Dimasa Students Union*¹⁸, fittingly observed thus:*

“163. The object for which the said power is given is not far to seek. To fulfil the objective of the NGT Act, 2010, NGT has to exercise a wide range of jurisdiction and has to possess wide range of powers to do justice in a given case. The power is

given to exercise for the benefit of those who have right for clean environment which right they have to establish before the Tribunal. The power given to the Tribunal is coupled with duty to exercise such powers for achieving the objects. In this regard reference is made to the judgment of this Court in L. Hirday Narain v. CIT [L. Hirday Narain v CIT, (1970) 2 SCC 355], wherein this Court was examining provision empowering authority to do something. This Court laid down in para 14: (SCC p. 359) “14. The High Court observed that under Section 35 of the Indian Income Tax Act, 1922, the jurisdiction of the Income Tax Officer is discretionary. If thereby it is intended that the Income Tax Officer has discretion to exercise or not to exercise the power to rectify, that view is in our judgment erroneous. Section 35 enacts that the Commissioner or Appellate Assistant Commissioner or the Income Tax Officer may rectify any mistake apparent from the record. If a statute invests a public officer with authority to do an act in a specified set of circumstances, it is imperative upon him to exercise his authority in a manner appropriate to the case when a party interested and having a right to apply moves in that behalf and 18 (2019) 8 SCC 177 circumstances for exercise of authority are shown to exist. Even if the words used in the statute are prima facie enabling, the courts will readily infer a duty to exercise power which is invested in aid of enforcement of a right—public or private—of a citizen.” 22.3 Reflecting on the expanded role of NGT unlike other Tribunals, this Court so appositely observed that

the forum has a duty to do justice while exercising “wide range of jurisdiction” and the “wide range of powers”, given to it by the statute.”.

Thus, in view of the above-mentioned observation of the Hon’ble Supreme Court, it is humbly submitted that the credentials of the Applicants are not that important, what is important is the environmental violations that have been occurring from the unit of Respondent No.1 since last several years. Further, as per the directions of the Hon’ble Tribunal in this regard, necessary documents to show the credentials of the Applicants has already been submitted on 17.03.2025 in confirmation with the observation of Hon’ble Supreme Court in “State of Uttar Pradesh & Ors. vs. Uday Education and Welfare trust & Ors. 2022 SCC OnLine SC 1469”. Even in arguendo, this Hon’ble Tribunal may proceed suo-moto as Applicant is only seeking the cause for the Environment.

Para Wise Reply

8. That the contents of Para 1 are denied and the contents of Original Application along with other documents filed on behalf of the Applicant may be read as a response to the same.
9. That the contents of Para 2 are denied as false and without any merit. It is submitted that even it is assumed for the time being that Applicant is located at about 18 Kms away from the Respondent No.1 unit, he may still have grievance against the pollution caused by the Respondent No.1 unit because the operation of unit has contaminated all sources of water i.e., groundwater, surface water etc. Further as mentioned above in Para 7 the Hon’ble Supreme Court in “*Municipal Corporation of Greater Mumbai vs. Ankita Sinha & Ors.*

2021 INSC 624” has explained the meaning of *locus standii* in broader term i.e., “any person or organization who may be interested in the subject matter (environment protection) is permitted to approach the NGT”. Further in Vellore Citizens Welfare Forum v. Union of India (1996) 5 SCC 647, the Supreme Court held that environmental protection is a collective responsibility and any public-spirited person can approach courts. The reliance of Respondent No.1 on Uday Welfare Trust case and Anand Kumar Jha case is misplaced as those judgements are given in view of the facts and circumstances in those cases, further as per the direction of this Hon’ble Tribunal credentials of the Applicant are already on record.

10. That the contents of Para 3 are denied as false and without any merit. The observations of this Hon’ble Tribunal in “*Ajay Jayawantrao Bhosale vs. Union of India*” OA No. 63 of 2019” are in the facts and circumstances of the that case, it was not an observation which may be considered as binding on this Hon’ble Tribunal. Further in the present case the pollution is still continuing even after several Show Cause Notices, Directions and Criminal Complaint, thus, inefficiency of the Regulators has forced the Applicant to approach this Hon’ble Tribunal.

11. That the contents of Para 4-6 are denied as false and without any merit. It is submitted that the Applicant by filing RTI was exercising his legal right given by Right to Information Act, 2005, so, the Respondent No.1 should not be bothered with the exercise of the Applicant’s Right as it is a recognised tool of environmental transparency. It is further submitted that if any case is pending against the Applicant, then it cannot be used as defence to potentially challenge the credentials of Applicant as the Hon’ble Supreme Court in a number of cases has held that even a convict has a Right To life. Further, merely filing RTIs cannot be equated with harassment or mala fide conduct.

Instead, it demonstrates the Applicant's due diligence in gathering facts before approaching this Hon'ble Tribunal.

12. That the contents of Para 7-8 are denied as false and without any merit. It is submitted that the Applicant has already disclosed about the credentials in the Submissions dated 17.03.2025 and are not repeated herein, for the sake of brevity. Further the present Application was being filed in the interest of the Environment but the Respondent No.1 is trying to make it a case against the Applicant instead of replying on the submissions regarding the continuous environmental Pollution caused by the Respondent No.1.
13. That the contents of Para 9-11 are denied as false and without any merit. The Applicant has no commercial or proprietary interest in the present matter. The reference to the writ petition filed by M/s Green Gene Enviro Protection and Infrastructure Limited before the Hon'ble High Court of Judicature at Bombay is irrelevant, as the Applicant is neither a party to those proceedings nor acting at the behest of any private party. It is submitted that the Respondent No. 1 has failed to produce any documentary evidence to substantiate its assertions made. Further, the opposition of the Respondent No.1 to the appointment of Joint Committee to ascertain the actual facts has in fact put in doubt the conduct of the Respondent No.1. Be that as it may, Applicant humbly submits that this Hon'ble Tribunal may appoint an independent committee to ascertain the actual facts, which will make the submissions of the Applicant crystal clear.
14. That the contents of Para 12-13 are denied as false and without any merit. It is submitted that the Respondent No. 1 has attempted to malign the Applicant by referring to irrelevant submissions and the proceedings before this Hon'ble Tribunal are non-adversarial in nature and are in the interest of the environment and further, the allegations with respect to the Applicant being

habitual offender and does not come with clean hands are irrelevant as filing multiple complaints demonstrate vigilance.

15. That the contents of Para 14-15 are denied as false, as the retaining wall was constructed only after repeated violations and directions from the MPCB and CPCB. The presence of large contaminated water in “kutch pond” within the facility is still there. Further the Applicant has also questioned the conduct of MPCB who in the present case has only acted as a mute spectator since 2011 without doing anything effective on ground. The construction of a retaining wall is an after-the-fact remedial measure, which does not absolve Respondent No. 1 of past environmental damage as well as the ongoing environmental damage.

16. That the contents of Para 16- 17 merit no response, except the fact that the manner in which the said Company has acted in contravention of environmental laws, it deserves not only a huge environmental compensation and damages but a permanent closure.

17. That the contents of Para 18 are denied as false and without any merit. The Respondent No.1 has been violating a number of Environmental Laws since last several years and the Regulators, more specifically MPCB has been informed of these violations on a number of occasions and MPCB has infact filed a Criminal Complaint Case against the Unit for violation of Environmental Laws as early as 2015 but chosen not to pursue the same for reasons best known to them.

18. That the contents of Para 19-20 merit no response.

19. That the contents of Para 21-22 merit no response.

20. That the contents of Para 23-26 merit no response, as the main grievance in the present Application is against the discharge of polluted water by the unit of

Respondent No.1, which have caused grave Environmental Pollution in the surrounding areas of the Respondent No.1 unit.

21. That the contents of Para 27 is denied as false and without any merit. The Respondent No.1 was operating its captive power plant illegally without taking any Environmental Clearance for the same under EIA, Notification, 1994. Further the consents taken by the units are not renewed from time to time for a number of facilities and the facilities were operating without CTO during these intervals.
22. That the contents of Para 28 are denied as false and without any merit. It is submitted that the Respondent No.1 has been operating its captive power plant without an Environmental Clearance since its inception and hence the entire facility has been running illegally, and it was only in 2019 that for the first time they had obtained the EC. Further, they were operating its units in violation of Water Act, 1974, by not renewing the consents on regular intervals and also by discharging the polluted water in the surrounding areas.
23. That the contents of Para 29 are denied as false and without any merit. The Respondent No. 1 is operating its unit in utter violations of various Environmental laws.
24. That the contents of Para 30-31 are denied as false and without any merit. The Respondent No.1 has shrugged of its responsibility by blaming the topography of the region. But the fact is that various reports such as of NEERI, CPCB and the various show cause Notices issued by the MPCB, points out only one thing i.e., the serious Environmental Pollution caused due to the operation of the Respondent No.1 unit. Further the unit was supposed to be a zero liquid discharge as per the new Consent Conditions. The same has been violated with impunity and therefore is a ground alone for complete closure and huge environmental damage.

25. That the contents of Para 32 are denied as false and without any merit. All the submissions regarding compliances did not absolve the liability for previous Environmental violations caused by the Respondent No.1. Further the contents of the Objections to Sur-Rejoinder of MPCB may be read as an additional Response to the contents of this para.
26. That the contents of Para 33 are denied as false and without any merit. Further the analysis of water from piezometric wells was not done by some independent body but by the Respondent No.1 itself and without following the due process under the Water Act, 1974.
27. That the contents of Para 34 are denied as false and without any merit. The Latest affidavit of GSDA dated 02.12.2025 identified ground water sources in a number of gram panchayats that are unfit for human consumption (*see para 5-6 Pg, 1289 read with Annexure-4 (Colly), Pg 1309-1316*)
28. That the contents of Para 35-36 are denied as false and without any merit. No amount of temporary compliance will absolve the past environmental liabilities.
29. That the contents of Para wise Reply from para 37-64 are denied as false and without any merit. Further, the violations can be corroborated with the CPCB affidavit dated 02.07.2025 and the number of Show Cause Notices issued to the Respondent No.1 by the MPCB since year 2011. Further, MPCB has filed a criminal complaint No. 404179/2015 titled "MPCB vs MEPL" for violation of various environmental laws and which was lying dormant since 2015 because of non-prosecution by the MPCB for reason best known to them. MPCB has not imposed any Environment Compensation for the past violation and this Hon'ble Tribunal has directed the MPCB to calculate the EDC vide order dated 25.09.2025.

**A. PARA WISE REPLY ON THE CONTENTS OF ADDITIONAL
REPLY OF RESPONDENT NO.1 DATED 01.12.2025**

30. That the contents of Para 1 are matter of record to the extent that they refer to the Order dated 25.09.2025 passed by this Hon'ble Tribunal.
31. That the contents of Para 2 are denied and are false and without any merit. It is submitted that a blanket denial of illegality by the Respondent No.1 is misconceived and contrary to the law. Further, the Consent to Establish and Consent to Operate under the Water Act and Air Act do not substitute the requirement of prior Environmental Clearance (EC).
32. That the contents of Para 3 merit no response and it is for the Respondent No.1 to prove the same.
33. That the contents of Para 4 merit no response and it is for the Respondent No.1 to prove the same.
34. That the contents of Para 5-6 merit no response. Further, the facility involve power generation also which specifically require Environment Clearance under the EIA Notification, 1994.
35. That the contents of Para 7-9 are denied as false and without any merit. It is submitted that the EIA Notification 1994, read with Amendment Notification dated 10.04.1997 specifically mandates the requirement of prior EC for Captive Power Plant running on any type of fuel. Further it is submitted that Respondent's reliance on MoEF circular dated 21.11.2006 is misconceived as the exemption applied only to the projects that were substantially implemented before 14.09.2006. The Respondent's facility was commissioned in December 2006, i.e. after the EIA notification 2006 came into force. It is pertinent to mention that the Consent to Operate for the SLF and for Storage of Hazardous Waste was obtained on 26.12.2006 and for incinerator and power plant was obtained on 17.11.2008 i.e. after the issuance of the EIA Notification 2006

wherein item 1 (d) is Thermal Power Plants and Item 7 (d) of the schedule is Common Hazardous Waste Treatment, Storage and Disposal Facilities. Thus, the Respondent was under the obligation to obtain the prior EC under the EIA Notification 2006 before starting the operation of the CHWTSDF unit as per the decision of this Hon'ble Tribunal in "*Udit Jagat vs UOI and Ors. (being O.A. No. 4/2020/EZ)*" and the stand of MoEF&CC therein.

36. That the contents of Para 9-10 are denied as false and without any merit. It is submitted that the EIA Notification 1994 was amended by the Notification dated 10.04.1997 through which all co-generation captive power plants irrespective of the installed capacities required Environmental Clearance from the State Government under the Schedule-I of the said notification. Further, the MoEF&CC vide Office Memorandum dated 23.01.2019 has clarified that setting up new or expansion of captive power plants employing WHRB without using any auxiliary fuel, in the existing Cement plants, Integrated Steel Plants, Metallurgical Industries (Ferrous and Non-ferrous) and other industries having potential for heat recovery, does not attract the provisions of EIA Notification 2006. Thus, in view of the above-mentioned facts the unit of Respondent No. 1 was operating without a prior EC since its inception.

37. That the contents of Para 11 are denied as false and without any merits. It is submitted that the EIA Notification 1994 read with Amendment Notification dated 10.04.1997 and in view of the observations of the Coordinate Bench of this Hon'ble Tribunal in "*Udit Jagat vs UOI and Ors. (being O.A. No. 4/2020/EZ)*" and the stand of MoEF&CC therein the unit of Respondent No. 1 required to take the prior EC under EIA Notification 1994 for its power plant and also for its CHWTSDF.

38. In view of the above-mentioned facts and circumstances, it is humbly prayed that the operation of the facility of Respondent No. 1 be suspended and a heavy

penalty or environmental compensation may be imposed on the Respondent No. 1 for causing serious environmental pollution, by the operation of its unit.

DATE: 21.01.2026

PLACE: Pune

DRAWN BY:



ARVIND SONI & SHUBHAM SONI
(ADVOCATES FOR THE APPLICANTS)

SETTLED BY:

Shri. Sanjay Upadhyay
[Senior Advocate]

BEFORE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN BENCH AT PUNE

ORIGINAL APPLICATION NO. 14/ 2025

Kailas Narke ...Applicant

-Versus-

M/s Maharashtra Enviro Power Ltd. & Ors.

...Respondent(s)

AFFIDAVIT IN SUPPORT OF REJOINDER

I, Kailas Sambhaji Narke, aged about 41 years, S/o Shri Sambhaji, R/o Talegaon- Dhamdhere, Tehsil- Shirur, Dist. Pune, Maharashtra, am the Applicant, do hereby, solemnly affirm and declare as under:

- (1) That I am fully conversant of the facts and circumstances of the matter and am competent to swear this affidavit.
- (2) The contents of the Rejoinder to the Reply of Respondent No. 1 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.


DEPONENT

VERIFICATION

Verified at Pune on this 21st day of Jan, 2026,
that the contents of the above affidavit are true and correct to the best of my knowledge and belief nothing has been concealed therein.


DEPONENT

BEFORE ME


BHALCHANDRA ANANDRAO PATIL
NOTARY
GOVT. OF INDIA

Noted & Registered
At Srl.No. 179 / 2026
21.1.2026

