

**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING  
AT PUNE**

**MEMORANDUM OF APPLICATION**

(Under Sections 15 of read with section 18 National Green Tribunal  
Act, 2010)

**APPLICATION NO<sup>34</sup> OF 2023**

Sandeep Prakash Parkar & Another      ...      **APPLICANTS**

**VERSUS**

Member-Secretary, State Level Environment Impact Assessment  
Authority and others      ...      **RESPONDENTS**

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**Rejoinder to the Reply of REASON NO. 3 and 4  
(Tree Authority)**

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**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING****AT PUNE****ORIGINAL APPLICATION NO. 34 OF 2023 (WZ)****BETWEEN:**

Sandeep Prakash Parkar and Another ... **APPLICANTS**

**VERSUS**

Member-Secretary, State Level Environment Impact Assessment  
Authority, and Others ... **RESPONDENTS**

**REJOINDER TO AFFIDAVIT-IN-REPLY OF  
RESPONDENT NO. 3 and 4 (TREE AUTHORITY)**

I, Sandeep Prakash Parkar, the Applicant above-named, residing at Mumbai, on behalf of the Applicants do hereby solemnly affirm and state as under:

1. The Applicants has gone through the copy of the Affidavit-in-Reply of the abovementioned Respondents i.e. the Tree Authority and its local office at the Ward Level (hereinafter addressed to as 'These Respondents').
2. In this Affidavit-in-Reply, 'These Respondents' have stated that the since the Project Proponent has planted 206 number of trees, accordingly, they have granted the NOC for getting part





As has been extensively discussed in Para 3.3 (page 18) of the Original Application, law mandates that no Occupation Certificate can be given unless the NOC is given by the Tree Authority.

'These Respondents' were obliged to address this issue as to how are they asking for a *post facto* NOC? However, they have made themselves suspiciously conspicuous by their silence.

As per the Environment Clearance condition all local laws were required to be followed. However, the Project Proponent has violated the law on getting NOC of the Tree Authority prior to the Occupancy Certificate, however, the 'These Respondents' have granted Part Completion Certificate, *post facto*.

***So the point of law which emerges is as under:***

**"When the law mandates that Occupancy Certificate has to be given prior to the issuance of the Occupancy Certificate, can the Tree Authority give a *post facto* Tree NOC."**

## **5.2 POINT NO. 2:**

'These Respondents' have totally ignored the statutory provisions with reference to the scale of plantation as provided in the rules made under the Maharashtra (Urban Areas) Protection and



Preservation of Trees Act, 1975. These have been elaborately discussed with specificity in Para 3.1 of the Original Application, as Ground No. 1.

'These Respondents' in their Affidavit-in-Reply have simply ignored to reply to this specific averment. In fact, they are conspicuous by their silence. Their assumed naivety is nothing short of being nepotistic, whereby unanswerable incriminating elements would be ignored.

***So the point which emerges is:***

**"When the Environment Clearance states that in the plot of the size of 83853 square metres, the Ground Coverage Area is 16524, then would it not be mandatory to invoke the condition of the NOC of the Tree Authority to effect plantation in the open area, which stipulates the plantation on the scale of, "in open spaces two (2) trees per 100 sq.mtr. and in R.G. area Five (5) trees per 100 sq.mtr." (Full details in this respect are given in Para 3.1 of the Original Application."**

**5.3 POINT NO. 3:**



'These Respondents' have completely ignored the stipulation contained in the Environment Clearance that the "Green Belt" has to be developed first, and then the question of occupation of buildings would arise. Surprisingly, 'These Respondents' are completely silent on this.

Full details in this respect have been placed in Ground No. 3 of the Original Application. So the question which emerges is as under"

**"When the Environment Clearance stipulates that the 'Green Belt' has to be developed first, and occupation done thereafter, then could 'These Respondents' have ignored such a stipulation and granted an NOC without the development of the requisite 'Green Belt' in its entirety."**

#### **5.4 POINT NO. 4:**

The Applicants submit that when the stipulation was that there ought to be 2 trees per 100 square metres of open areas, and 5 trees per 100 square metres of Recreation Ground area, yet 'These Respondents' turned simplistic and accepted the misleading submission of the Architect that only 194 trees were required to be planted. Based on such misleading report of the Architect,



'These Respondents' have accepted the position that 194 trees were enough.

As to what were the quantitative requirements of plantation, have been specifically traversed through in Para 3.1 (page 14) of the Original Application, and based on such calculation, 1591 trees had to be planted.

So the question emerges is:

**"When as per the own submission of the Project Proponent, the ground coverage area was 16524 square metres, and therefore, the resultant open space would be 59,592 square metres, was it not unfortunately naïve for the 'These Respondents' to have ignored and flout that rule, which they themselves were mandated to comply with."**

#### **5.5 POINT NO. 5:**

The Applicants submit that 'These Respondents' are technical experts who know how much respective space and spacing are required for the plantation of a tree of the indigenous variety, which is required to be planted as per the as per the Central Pollution Control Board guidelines on Green Belt Development.



Even otherwise, even a simple farmer would be knowing that spacing of about 5-10 metres is required, for a tree of indigenous variety, to assume its full height.

Unfortunately, while the Project Proponent planted a highly deficient quantum of trees, however, these, too, were so closely planted and were so close to the buildings and the boundary wall, that it would be impossible for such trees, which ought to be tropical trees of indigenous variety, to assume their optimal height, which is generally of about 20 metres i.e. about 70 feet and bearing a wide canopy.

Hereto annexed and marked as **ANNEXURE-'A-1' (Colly)** are some photographs which reveal the biological futility of such a specious plantation.

It is indeed shocking to note that 'These Respondents', being technical experts of the statutory Tree Authority, could be so naïve.

Spacing requirements have also been given in Schedule-1 of the Maharashtra (Urban Areas) Protection and Preservation of Trees Rules, 2009, a copy of which is annexed hereto and marked as **ANNEXURE-'A-2'**.





**"Green Belt Development shall be carried out considering CPCB guidelines including selection of plant species and in consultation with the local DFO/Agriculture Dept"**

Unfortunately, 'These Respondents' have acted in an extremely naïve manner, where they have given an NOC without even applying their mind whether the plantation was in accordance with the stipulations set in the Central Pollution Control Board guidelines or otherwise.

So the question arises:

**"Could 'These Respondents' have ignored the guidelines for tree plantation stipulated by the Central Pollution Control Board, which was made mandatory in the letter of Environment Clearance."**

#### **5.7 POINT NO. 7:**

The Applicants submit that the Hon'ble Benches of the National Green Tribunal, have, from time to time, issued a stipulation that from the trunk of a tree, soil of at least 1 metre is exposed to the elements on all sides.





6. Considering the aforesaid, it is apparent that the contentions put forward by 'These Respondents' are simply preposterous and legally untenable. Accordingly, the Applicants humbly reiterate that the contentions raised by 'These Respondents' be rejected, and the Prayers made in the Original Application be made absolute.

*S. Prakash*  
**Applicants**



**VERIFICATION**

I, Sandeep Prakash Parkar, on behalf of the Applicants, and resident of Flat no. 801, Rehab Bldg no. 3, Sai Sundar Nagar CHS, Sadanand Hasu Tandel Marg, Prabhadevi, Mumbai - 400 025, do hereby verify that the contents of aforesaid paras in this Rejoinder to the Affidavit-in-Reply of Respondent No. 3 and Respondent No.4, are true to my personal knowledge and belief and that I have not suppressed any material fact.

**DATE:** <sup>sd</sup> 03 December, 2023.

**PLACE:** Mumbai

*S. Prakash*  
**Applicant**  
**BEFORE ME**  
*Sh. B. R. Dube*  
03/12/2023  
**Sh. B. R. DUBE**  
B. Sc. (Hons.) LL.B., Reg. No. 3047  
Advocate & Notary Public  
Govt. of India  
7/106, Lady Ratan Complex,  
D. S. Marg, Worli, MUMBAI - 400 018



Notary Regi. No. 109  
Sr. No. 71815 Date 03/12/2023



**NOTARY**  
★ NAME. SR. B. R. DUBE ★  
AREA DADAR, MUMBAI  
MAHARASHTRA  
Regd. No. 2047  
Expiry Date  
4.9.2025  
**GOVT. OF INDIA**



**NOTARY**  
★  
NAMIE Sh. B. R. DUBE  
AREA DADAR MUMBAI  
MAHARASHTRA  
Regd. No. 3047  
Expiry Date  
4.8.2025  
★  
**GOVT. OF INDIA**

406



GOVT. OF INDIA



**NOTARY**  
 NAME: S. B. R. DUBE  
 AREA: DADAR, MUMBAI  
 MAHARASHTRA  
 Regd. No. 3047  
 Expiry Date  
 4.8.2025  
**GOVT. OF INDIA**



**NOTARY**  
NAME: SH. B. R. DUBE  
AREA: DADAR, MUMBAI  
MAHARASHTRA  
Regd. No. 304F  
Expires On: 1-8-2025  
**GOVT. OF INDIA**

**ANNEXURE-'A-2'**

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महाराष्ट्र शासन राजपत्र अध्यापन माग एक-अ-मध्य उप-विभाग, डिसेंबर १४, २००२/अग्रहायण २३, शके १९३१

**SCHEDULE-I****Section 7(h)**

Norms for number of trees to be planted along roads and under various user etc

Location	Minimum number of trees.
Along the road	Width of the road
	24 metres and above. One tree at 10 m. interval & suitable hedge on both the sides of median, if possible.
	12 metres to 24 metres One tree at 10 m. interval on both the sides.
	6 metres to 12 metres One tree at 20 m. interval.
Parks, Sea-shores, Hill slopes, Flowing Greens, Green Belts, Riverside, Bank of Water Body	One tree/ 10 sq.m. area
Gardens	One tree/ 20 sq.m.
Layout Open Spaces	One tree/50 sq.m.
Stadium, Mini Stadium Playgrounds, Tot lots, Development Plan Open Spaces.	One tree/100 sq.m. of area of such amenity.
Central / State Govt./ Semi-Govt./ Corporate Offices/ Institutions.	One tree/ 100 sq.m. of plot area.

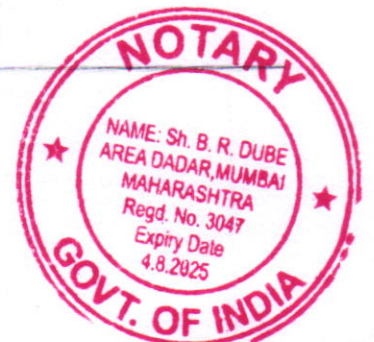
- (1) While planting the adequate number of trees as per the above norms, care shall be taken to select the species suitable to the local soil strata, the climate and the space available.
- (2) Water, if can be made available by taking bores in the very public spaces like gardens etc., the same shall be done on priority. Recharging of such bores or existing bores by appropriate Rain Water Harvesting system, shall be provided for in the interest of proper maintenance and up-keep of such spaces.
- (3) As regards road-side tree plantation, plants having deep roots shall be preferred to sustain the natural calamity.
- (4) Though flexibility in the design of land-scape is anticipated, required number of trees as per the norms shall be strictly adhered to.

**SCHEDULE-II****Section 16****Preparation of Annual Tree Plantation Plan**

The Tree Authority shall plant the minimum number of trees as specified below every year and the same shall be reflected in its Annual Tree Plantation Plan. Such Annual Plan shall be in consistent with the 10 year perspective plan.

Authority	Minimum number of trees to be planted every year
Municipal Corporations/Special Planning Authorities/ New Town Development Authorities	10,000
Municipal Councils—	
A Class	5,000
B Class	3,000
C Class	1,000

A specific budget shall be allocated for this Annual Tree Plantation.



**ANNEXURE-'A-3'**

BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI

Application No. 82 of 2013

Aditya N. Prasad Vs. Union of India & Ors.

**CORAM :** HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON  
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER  
HON'BLE DR. D. K. AGRAWAL, EXPERT MEMBER  
HON'BLE DR. G. K. PANDEY, EXPERT MEMBER  
HON'BLE DR. R. C. TRIVEDI, EXPERT MEMBER

**Present:** **Applicant:** Mr. Rajiv Dutta, Sr. Advocate, Mr. Kumar Dushyant Singh, Advocate and Mr. Arijeet Singh, Advocate  
**Respondent No. 1 to 14:** Ms. Neelam Rathore, Advocate along with Ms. Syed Amber  
**Respondent No. 2:** Ms. Puja Kalra, Advocate  
**Respondent No. 3 & 4:** Mr. Balendu Shekhar, Advocate  
**Respondent No. 5&12:** Mr. D. Rajeshwar Rao, Advocate  
**Respondent No. 6:** Mr. Sunil Satraparathi, Advocate  
**Respondent No.7:** Mr. M. Dutta, Advocate  
**Respondent No.8:** Ms. Sakshi Popli, along with Mr. Deshpal Advocate  
**Respondent No.10:** Mr. M Tya, Advocate  
**Respondent No.11:** Mr. Bharat Khanna, Manager Legal

Date and Remarks	Orders of the Tribunal
<p>Item No. 8 April 23, 2013</p>	<p>Service is complete, except to Respondent No.13.</p> <p>Learned counsel appearing for Respondent No.1 and 14 submits that she will take instructions from Respondent No.13 for appearing on their behalf on the next date of hearing before the Tribunal.</p> <p>The learned counsel appearing for the respective parties pray for time to file their Replies. Reply, if any, be filed within two weeks from today. Rejoinder, if any, thereto be filed within one week thereafter.</p> <p>The learned counsel appearing for the Applicant has placed on record a report on tree census conducted by the NGO wherein it is pointed out that nearly 89% of the trees at Sarvodaya Enclave alone suffer from concretization. He also brings to our notice an article appearing in the Times of India dated 22<sup>nd</sup> April, 2013, titled "Ads nail city's greens". In this article, it is shown that the Delhi Transport Corporation (DTC) has fixed its Bus Stop boards in the and trees, advertising boards on the trees. Not only this, even electric line wirings of high tension have been tightened fitted on the trees. Apparently, from these indisputable facts, it is clear that all public authorities and Respondents have failed to discharge their</p>



statutory obligations. They have not only violated various statues but in turn have also infringed their legal obligations arising out of the Environment Act. It is the obligation of the State to provide healthy environment to the citizens and prevent reckless injury to the trees, which ultimately results in their felling. This is a clear infringement of law and failure on the part of the authorities concerned to discharge their statutory obligations.

The learned counsel appearing for Respondent No.1 and 14 submits that they have issued directions under the Central Laws but still the authorities concerned in this regard are not carrying out orders in true spirit.

In the light of the above and at the oral request of the applicant, DTC is also impleaded as Respondent No.15.

In the meanwhile, we direct all the public authorities, more particularly Municipal Corporation of Delhi, DDA, DTC, DMRC, NHAI and all Government respondents in this petition including the Director General of CPWD, the Chief Engineer, PWD, to ensure that

- (i) All the sign boards, names, advertisements, any kind of boards or signages, electric wires and high tension cables or otherwise are removed from the trees forthwith.
- (ii) They shall also ensure that the concrete surrounding the trees within one metre of the trees are removed forthwith and all the trees are looked after well and due precaution is taken in future so that no concrete or construction or repairing work is done atleast within one metre radius of the trunk of trees. The Vice-Chairperson, the Commissioner, the Chief Engineer, the Director General and all other senior most officers of the Departments/authorities concerned shall be personally responsible for carrying out this order.
- (iii) The Departments/authorities concerned shall



take all and every prohibitive measures to prevent the defacing of the trees in any manner whatsoever, save only its trimming in accordance with law.

- (iv) All the respondents whose boards are fixed on the trees shall be prosecuted by the respective authorities under in accordance with the relevant law.

Copy of this order be given Dasti today itself.

List on 17<sup>th</sup> May, 2013.

.....,CP  
(Swatanter Kumar)

.....,JM  
(U.D. Salvi)

.....,EM  
(Dr. D. K. Agrawal)

.....,EM  
(Dr. G. K. Pandey)

.....,EM  
(Dr. R. C. Trivedi)

