

BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN ZONE
BENCH PUNE

ORIGINAL APPLICATION NO. 32/2024

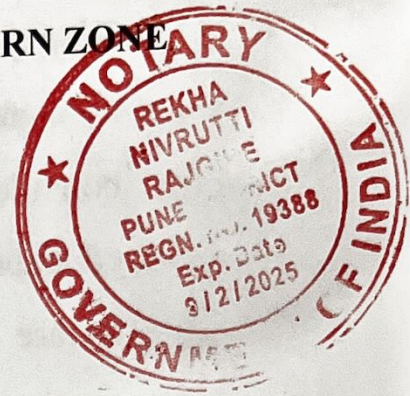
ANUJ DESHPANDE

...APPLICANT

VS

PUNE MUNICIPAL CORPORATION AND ORS.

...RESPONDENTS



REJOINDER ON BEHALF OF THE APPLICANTS TO THE
AFFIDAVIT OF RESPONDENT NO.1

We, the Applicants in the present matter take oath and state on solemn affirmation as under:

1. We say and submit that, this Hon'ble Tribunal vide Order dated 08.02.2024 was pleased to direct the Respondent No.1 to file its reply giving the details and all facts related to the subject matter of the present application, stating therein as to from which authorities' permissions were obtained and what consideration was made in this regard, particularly in respect of the site selection.
2. We say and submit that, the Respondent no.1 has filed an Affidavit in compliance of the directions in the order dt. 08.02.2024 thereby, stating the facts which are supporting its case. At the outset it is submitted that the Respondent no.1 has failed to give all the details more particularly with respect to the consideration made in respect of the site selection.

3. We say and submit that we as applicants are not against the project as such but we have raised the concern that no environmental consideration was there while selecting the site. We all are well educated people and serving at reputed companies and some of us are reputed professional in their respective fields. We are coming before this Hon'ble Tribunal with the only motive to save the environment.
4. It is further submitted that in para 3 of the affidavit under reply the Respondent No.1 has mentioned its purpose for filing the Reply Affidavit at 'Para 3' ***"We are filing this reply Affidavit for the purpose of opposing this Original Application at the stage of Admission."*** this makes it clear that the Respondent No.1 is opposing the admission and not complying with the direction mentioned in Para 3 of the Order dt 08.02.2024 which reads as under :
- "Before admitting the Original Application, we direct Respondent No. 1-PMC to file their reply giving details and all facts reated to this project by the next date, stating therein as to from which authorotiespermissions were obtained and what consideration was made in this regard, particularly in respect of the site selection...."**
5. We say and submit that, in Para No. 5 of the Affidavit of the Respondent No. 1, the Respondent No. 1 enumerated need for construction of new water reservoirs at Gno. 262, Fergusson College hill. With respect to the contents in Para 5 of the Affidavit

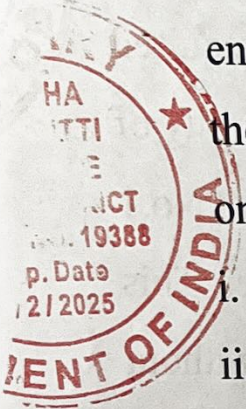


the applicants submit that the Respondent No.1 has appointed a project consultant M/s. S.G.I. who has prepared the Water Supply Scheme based on the population projection till 2047. The Applicants have pleaded in the application at Para 4 that the services of S.G.I. were availed by Respondent no.1 to study the existing water supply system , storage and prepare a detailed project report to cater the water requirement of the city of Pune considering the projected population till the year 2047. The Applicants state that this particular study has not considered environmental aspect nor have assessed and/or done any comparative study of sites for the project. Thus, the environmental concern has never been studied and/or assessed by the Respondent No.1 for selecting this site. This M/s. S.G.I. has only conducted limited study of two aspects i.e.

- i. Population projection in future and
- ii. Water requirement for the same.

The Respondent no.1 for the reasons best known to it has not provided/annexed the Water Supply Scheme prepared by this agency. As the Respondent has suppressed this material fact to bring on record adverse inference can be drawn against it.

6. We say and submit that the Corporation which is a 'State' has to act on the Doctrine of *Parent Patria* which provide for protecting the rights of the citizens as a guardian and here in this case on the basis of this doctrine the Respondent No.1 was duty bound to consider and study the environmental impact on the lives of the



citizens. Merely undertaking developmental projects with no concern for the environment is against the obligation of the Respondent No.1.

7. We say and submit that the Respondent No.1 in para 5c of the affidavit has mentioned, about the topography of the city. The applicant submits that the Respondent is referring to the saucer shaped topography of the city. Saucer shaped topography shall geographically provide for many more points of equivalent altitude and hence there is a possibility alternative sites are available for the respondent. The Respondent No.1 has not provided any topographical map on which it has relied upon. The site selection on the hill where massive tree cutting is required should have been the last option after exploring the possibility of other sites, before commencing the project. The Respondent No.1 has also mentioned about the complaints of polluted water. This shows that already there exists water pollution and without rectifying the defects the Respondent No.1 is adding development.
8. In Para 5(d) of the affidavit the Respondent No.1 elaborated about the plan for implementation of water supply project. It is respectfully submitted that this Hon'ble Tribunal was keen to know "the details and all facts related to the project more specifically with respect to site selection", the Respondent No.1 has provided all other details excluding the one which the Hon'ble Tribunal had asked for.



9. We say and submit that the objectives of revamping project enumerated nowhere taken into account the environmental concerns.

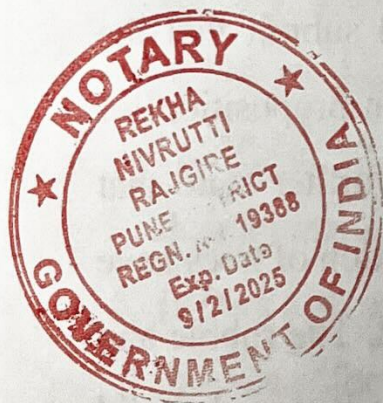
10. We say and submit that the Respondent No.1 is admitting that the existing two old water tanks were constructed 50 years ago. And after the construction of tanks at SNTD these two water tanks are not in use, the same are unusable/ out of engineering service structures having their age more than 50 years. The applicants submit that exactly the same has been contended by the applicants in the present application. Precisely it is the case of the present applicants that the existing two old water tanks were never used. The Respondent No.1 has already demolished the water tanks and the proposed water tanks can be leveraged without expanding the footprint of excavation to avoid further damage to the environment. I further say and submit that the Respondent no.1 has failed to annex any design proposition for the construction of the tank. The applicants further state that already while constructing the old tanks destruction of trees have happened in the past which can now be limited. The rubble and waste of demolition is still lying at site which the Respondent did not bother to clear.

11. The Applicants further state that the Respondent No.1 is repetitively putting its reliance on the Order of this Tribunal in O.A. 26/2020 Dr. Sushma Date vs Pune Municipal Corporation, the order of the Hon'ble Tribunal has considered the project on



the basis of permission of the MoEF granted on 30.9.2022. The Applicants make it clear that they are raising the question of site selection which is prior to the initiation of procuring permission. We say and submit that Respondent No.1 has utterly failed to justify the selection of site for the present project. It has merely requested for permission for diversion of 'Reserved Forest' for construction of three ground water reservoirs neither the Forest Department nor the Ministry of Environment Forest and Climate Change thought it appropriate to ask for justification as to why the 'Reserved Forest Land' was selected by the Respondent No.1. The Respondent No. 1 has not complied with the directions of this Hon'ble Tribunal in the above-mentioned Judgement.

Solemnly affirmed on this the 21 st day of February 2024 at Pune.



SHARDUL ABHAY IMHALGI
Venkatesh Gosavi
Amol Koshe
ANUJ DESHPANDE
ATUL KULKARNI

[Handwritten signatures]
Affiants

BEFORE ME

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REKHA NIVRUTTI, RAJGIRE
NOTARY GOVT. OF INDIA
PUNE

I know the affiants.

21 FEB 2024

[Handwritten signature]
Advocate

