

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

ORIGINAL APPLICATION NO. \_\_\_\_\_/2020

IN THE MATTER OF:

MR. TANAJI BALASAHEB GAMBHIRE ...APPLICANT

VERSUS

UNION OF INDIA THROUGH

SECRETARY-MoEF & CC & ORS. ...RESPONDENTS

FILE-A

[VOLUME-IV]

REJOINDER TO PP REPLY AND OBJECTIONS TO JOINT  
COMMITTEE REPORT

(FOR PAPERBOOK INDEX KINDLY SEE INSIDE)

[REJOINDER CUM OBJECTION- 504 To 688]

[ANNEXURE-A-24 To A-44]

[ANNEXURE PAGE No. 689 To 910]

NITIN LONKAR

ADVOCATE FOR APPLICANT

Cell No. 9560466009

Email: nitinlonkar@gmail.com

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
WESTERN ZONE BENCH AT PUNE  
**APPLICATION NO. 33/2020 (WZ)**

IN THE MATTER OF:

MR. TANAJI BALASAHEB GAMBHIRE ... APPLICANT  
VERSUS

UNION OF INDIA THROUGH  
SECRETARY-MoEF & CC & ORS. ... RESPONDENTS

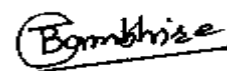
**VOLUME-IV**

<b>SR.</b>	<b>DESCRIPTION</b>	<b>PAGE NO.</b>
<b>1.</b>	Rejoinder Affidavit on behalf of the Original Applicant dated 25.08.2021	<b>504 – 688</b>
<b>2.</b>	<b><u>ANNEXURE-A-24</u></b> Copy of the Amended EIA Notification dated 07.07.2004	<b>689 – 691</b>
<b>3.</b>	<b><u>ANNEXURE-A-25</u></b> Copy of the Plinth check certificate for building C1, C2, C3 & B issued by the PMC dated 27.06.2008	<b>692</b>
<b>4.</b>	<b><u>ANNEXURE-A-26</u></b> Copy of the Part Occupancy Certificate (OCC) for building A, B1, B2, C1, C2, C3 & C4 issued by the PMC dated 29.12.2012	<b>693</b>
<b>5.</b>	<b><u>ANNEXURE-A-27</u></b> Copy of the Plinth check certificate for building H issued the PMC dated 14.10.2016	<b>694</b>
<b>6.</b>	<b><u>ANNEXURE-A-28</u></b> Copy of the quashed & set aside EIA Notification-2016 vide no. S.O.3999(E), diluting EIA Notification-2006 and Pollution Control Acts dated 09.12.2016	<b>695 – 705</b>
<b>7.</b>	<b><u>ANNEXURE-A-29</u></b>	<b>706 – 709</b>

	Copy of the S.O.804(E), EIA Notification-2017 for regularization of violation cases dated 14.03.2017	
<b>8.</b>	<b><u>ANNEXURE-A-30</u></b> Copy of the RERA Certificate for Phase-I, RERA Form along with document submitted by PP dated 31.08.2017	<b>710 – 738</b>
<b>9.</b>	<b><u>ANNEXURE-A-31</u></b> Copy of the RERA Certificate for Phase-II, RERA Form along with document submitted by PP dated 31.08.2017	<b>739 – 790</b>
<b>10.</b>	<b><u>ANNEXURE-A-32</u></b> Copy of the Application dated 04.01.2020 of PP for ex-post facto Environment Clearance for Plot-2 filed before SEIAA on 22.01.2020	<b>791 – 830</b>
<b>11.</b>	<b><u>ANNEXURE-A-33</u></b> Copy of the Minutes of 105 <sup>th</sup> SEAC-III meeting seeking additional data from Project Proponent (PP) held on 29.01.2020	<b>831</b>
<b>12.</b>	<b><u>ANNEXURE-A-34</u></b> Copy of the Additional data submitted by the PP to SEAC-III dated 22.06.2020	<b>832 – 855</b>
<b>13.</b>	<b><u>ANNEXURE-A-35</u></b> Copy of the closure directions issued by the RO-MPCB to PP dated 25.08.2020	<b>856 – 857</b>
<b>14.</b>	<b><u>ANNEXURE-A-36</u></b> Copy of the Order passed by MPCB refusing Consent to Establish dated 10.12.2020	<b>858 – 859</b>
<b>15.</b>	<b><u>ANNEXURE-A-37</u></b> Copy of Civil Appeal No. 4/2021 filed before Hon'ble Supreme Court by the PP against the Order dated 17.11.2020 passed Hon'ble NGT vide dated 17.12.2020	<b>860 – 876</b>
<b>16.</b>	<b><u>ANNEXURE-A-38</u></b> Copy of the Order passed by Hon'ble	<b>877 – 878</b>

	Supreme Court in Civil Appeal No. 4/2021 vide dated 12.01.2021	
<b>17.</b>	<b><u>ANNEXURE-A-39</u></b> Copy of the Minutes of 114 <sup>th</sup> SEAC-III meeting held on 05.02.2021	<b>879 – 882</b>
<b>18.</b>	<b><u>ANNEXURE-A-40</u></b> Copy of the Consent to Establish granted by the MPCB to the project in violation, said CTE is under challenge vide dated 11.02.2021	<b>883 – 889</b>
<b>19.</b>	<b><u>ANNEXURE-A-41</u></b> Copy of an Appeal challenging CTE filed by this Original Applicant before Principal Secretary-DoE dated 12.03.2021	<b>890 – 904</b>
<b>20.</b>	<b><u>ANNEXURE-A-42</u></b> Copy of the Minutes of 218 <sup>th</sup> SEIAA meeting deferring proposal held on 01.04.2021	<b>905 – 908</b>
<b>21.</b>	<b><u>ANNEXURE-A-43</u></b> Copy of the Occupancy Certificate granted by PMC to the building No. H on Plot No. 2 despite stay on construction vide dated 21.05.2021	<b>909</b>
<b>22.</b>	<b><u>ANNEXURE-A-44</u></b> Copy of the proposal status showing rejected EC on MoEF & CC website filed for grant of EC dated Nil	<b>910</b>

Date: 28.02.2022



APPLICANT

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

**ORIGINAL APPLICATION NO. 33/2020**

IN THE MATTER OF:

MR. TANAJI BALASAHEB GAMBHIRE ... APPLICANT

VERSUS

UNION OF INDIA THROUGH

SECRETARY-MoEF & CC & ORS. ... RESPONDENTS

AFFIDAVIT CUM OBJECTIONS TO THE JOINT COMMITTEE  
REPORT DATED 23.08.2020 AND REJOINDER AFFIDAVIT  
BY ORIGINAL APPLICANT TO THE REPLY OF RESPONDENT  
NO. 13-PP (M/S. PRAYEJA CITY) DATED 06.03.2021:

I, Mr. Tanaji Gambhire S/o Balasaheb Gambhire, Aged: 38, Occupation: Service, R/o: CTS No. 296, Shukrawar Peth, Laxmi Apartment, Near Shivaji Maratha High School, White House Lane, Pune-411002, do hereby solemnly affirm and state on oath as follows:

**PART-A: FACTS OF THE CASE**

1. At the outset, I state that, the contents of reply affidavit filed by Respondent No.13-PP M/s. Prayeja City dated 06.03.2021 are totally false, baseless, misleading, misconceived, frivolous, vexatious, neither bonafide nor true and same are denied by this Applicant in totality.



**2. PRINCIPAL CONTENTION OF ORIGINAL APPLICANT:**

**2.1** I state that, the principal contention of Original Applicant is that, "PP have not obtained the prior Environment Clearance, prior Consent to Establish, prior Consent to Operate and carried out the construction of total BUA **67154.88 M<sup>2</sup>** till today comprising of **12** residential wings, **573** flats in addition to this, PP has further proposed expansion to increase the capacity of project by **4** new residential wings and by additional **224** flats vide sanction No. CC/2107/15 dated 08.10.2015 & CC/1001/17 dated 10.07.2017 in illegal manner. Therefore, total BUA of project is going to cross **80000 M<sup>2</sup>** comprising **16** residential buildings with **797** flats." and the allegations of Original Applicant are definite and Applicant have not approached to this Hon'ble Tribunal with question of requirement of EC for illegal construction for consideration. Therefore, the present application is filed under Section-15 and 20 of NGT Act, 2010 for restitution & restoration of public property and public health and environmental compensation on account of damage caused by PP due to his illegal construction.

**2.2** I state that, apart from the above principal contentions applicant have ancillary violations of non-obtaining of CGWA permission, Non-installation of pollution control devices, Non-plantation of tree, Non-



installation of STP, Non-installation of Solid waste treatment unit, construction of commercial buildings on prohibited roads, construction of commercial buildings on residential zone, illegal ground water extraction, Illegal operation of DG Sets at site, 10% recreational space of is not developed as per norms, no soil preservation, No soil and ground water test, illegal construction of two (2) basements against none of permitted basement, no use of eco-friendly building material for construction etc.

3. I state that, the OA No. 33/2020 was listed for admission on 09.07.2020 before Hon'ble NGT through Video Conferencing and Hon'ble NGT pleased to pass an Order appointing Joint Committee comprising of Members from SEIAA, MPCB & PMC for site inspection to verify the factual aspects and to submit a report.
4. I state that, the Joint Committee filed their cursory & casual report without scientific data vide dated 20.08.2020 in compliance of the above Order of this Hon'ble Tribunal.
5. **PRINCIPAL CONTENTION OF RESPONDENT NO. 13-PP IN REPLY AFFIDAVIT DATED 06.03.2021 AND IT IS FAIRLY ADMITTED CASE OF VIOLATION BY PP:**
  - 5.1 In Para No. 1 to 12 of Reply Affidavit, PP have raised preliminary objections on account of Limitation and



alleged that the OA is barred by limitation of 5 years and avoided to rebut the Para-35 & 36 of OA explaining Cause of Action and Limitation to file OA.

- 5.2** In Para No. 46 of Reply Affidavit, PP have challenged Locus Standi of Original Applicant to file the OA and avoided to rebut the Para-33 of OA explaining Locus of this Applicant.
- 5.3** In Para No. 13 to 33 of Reply Affidavit, PP have pleaded his own interpreted facts and admitted the violations raided in OA.
- 5.4** In Para No. 34 to 48 of Reply Affidavit, PP have replied the OA in cursory, casual and unscientific manner by suppressing the vital information.

I state that, all the contentions raised by Respondent No. 13-PP are countered by this Original Applicant in as follow;

**6. CONSTRUCTION BEING CARRIED OUT WITHOUT ANY ENVIRONMENTAL CLEARANCE AND CONSENT TO ESTABLISH AND FURTHER ENJOYMENT OF PREMISES WITHOUT CONSENT TO OPERATE IN BLATANT VIOLATION OF THE ENVIRONMENTAL LAWS, POLLUTION CONTROL ACT AND EIA NOTIFICATION-2006.**

- a) I state that, as per the EIA notification 2006 dated 14.09.2006, it is mandatory to obtain the prior environment clearance from SEIAA and consent to establish from MPCB on part of PP at appropriate time. But admittedly, the PP is carrying out the

construction without prior EC and CTE and also started operation of premises without prior CTO.

- b) I state that, Respondent No. 13-PP had firstly filed an application on 05.09.2019 before SEIAA Maharashtra seeking ex-post facto Environment Clearance under EIA Notification-2006 and further filed separate request dated 05.09.2019 to consider the project under EIA (Violation) Notification dated 14.03.2017 for Plot-1 Construction. After procuring the clean chit vide Order dated 16.11.2019 from PS-DOE for Plot-2, PP filed another application dated 04.01.2020 submitted on 22.01.2020 before SEIAA Maharashtra seeking ex-post facto Environment Clearance under EIA Notification-2006 for Plot-2 construction. PP himself has admitted the following parameters in the said application.
- c) I state that, PP has carried out the construction of BUA of **67492.19** M<sup>2</sup> out of total BUA **93387.13** M<sup>2</sup> in this project comprising of two phases viz. Prayeja City-I & Prayeja City-II. And PP have further sought expansion in Phase-II by 25894.94 M<sup>2</sup>.
- d) I state that, after filling of the Joint Committee Report and reply affidavit of the PP, the following details of the project are classified for ready reference in brief; Table No.1: Actual Construction carried out at site without Environmental Clearance and Consent to Establish.

Sr.	Built-up Area (BUA)	Plot No. 1 (Phase-I) =Prayeja City-I	Plot No. 2 (Phase-II) =Prayeja City-II	Total (M <sup>2</sup> )
1.	Completed	56292.04	11200.15	67492.19
2.	Proposed	0	25894.94	25894.94
3.	Total (TBUA)	56292.04	37095.09	93387.13
4.	Completed Buildings	13 + 1 Club House	0	
5.	Under Construction Buildings	0	3	
6.	Completed Flats	617	0	
7.	Proposed flats	0	272	
8.	Completed/ Proposed Shops/ Offices	7	Not Disclosed	

e) I state that, the PP himself has admitted the following parameters in his applications for ex-post facto EC.

Sr.	Description	Plot-1 Prayeja City-I	Plot-2 Prayeja City-II	Total
1.	Existing BUA	56292.036 M <sup>2</sup>	11200.15 M <sup>2</sup>	67492.19 M <sup>2</sup>
2.	Total Plot Area	19833.33 M <sup>2</sup>	14027.12 M <sup>2</sup>	33860.45 M <sup>2</sup>
3.	Constructed FSI	27871.63 M <sup>2</sup>	NA	
4.	Constructed Non-FSI	28420.41 M <sup>2</sup>	NA	
5.	Constructed BUA	56292.04 M <sup>2</sup>	NA	
6.	Proposed FSI	27871.63 M <sup>2</sup>	17875.09 M <sup>2</sup>	45746.72 M <sup>2</sup>
7.	Proposed Non-FSI	28420.41 M <sup>2</sup>	19220.00 M <sup>2</sup>	47640.41 M <sup>2</sup>
8.	Proposed BUA	56292.04 M <sup>2</sup>	37095.09 M <sup>2</sup>	93387.13 M <sup>2</sup>
9.	Estimated Cost (Rs)	770000000	480000000	1250000000
10.	Existing Buildings	13		Joint Committee Report
11.	Proposed Buildings	0	3	
12.	Club House	1		
	Total No. of Tenements	617	272	889
13.	Total Offices/ Showrooms	7	Not disclosed	7

NO  
ASHIK  
P  
RY  
ER

14.	Total No. of Commercial Users	70	295	365
15.	Total No. of Residential Users	3085	1360	4485
16.	Total Water Requirement (KLD)	439.66	205.29	88 KLD
17.	Total Sewage Generation (KLD)	377.66	177.19	
18.	Total Proposed STP Capacity (KLD)	380	180	
19.	Total Wet Waste Generation (kg/day)	929	422.75	
20.	Total Dry Waste Generation (kg/day)	624	301.5	
21.	Total Proposed OWC Capacity (kg/day)	950	520	
22.	Estimated E-Waste Generation (kg/day)	4.4	975.0	
23.	Proposed No. of Tree Plantation (Nos.)	Required Plantation= 248 Nos.; Existing Trees =238 Nos.; Proposed Trees 10 Nos.	175	
24.	Proposed No. of RWH Pits (Nos.)	10 Nos.	6 Nos.	
25.	Total Demand Load (KW)	1237 kW	788 kW	
26.	Total Connected Load (KW)	2583 kW	1909 kW	
27.	DG Sets	82.5 kVA X 2 Nos. 62 kVA X 1 No. 40 kVA X 1 No.	200 kVA X 1 Nos.	
28.	Total Energy Saving Percentage (%)	15%	15%	
29.	Total RG Area/10% Open Space	2333.33 M <sup>2</sup>	1402.712 M <sup>2</sup>	



30.	Ground water level	6 Mtrs.	Ground water depletion due to basements
-----	--------------------	---------	---

- f) Therefore, it is necessary to impose the exemplary & deterrent environmental compensation on Respondent No. 13-PP.

**7. IMPORTANT DATES & EVENTS IN SUPPORT OF CAUSE OF ACTION AND LIMITATION:**

- a) Following events and dates are important to understand the jugglery of cause of action and limitation issue raised by Respondent No. 13-PP to delay the proceedings;

Sr.	Event	Date
1.	First <b>Layout</b> Plan Sanction by PMC	29.03.2007
2.	First <b>Building</b> Plan Sanction by PMC	30.03.2007
3.	First Non-Agricultural Permission	11.05.2007
4.	First Plinth Check Certificate for Bldg. C1, C2, C3 & B	27.06.2008
5.	Latest <b>Layout</b> Plan Sanction by PMC for amalgamation & Sub-division	03.08.2013
6.	Latest Non-Agricultural Permission	09.01.2015
7.	Latest <b>Building</b> Plan Sanction by PMC for Phase-II after Sub-division	08.10.2015
8.	Latest Plinth Check Certificate for Bldg. H	14.10.2016
9.	Latest <b>Building</b> Plan Sanction by PMC for Phase-I after Sub-division	10.07.2017
10.	Legal Notice / Complaint	29.07.2019



11.	Show cause notice by SEIAA/PS-DoE	29.08.2019
12.	Application for ex-post facto EC for Phase-I	05.09.2021
13.	Stop Work Order and direction for removal of illegal construction by PMC	21.09.2019
14.	Delisting of Proposal for Phase-I by SEIAA	13.12.2019
15.	Illegal Communication by PS-DoE in violation of principles of Natural Justice	16.11.2019
16.	Application for ex-post facto EC for Phase-II	04.01.2020
17.	Lockdown Period Exempted from Limitation Hon'ble Supreme Court	13.03.2020 To 28.02.2022
18.	Filing of Original Application (OA)	02.07.2020
19.	First Order of Hon'ble NGT	09.07.2020
20.	Application for CTE for Phase-I	13.08.2020
21.	Application for CTE for Phase-II	13.08.2020
22.	MPCB Closure direction	25.08.2020
23.	Architect Certificate to Joint Committee	21.08.2020
24.	PMC Report submitted to Joint Committee	21.08.2020
25.	Joint Committee Report	23.08.2020
26.	Second Order Hon'ble NGT in violation of principles of Natural Justice	17.11.2020
27.	MPCB refusal of CTE for Phase-I	10.12.2020
28.	CGWA NoC	06.01.2021
29.	Hon'ble Supreme Court Order in CA No. 04/2020	12.01.2021
30.	MPCB grant of CTE for Phase-II	11.02.2021
31.	Delisting of Proposal for Phase-II by SEIAA	01.04.2021
32.	Respondent No. 13-PP Reply Affidavit	06.03.2021



- b) I state that, it is admitted position that the Respondent No. 13-PP have carried out the construction of BUA of **67492.19** M<sup>2</sup> out of total BUA **93387.13** M<sup>2</sup> in this project comprising of two phases viz. Prayeja City-I & Prayeja City-II. And PP have further sought expansion in Phase-II by **25894.94** M<sup>2</sup>
- c) I state that, the construction activity is carried out in three phases a) Permission Phase b) Construction Phase & c) Operation Phase and PMC has imposed condition No. 19 in sanction dated 10.07.2017 considering the overburden on environmental parameters. Therefore, Respondent No. 13-PP put under obligation of obtaining Environment Clearance.
- d) I state that, the Respondent No. 13-PP has not specifically dealt with any date or event for cause of action that arose for first time in his opinion and just bald & tentative allegations are raised. Moreover, granting of commencement certificate in 2007 or 2008 cannot be considered as cause of action as long as PP is carrying out illegal construction without prior EC and project is ongoing without mandatory permissions.
- e) I state that, the OA is filed on 02.07.2020 for restitution and restoration of environment & ecology under section 15 of NGT Act, 2010 is well within the five years form 10.07.2017, when PMC imposed condition no. 19 in their Commencement Certificate dated 10.07.2017 mandating prior EC. It is necessary



to exclude the lockdown period from 13.03.2020 to 28.02.2022 as per Hon'ble Supreme Court Order. It means OA is filed well within the time limit of 5 (five) years under section 15 of NGT Act, 2010.

**8. ADMITTED FACTS BY JOINT COMMITTEE VIDE ITS REPORTS DATED 23.08.2020:**

- a. This Applicant has filed OA on 02.07.2020 and Hon'ble NGT vide its Order dated 09.07.2020 appointed Joint Committee of SEIAA, MPCB & PMC to submit the report and Report is submitted on 23.08.2020. Thereafter, following vital facts are admitted by Joint-Committee.
- b. It is admitted position that, the PP has carried out construction activity for Total Built-Up Area (TBA) of 67492.19 M<sup>2</sup> (Phase-I: 56292.04 M<sup>2</sup> + Phase-II: 11200.15 M<sup>2</sup>) without prior Environmental Clearance, Consent to Establish and Consent to Operate.
- c. It is admitted position that, there are Four Bore Wells at site and there is no CGWA Permission obtained for Ground water Extraction.
- d. It is admitted position that, the PP failed to show ground water test reports and till date PP has not done ground water test.
- e. It is admitted position that, the Joint Committee is unable to offer any comments with respect to preservation of top layer of fertile soil.



- f. It is admitted position that, the PP has installed four (4) number of DG Sets having capacity 40 KVA, 62KVA X 2 & 82 KVA.
- g. It is admitted position that, the PP has provided STP of 260 capacity and same is not found in operation.
- h. It is admitted position that, the PP has provided recreation Open Space on the podium and below this podium there is parking space. This parking space is closed from three side and deeply needs improvement in the ventilation.
- i. It is admitted position that, the Solar Water Heater and solar lighting for common area is not provided to all buildings.
- j. It is admitted position that, the PP has not provided Rain Water harvesting System as per the norms.
- k. Therefore, the Joint Committee has observed that the Respondent No. 13-PP has committed the violations as leveled in the Original Application.

**9. ADMITTED FACTS BY RESPONDENT NO.13-M/S. PRAYEJA CITY-PP VIDE ITS REPLY DATED 06.03.2021:**

- A) I state that, present violation case is well admitted by the Respondent No. 13-PP vide its reply dated 06.03.2021 and therefore Respondent No. 13-PP cannot misinterpret statute when he got caught for his serious crimes and violations and also cannot blame the legislature. But it is the habit of might and resourceful Project Proponent to blame other for his



own wrongs and this is the careless & reckless attitude towards their statutory duties casted upon PP under Environmental Laws and Constitution of India to protect, develop, improve the environment only carrying sustainable development. However, just to make only profits these entrepreneurs are not serious towards their duties and busy in making money at the cost of Mother Nature.

- B) I state that, the Respondent No. 13-PP has admitted the violation in Para-15 of his Reply dated 06.03.2021 and same is restated here;

*“15. Pertinently, it can be gleaned from the said documents that the structure had an FSI area of 12828 m<sup>2</sup>, but the total built-up area of the structure was more than 20,000 m<sup>2</sup>. However, solely in view of the unclarity in the manner of calculation of the built-up area for the purpose of the notification, the Respondent No.13 did not obtain an EC from the concerned authority.”*

- C) In this regards, the Respondent No. 13-PP cannot blame the unclarity of calculation of the built-up area defined in the Notifications. Therefore is no ambiguity or unclarity in the EIA Notification-2006 or amendment EIA Notification-2011 w.r.t. BUA calculations. Moreover, this Respondent No. 13-PP has not sought any clarification from SEIAA or MoEF on account of this notification and definitions of BUA of his project from any competent Authority on non-applicability of Environment Clearance to his project.



D) Further I state that, the Respondent No. 13-PP in Para-17 of its reply dated 06.03.2021 has admitted that the project is divided in two plots due to amalgamation and sub-division of land newly acquired and obtained the Layout sanction dated 03.08.2013 from the PMC, but Respondent No. 13-PP intentionally suppressed this sanction plan. Amalgamation and sub-division issued under Development Control Regulation (DCR) of Pune Municipal Corporation is only for convenient documentation of the project to avoid the repetition of partly completed buildings. The concept of Amalgamation & sub-division is alien to the Environment Jurisprudence and mere procuring of separate building sanctions for Plot-1 & Plot-2 will not create so called two separate & distinct projects having same layout dated 03.08.2013 vide No. CC/1446/2013. Moreover, Building sanction can be obtained plot wise, building wise etc. as regulated under Section 13.1 of DCR-1987 of PMC and Layout is the for the entire land area under development. That, the Architect of the Respondent No. 13-PP specially admitted vide its letters dated 21.08.2020 & 23.08.2020 submitted to Joint Committee that the Area under development of by the Respondent No. 13-PP has been increased from 21991 M2 sanctioned vide layout dated 29.03.2007 to 29290.67 sanctioned vide layout dated 02.04.2008 and further increased to 40549.13 sanctioned vide layout dated 03.08.2013



with amalgamations. Therefore, total area under development undertaken by the Respondent No. 13-PP is 40549.13 and this area is under violations for which environmental impact has to be calculated as the Respondent No. 13-PP has undertaken this entire development for profits making money at the cost of degradation of environment & ecology and Its subdivision is irrelevant as long as single Project Proponent is doing this development and earning profits from this development. Entire development is on entire contiguous holding. Therefore, the stand of the Project proponent on account of two different project is totally false, baseless, misleading, misconstruction and it is wrong picture decorated by PP after exposing him vide complaint notice dated 29.07.2019 of this Applicant. Therefore, the Respondent No. 13-PP has admitted the violation in Para-17 of his Reply dated 06.03.2021 by developing a single project by amalgamation and sub-division procured from PMC vide dated 03.08.2013 creating two Plots viz. Plot-1 having plot area of 19833.33 (Net Plot Area of 17500) & Plot-2 having total plot area of 14027.12 (Net Plot Area of 7895.34) in the following manner.

*"17. That between 2007-2012, the aforesaid permissions were renewed and revised from time to time. That on 03.08.2013, the Respondent No.13 acquired additional land, pursuant to a Development Agreement dated 08.10.2012, which was adjacent to*



the aforesaid on-going construction. As the Respondent No.13 sought to utilise a portion of the said newly acquired land for the ongoing construction, it amalgamated the newly acquired property, (NEWLY ACQUIRED PROPERTY WAS AMALGAMATED AND SUBDIVIDED IN THE SAME PLAN CC/1446/2013 DATED 3/8/2013) and the property where the ongoing property stood, to form two separate and independent Plots i.e.:

**a.** Plot 1 having an area of 19,833 m<sup>2</sup>, and consisting of Sy. Nos. 71/5 (Pt), 71/6A/1 to 71/6A/13, 71/6, B/1 TO 71/6,B/6, 71/7,B, 71/9,A/1,71/3/1 to 71/3/6, Plot No. 1, Wadgaon (BK), Sinhagad Road, Taluka: Haveli, District:- Pune, 411041;

**b.** Plot 2 having an area of 14,027 m<sup>2</sup>, and consisting of Sy. Nos. 71(Pt) & 72/20A TO 27A, Plot No.2, Wadgaon (BK), Sinhagad Road, Taluka: Haveli, District:- Pune, 411041."

- E) Further I state that, the Development Control Regulations-1987 & Unified Development Control and Promotion Regulations-UDCPR-2021 of PMC has specifically defined the concepts of "Development, Layout, amalgamation, Sub-Division and related regulations", and there under have no reference for two different project and these related provisions are as under:

**i) PROVISIONS UNDER DEVELOPMENT CONTROL REGULATIONS-1987:**



**“2.23 Development** –“Development” with its grammatical variations means the carrying out of building, engineering, mining or other operations in, or over, or under land or water, or the making of any material change in any building or land or in theses of any building, or land and includes redevelopment and layout and sub-division of any land; reclamation; “to develop” shall be construed accordingly.

### **13.0 RULES FOR SUB-DIVISION OF LAND AND LAYOUT**

13.1 Layouts or sub-division or amalgamation proposals shall be submitted for the following –

(i) When more than one building is proposed on any land excepting for accessory buildings in the case of residential building in the case of residential building the owner of the land shall submit proposal for proper layout of buildings or subdivision of his entire recognized plot.

(iii) When development and redevelopment of any tract of land includes divisions and sub-division or amalgamation of plots for various land uses within a colony.”

### **ii) PROVISIONS UNDER UNIFIED DEVELOPMENT CONTROL AND PROMOTION REGULATIONS-UDCPR-2021:**



**39. Development**—Development with its grammatical variations means the carrying out of buildings, engineering, mining or other operations in or over, or under land or the making of any material change, in any building or land or in the use of any building or land or any material or structural change in any Heritage building or its precinct and includes demolition of any existing building, structure or erection of part of such building, structure or erection and reclamation, redevelopment and layout or subdivision of any land and to develop shall be construed accordingly.

1.4 v) **Development of sites or/and subdivision or amalgamation of land:** Where land is to be developed, subdivided, or two or more plots are to be amalgamated, or a lay-out is to be prepared; these Regulations shall apply to the entire area under development, sub-division, amalgamation and layout. Provided that, where a developed land, an existing lay-out/subdivision plan is being altered, these Regulations shall apply only to that part which is being altered.

### **3.3 REGULATIONS FOR LAND SUB-DIVISION AND LAYOUT**

#### **3.3.1 Obligation to Prepare Layout**

Building Layout or Sub-division proposal shall be submitted for the following:-



i) When more than one building, except for accessory buildings in case of residential building is proposed on any land, the owner of the land shall submit proposal for proper layout of building or sub-division of his entire contiguous holding.

ii) When development and/or redevelopment of any tract of land which includes division and sub-division or amalgamation of plots for various land uses is proposed.

iii) When group housing scheme or campus / cluster planning of any use is proposed.

iv) A two-stage approval process as specified in Regulation No. 2.6.1 will be followed for such proposals, wherever necessary."

F) Therefore, this is the clear cut admission of the Respondent No. 13-PP for the single project having two plots with total Area under development is 40549.13 M<sup>2</sup>, which is single project.

G) I state that, the Respondent No. 13-PP has admitted the total built-up area of the project to the tune of 74753 m<sup>2</sup> (56,292 m<sup>2</sup> + 18,461 m<sup>2</sup>) in Para-20 of his Reply dated 06.03.2021 till filing of this OA and same is restated here;

"20. The Respondent No.13 submits that in view of the additional area, the built-up area of Plot 1 (FSI + Non-FSI) increased to 56,292 m<sup>2</sup>, as on date. The construction on this plot is known as Prayēja City-I. The Plot 2 has a total built area of 18,461 m<sup>2</sup>, as on



*date. The construction on this plot is known as Prayeja City-II."*

- H) Further I state that, the "Prayeja City" is a single project and just divided in two plots for convenient development and these plots are named as "Prayeja City-I & Prayeja City-II" for the purpose of better identification for address & convenient documentation with business point of view.
- I) Further I state that, the Respondent No. 13-PP has admitted that the plot-2 is born after amalgamation & sub-division of the project in Para-21 of his Reply dated 06.03.2021 and same is restated here;  
*"21. That on 08.10.2015, the Respondent No.13 obtained a revised commencement certificate for construction of Prayeja City II in Plot No.2 after amalgamation/sub-division in 2013."*
- J) Further I state that, the Respondent No. 13-PP has admitted that post facto EC was sought and Consent to Establish is rejected by MPCB in Para-27 of his Reply dated 06.03.2021 and same is restated here;  
*"27. The Respondent No.13 submits that on 5th September 2019, the Respondent No.13 made an application to the SEIAA seeking a post facto EC for Prayeja City I. A copy of the application dated 5<sup>th</sup> September 2019 made by the Respondent No.13 to the SEIAA is hereto annexed and marked as ANNEXURE R-12. The Maharashtra Pollution Control Board has also rejected the consent to establish to the Respondent No.13 in respect of Plot I on account*



*of absence of EC. However, there remained ambiguity in respect of the notification of the MoEF dated 9th December 2016 regarding non-requirement of the Consent to Establish/Operate pertaining to the projects having area below 1,50,000 SQMTRS.”*

- K) Further I state that, the Respondent No. 13-PP has admitted that the he has committed breach in Para-28 & 29 of his Reply dated 06.03.2021 and same is restated here;

*“28. That on 10<sup>th</sup> October 2019, the Respondent No.13 filed its response to the show-cause notice dated 19th August 2019, wherein it submitted inter alia that the Prayeja City I and Prayeja City II were two separate projects, and that it had not breached the threshold limit of 20,000 m<sup>2</sup>, with respect to Prayeja City II. The Respondent No.13 also stated that it had applied for the requisite EC with respect to Prayeja City I. The Respondent No.13, however, admitted that it had breached the limit with respect to Prayeja City I, and had only now applied for a post facto EC.”*

*“29. That on 16<sup>th</sup> November 2019, the Environment Department, after examining the complaint and the Respondent No.13’s responses, found that the projects were indeed two separate and independent projects; and though the Respondent No.13 had breached the 20,000 m<sup>2</sup>, with respect to Prayeja City I, it had not exceeded the same with respect to*



*Prayeja City II. The Environment Department therefore directed the concerned authorities to take action against the Respondent No.13 with respect to Prayeja City I only."*

- L) Further I state that, the Respondent No. 13-PP has admitted that the proposal for EC is delisted in Para-30 of his Reply dated 06.03.2021 and same is restated here;

*"30. That on 13th December 2019, the SEIAA delisted the Respondent No.13's application for EC with respect to Prayeja City I in view of the show-cause notice dated 29th August 2019."*

- M) Further I state that, the Respondent No. 13-PP has admitted that PMC has made misleading calculations of TBA is delisted in Para-32 of his Reply dated 06.03.2021 and same is restated here;

*"32. The Respondent No.13 submits that on 21st August 2020, the Respondent No.9 after inspecting the projects, i.e., Prayeja City I and Prayeja City II found that Prayeja City I has a total built up area of 48,694 m<sup>2</sup>, and that Prayeja City II has a total built up area of 18,461 m<sup>2</sup>. The built-up area in the report of Respondent No.9, with respect to Prayeja City I, is shown as 48,694 m<sup>2</sup>, as opposed to its actual total built up area of 56,292 m<sup>2</sup>, as the Respondent No.9 has not considered certain areas such as parking while computing the same."*

- N) I state that, the Respondent No. 13-PP has admitted the allegations leveled in the Original Application and



therefore, the preliminary objections of the Respondent No. 13-PP challenging the maintainability of application will not survive in the eyes of law. In the result, Respondent No. 13-PP shall be penalized with heavy environmental compensation for restitution and restoration of the area under degradation.

**10. ADMITTED FACTS BY RESPONDENT NO. 13-PP BY WAY OF HIS ARCHITECT LETTERS DATED 21.08.2020 AND 23.08.2020 SUBMITTED TO THE JOINT COMMITTEE:**

- 10.1** I state that, the Respondent No. 13-PP has admitted that Four (4) numbers of Layout sanctions are obtained vide dated 29.03.2007, 06.09.2007, 02.04.2008 & 03.08.2013.
- 10.2** I state that, the Respondent No. 13-PP has admitted that original project area under development was 21991.00 M<sup>2</sup> in PMC layout sanction vide dated 29.03.2007 is increased way of amalgamation to 29290.67 M<sup>2</sup> by 7299.67 M<sup>2</sup> in PMC layout sanction vide dated 02.04.2008 and further an area under development 29290.67 M<sup>2</sup> in PMC layout sanction vide dated 02.04.2008 is increased by way of amalgamation to 40549.13 M<sup>2</sup> by **11258.46 M<sup>2</sup>** (7958.46 M<sup>2</sup> + 3300 M<sup>2</sup>) in PMC layout sanction vide dated 03.08.2013.
- 10.3** Therefore, it is admitted fact that, the entire project area under development is 40549.13 M<sup>2</sup>, which is further sub-divided into two plots viz. Plot No. 1 to the



tune of 19833.33 M<sup>2</sup> and Plot-2 to the tune of 14027.12 M<sup>2</sup> for convenient development. Further I state that, this sub-division of plot has not given rise for two different projects as these plots are generated out of single layout dated 03.08.2013 out of total area of 40549.13 M<sup>2</sup>, Which is development by Single Project Proponent i.e. Respondent No. 13-PP and this entire project area is under environmental degradation, impact & jerk due of the illegal development without mandatory prior permission from competent authority and without Environmental assessment and appraisal.

**10.4** Further I state that, the Respondent No. 13-PP has admitted that Nine (9) numbers of Building sanctions are obtained vide dated 30.03.2007, 20.09.2007, 07.05.2008, 11.08.2010, 08.11.2012, 03.08.2013, 12.03.2014, 08.10.2015 & 10.07.2017.

**10.5** Further I state that, the Respondent No. 13-PP has admitted following area components for the construction project.

Sr.	Description	Area in M <sup>2</sup>		Total
1.	Total Project Area (Amalgamated till 03.08.2013)	40549.13		Entire Project
2.	Sub-division on 03.08.2013	Plot-1	Plot-2	
3.	Each Plot Area (After Deduction of 36 Mtrs. & 18 Mtrs. DP Roads)	19433.33	14027.12	33860.45
4.	Net Plot Area (After Deduction of Open	17500	7895.34	30474.41



	Space & Amenity space etc.)			
5.	Sanctioned FSI	27871.63	9692.97	37564.6
6.	Sanctioned Non- FSI	28420.41	8768.24	37188.65
7.	Proposed TBA	56292.04	18461.21	74753.25
8.	Completed FSI	27871.63	5245.35	33116.98
9.	Completed Non-FSI	28420.41	5954.80	34375.21
10.	Completed TBA	56292.04	11200.15	67492.19

**10.6** Further I state that, the Respondent No. 13-PP has admitted that residential units to the tune of 617 numbers and commercial units to the tune of 7 numbers are completed from Plot No. 1 Construction.

**10.7** Further I state that, the Respondent No. 13-PP has admitted that Two (2) basements for buildings H, G1 & G2 on Plot No. 2 are constructed.

**10.8** Further I state that, the Respondent No. 13-PP has admitted that the residential units to the tune of 180 numbers and undisclosed numbers of commercial units are under construction on Plot No. 2.

**10.9** Further I state that, the Respondent No. 13-PP has also admitted the misleading calculation of PMC for TBA vide its letter dated 23.08.2020 submitted to joint Committee for preparation of its report in the following words;

*"This is to state that the derived area of 56292.04 sq. mt is including Sanctioned FSI & Non-FSI against the calculated by the PMC authority which is 48694.03 sq. mt. The basic difference is due to NON FSI area calculation that is built on site as per sanction*



*drawing but not calculated in sanctioned NON FSI area such as Fire Staircase area, OHT slab area, UGWT slab area, Ground Floor slab area and podium slab between the buildings. We have considered the Above area as per the Total Built Up Area considered under EIA notification 2006.”*

**10.10** Therefore, it is admitted position that the PP has undertaken the building & construction project development “Prayeja City” on total land area admeasuring 40549.13 M<sup>2</sup> sub-divided into two plots viz. Plot No. 1 with plot area admeasuring 19433.33 M<sup>2</sup> (Prayeja City-I)& Plot No. 2 with plot area admeasuring 14027.12 M<sup>2</sup> (Prayeja City-II) by carrying out construction for TBA of 67492.19 M<sup>2</sup> out of PMC sanctioned TBA of 74753.25 M<sup>2</sup> comprising 13 completed buildings & one Club House out of total PMC sanctioned 16 buildings & club House and with further expansion of remaining TBA of 7261.06 M<sup>2</sup> (74753.25 M<sup>2</sup> - 67492.19 M<sup>2</sup>) in 3 under construction building on land bearing Survey No. 71 (P) & 72 (P) situated at Village: Vadgaon Budruk, Taluka: Haveli, District: Pune, Maharashtra-411051 within the local limits and jurisdiction of Pune Municipal Corporation without obtaining prior Environment Clearance, Consent to Establish, Consent to Operate and Central Ground Water Authority. Thus, this entire development is a single project and Respondent No. 13-PP has admitted the violation of EIA Notificaiton-2006 r/w Environment (Protection) Act, 1986, Water



(Prevention & Control of Pollution) Act, 1974, Air (Prevention & Control of Pollution) Act, 1981 & Handling of municipal Solid Wastes Rules etc. intentionally.

**11. DISAGREEMENTS WITH PMC REPORT DATED 21.08.2020, JOINT COMMITTEE REPORT DATED 23.08.2020 AND PS-DoE LETTER DATED 16.11.2019 ON ISSUE OF TWO DIFFERENT PROJECTS AND OBJECTIONS TO THIS ISSUE:**

**11.1** I state that, this Original Applicant in its Complaint / Notice dated 29.07.2019 has pointed out that the Respondent No. 13-PP is misleading by creating jugglery & farce on account of two different sanctions and two different project in Para-5 (a) & 8 (h). In fact, it is single project developed on total land area admeasuring 40549.13 Sq. Mtrs. as stated in the Para-3 (b) of the said Complaint/Notice and in the Para-7 (b) of the Original Application. But, Respondent No. 13-PP failed to rebut the said notice as well as Original Application.

*“b. That the development of the present project is undertaken by the M/s. Prayeja City (a JV) on total land area admeasuring of 40549.13 Sq. Mtrs. and this area is sub-divided into two plot viz. Plot No. 1 and Plot No. 2.”*

**11.2** I state that, the Respondent No. 13-PP toed the above line of Original Applicant by creating the jugglery and farce of two separate sanctions and two separate



project, which is intentional and deliberate attempt to get escape from the illegality.

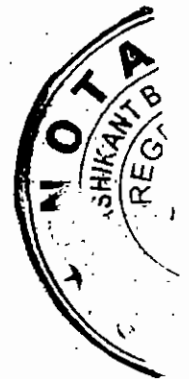
**11.3** I state that, the Respondent No-3 & 4 issued detailed show cause notice dated 29.08.2019 to the Respondent No. 13-PP on the basis of the complaint dated 29.07.2019 of this Original Applicant.

**11.4** I state that, thereafter the PMC has issued the Stop Work Order to the entire project and there is no single reference to the so called concept of "two different projects" vide dated 21.09.2019 under section 267 (1) of Maharashtra Regional and town Planning Act, 1966 on following accounts;

*"1) Additional construction and modification has been done other than the sanctioned plan.*

*2. So far the No Objection Certificate of Environment (EC) Department has not been produced."*

**11.5** I state that, then Respondent No. 13-PP filed his reply dated 10.10.2019 to above show cause notice, which is filed as ANNEXURE-R-13 with the reply dated 06.03.2021. But said reply is nothing but the manipulated, bogus & forged document and actual reply is suppressed by PP. However, Entire Reply dated 10.10.2019 does not make any reference with the sanction for amalgamation and sub-division of layout granted by PMC vide dated 03.08.2013. More particularly Para-3 (d) of the reply dated 10.10.2019 mentions about amalgamation & sub-division, but intentionally fails to refer the same and Therefore, Respondent No. 3-PS-DoE in collusion with



Respondent No. 13-PP conveniently avoided to go in detail and just relied the false word from Para-4 & Sr. No. 1 (Point a & b of your letter) with conclusion of two different project in the so called Order/Communication dated 16.11.2019 passed generated behind the closed doors of private A/C room and signed after “sandwich treat with bundles colorful tissue paper” and behind back of this Original Applicant and further in total violation of principle of natural justice. That erroneous conclusion from Communication dated 16.11.2019 is reiterated here below;

*“Taking into consideration, the complaint of the complainant, reply of the project proponent, and record before me, it is clear that there is total BUA construction of 67154.88 Sq. Mtrs. It is clear that Prayeja City-I and Prayeja City-II are two independent projects. But the BUA construction for Prayeja City-I is 56292.038. which is violation of EP Act. It is also cleared from the record that the BUA construction for Prayeja City-II is 11150.00 Sq. Mtrs., which is liable to be excluded from getting environmental clearance as per provisions of the Environment (P) Act.”*

- 11.6** I state that, the PMC vide its report dated 21.08.2020 in Para-1 has misled this Hon’ble Tribunal on account of their statement with respect to two different projects and this Original Applicant is in disagreement with this issue;



*"1. Prayeja city I and Prayeja city II are two different project and holds different permissions, plinth checking certificates, completion certificates, side margins, front margins and recreational open spaces."*

**11.7** I state that, the Architect of the Respondent No. 13-PP vide its letter dated 21.08.2020 & 23.08.2020 have not made any reference to present development into "two different project". On the contrary, Architect of Respondent No. 13-PP has clearly shown the amalgamation of total project land area admeasuring 40549.13 M<sup>2</sup> and sub-division into two Plots viz. Plot No. 1 & Plot No. 2 vide sanctioned layout dated 03.08.2013, which is single project.

**11.8** I state that, the Joint Committee vide its report dated 23.08.2020 in "Point No.1 Projects and their lands" has misleded this Hon'ble Tribunal on account of their statement with respect to two different projects and this Original Applicant is in disagreement with this issue;

*"1. Projects and their lands*

*In the view of Building Permission Department, PMC, Pune (their letter dated 21.08.2020) Prayeja City I & Prayeja City II are two different projects not only by the name but also by the land over which they are built. The land pieces of these two projects are adjacent to each other and have different 7/12 extract. As such both these project hold different permissions, plinth checking certificates, and*



completion certificates. They have their own recreational open spaces and front, side, and rear open spaces. In Prayeja City I, land is slopping, highest contour level 100.31 M and lowest contour level is 96.54 M.”

- 11.9** It is clear that, the joint committee has toed the line of PMC. Basically, Revenue department maintains separate 7/12 extract for each & every survey number of land or part thereof and these separate parts of land in adjacent and sharing boundaries belongs to same owners/PAH can be amalgamated as per provisions DCR for total project land and then it can be subdivided into number of plots for convenient developments in phase wise manner. Also building permission can be granted separately for every plot from same layout. Also plinth check certificate and completion certificate or occupancy certificate is granted building wise or wing wise. Also standard marginal spaces must be kept as per the height of the building in congested and non-congested area as defined in DCR & Development Plans. Also recreational open spaces can be kept as per the entire layout wise or plot wise. Therefore, these parameters does not support Respondent No. 13-PP, Joint Committee, PMC, MPCB etc. to justify their misleading stand of Plot No. 1 (Prayeja City-I) and Plot No. 2 (Prayeja City-II) are different and district project having different building sanctions as long as these plots are formed from single layout dated 03.08.2013



having total project land area of 40549.13 M<sup>2</sup> under single development.

**11.10** I state that, the Respondent No. 13-PP has procured 13 number of revisions for layout and building permission from 29.03.2007 to till 10.07.2017 from Respondent No. 9-PMC & Respondent No. 10-Mr. Prashant M. Waghmare City Engineer of PMC and Respondent No.11- Executive Engineer Building Permission Dept. Zone-2 of PMC under Single Proposal Case No.VDB/0071/06.

**11.11** I state that, the Respondent No. 13-PP has undertaken to develop the total land admeasuring 40549.13 M<sup>2</sup> with increase in from 21991.00 M<sup>2</sup> to 29290.67 M<sup>2</sup> by 7299.67 M<sup>2</sup> vide sanctioned layout dated 02.04.2008 and then increased from 29290.67 M<sup>2</sup> to 40549.13 M<sup>2</sup> by 11258.46 M<sup>2</sup> vide sanctioned layout dated 03.08.2013 for amalgamation and thereafter, this total area 40549.13 M<sup>2</sup> is further sub-divided into two Plots viz. Plot No. 1 & Plot No. 2 and these two plots are the two phases of single project even though they have called as Prayeja City-I & Prayeja City-II.

**11.12** I state that, the concept of amalgamation and sub-division of total project land is the regulated activity under DCR of PMC and it is permissible for the convenient development of project. But, this concept of amalgamation and sub-division of total project land has no relevance to the Environment Jurisprudence defined under EIA Notification-2006 and related Acts. Moreover, EIA Amendment Notification dated



07.07.2004 to Original EIA Notificaiton-1994 has clearly mentioned that the project can be executed in phase wise or module wise manner.

**11.13** I state that, the total area admeasuring 40549.13 M<sup>2</sup> is undertaken for the development by Respondent No. 13-PP. so the area under degradation and impact is entire project area admeasuring 40549.13 M<sup>2</sup> and PMC has issued the stop work order dated 21.09.2019 to the entire project and same is alive till dated and it is single Respondent No. 13-PP making profit from this entire development.

**11.14** Therefore, I state that the project under challenge is a single project developed on total plot area admeasuring 40549.13 M<sup>2</sup> and Respondent NO. 2-PS-DoE, Respondent No. 3-MS SEIAA, Respondent No. 4 & 5-MPCB, Respondent No. 9-PMC and Respondent No. 13-PP are misleading to this Hon'ble Tribunal by afterthought stand of two different projects.

#### **PART-B**

#### **12. OBJECTION TO JOINT COMMITTEE REPORT DATED 23.08.2020 ON CERTAIN ISSUES:**

**12.1** I state that, the Joint Committee constituted by Hon'ble Tribunal vide its Order dated 09.07.2020 comprising SEIAA, MPCB & PMC have filed their site inspection report dated 23.08.2020 with adverse observations on principal allegations against the Respondent No. 13-PP. However, Joint Committee is failed to submit the actual site condition on various



other issues and therefore these following objections are raised by this Original Applicant;

- 12.2** I state that, the Joint has miscalculated the Residential Buildings on Plot No. 1 to the tune of 12 Buildings. In actual there are 13 Residential Buildings and One Club House. Therefore, there are 16 Residential-Commercial mix occupancy Buildings and one Club House Building.
- 12.3** I state that, the Joint Committee in their report at Sr. No. 1 has recorded false observation and misled on account of "two different project", In actual Entire development is undertaken on land area admeasuring to 40549.13 **M<sup>2</sup>** by single Respondent No. 13-PP with amalgamation from 29.07.2007 by revisions of layout for addition of adjacent land parcels. That Respondent No. 13-PP sub-divided the land into two plots viz. Plot No.1 & Plot No. 2 vide Layout dated 03.08.2013 for amalgamation and sub-division and this sub-division cannot be treated as two separate project as it is generated from single layout under environmental load. This issue is already replied in detailed in above Para of disagreement.
- 12.4** I state that, the Joint Committee in their report at Sr. No. 2 has recorded false observation and misled on account of "Prayeja City-I & Prayeja City-II are two different projects" and Prayeja City-II has carryout construction activity of TBA 11200.15 Sq. Mtrs. which is less than 20000 Sq. Mtrs. and therefore, it does not only attracts prior EC but also consent to establish



and consent to operate. In fact, Prayeja City-I & Prayeja City-II are two phases of single project "Prayeja City" created from sub-division dated 03.08.2013 and it is single project having total land area of 40549.13 M<sup>2</sup> and total TBA potential increased to 67492.19 M<sup>2</sup> (56292.04 M<sup>2</sup> + 11200.15 M<sup>2</sup>) and further expanding the project. Therefore, it is false observation as to Prayeja City-I is only under violation and Prayeja City-II is not under obligation of mandatory EC & Consents. Prayeja City is the single building construction project comprising two phases having total completed TBA potential 67492.19 M<sup>2</sup> and further expansion on phase-II with single stop work Order dated 21.09.2021 by PMC to entire project.

**12.5** I state that, the Joint Committee in their report at Sr. No. 3 has recorded false observation and misled on account of "two bore wells are used for rainwater harvesting and another two bore wells are used by the residents for non-domestic purposes", In fact, Joint Committee failed to provide rain water harvesting details of these two bore wells even not filed photographs and also not provided the energy meter reading for these bore wells and also not provided RWH system details. In actual all four bore wells are used for the domestic purposes and for construction purposes.

**12.6** I state that, the Joint Committee in their report at **Sr. No. 4** has recorded false observation and misled



on account of illegal construction of basements and recorded that "PP has carried out construction activity as per approvals from PMC (Particular Point No. 2.1)", In fact, it is point no. 2.2, Respondent No. 13-PP has made substantial excavation and construction of two basements for Buildings No. "H, G1, G2" and damaged ground water table and without obtaining permission from CGWA.

**12.7** I state that, the Joint Committee in their report at **Sr. No. 6** has recorded false observation and misled on account of "PP provided vermin-composting pits for the treatment of wet waste. A place for dry waste segregation is not seen in the premises." In fact, Joint Committee intentionally did not provided details of vermin-composting area details i.e. number of pits, photographs of pits, whether in operation or not, location in sanction plan etc. Further I state that, the there is no installation of OWC & waste is directed thrown to the PMC garbage dump yards.

**12.8** I state that, the Joint Committee in their report at **Sr. No. 7** has recorded false observation and misled on account of "PP provided solar panels for energy conservation to the ten buildings." In fact, Joint Committee intentionally did not provided details of buildings, photographs of solar panels, Capacity of solar panels, details on account of water heating solar or energy generation for common lighting, location in sanction plan etc. Further I state that, the there is no installation of solar panels.



**12.9** I state that, the Joint Committee in their report at **Sr. No. 8** has recorded false observation and misled on account of "PP has provided rain water harvesting system". In fact, Joint Committee intentionally did not provide details of rain water harvesting (RWH) system & location of pits, number of RWH Pits & its depth, ground water level, photographs of RWH, total capacity of rain water harvested every year, details on account of rain water catchment area of slabs etc. Further I state that, there is no installation of Rain Water Harvesting System.

**12.10** I state that, the Joint Committee in their report at **Sr. No. 9** has recorded false observation and misled on account of inability to make comments on preservation of top layer of fertile soil as the buildings are completed. In fact, there is no soil preservation of soil and PP has disposed of the huge quantity of fertile soil in unscientific manner.

**12.11** I state that, the Joint Committee in their report at **Sr. No. 10** has recorded false observation and misled on account of tree plantation and this joint committee instead of recording actual quantity of tree planted, has just relied upon the 10 year old letter dated 02.04.2011 issued by PMC which says 364 number of trees are planted. In fact, there is no adequate tree plantation at site.

**12.12** I state that, the Joint Committee in their report at **Sr. No. 11** has recorded false observation and misled on account of swimming pool is constructed as per



NOC dated 02.04.2011 issued by PMC. In fact, the issue raised here is the water requirement for swimming pool and water is utilised from ground abstraction and PMC is not the competent authority to permit the ground water abstraction to utilise the same for swimming pool.

**12.13** I state that, the Joint Committee in their report at **Sr. No. 13** has recorded false observation and misled on account of scientific operations of STP. In fact, the MPCB being the joint committee member did not collect the outlet water samples and did not examine its parameters like pH, COD, BOD, turbidity, nitrogen total, phosphorus total, fecal coliform etc. therefore, PP has installed just scrap skeleton in the name of STP and outlet and inlet have same parameters.

**12.14** I state that, the Joint Committee in their report at **Sr. No. 14 & 15** has recorded false observation and misled on account of fire NOC and fire tender movement. In fact, Respondent No. 13-PP has not provided adequate right to access to the minimum width of 7.5 Mtrs. as per standards and these right to access have illegal constructions as observed by the PMC in their Stop Work Order dated 21.09.2020 issued after the site visit at point No. 1 to 5. Therefore, Joint Committee cannot play with the life of residents on account of fire tender movement and all illegal constructions in marginal spaces needs to be demolished.



**12.15** I state that, the Joint Committee in their report at **Sr. No. 15** has recorded false observation and misled on account of Ramp Slope in the ration 1:10, Marginal Spaces around buildings, 10% Open Spaces on virgin land. In fact, Respondent No. 13-PP has not provided Ramp Slope in the ration 1:10, Marginal Spaces around buildings, 10% Open Spaces on virgin land as per standards and these parameters replaced by illegal constructions as observed by the PMC in their Stop Work Order dated 21.09.2020 issued after the site visit at point No. 1 to 5. PMC in point No. 3 specifically points out the illegal construction of Pump Room is carried out instead of ramp slope. It is mandatory to provide 10% open space on virgin land for tree plantation & recreational purposes as these open spaces are the remedial measures for environmental impact to recover the jerk and Hon'ble Supreme Court has already settled this issue and strictly prohibited the construction on open spaces and providing of open spaces on podium parking complex. Therefore, Joint Committee cannot play with the right to decent life of residents and all illegal constructions Ramp Slope in the ration 1:10, Marginal Spaces around buildings, 10% Open Spaces on virgin land needs to be demolished. Moreover, so called PMC circular promoting illegal construction on 10% open spaces is not placed on record and such circulars cannot replace the statutory provisions mandated in law.



**12.16** I state that, the Joint Committee in their report at **Sr. No. 16** has recorded false observation and misled on account of fire and safety system. In fact, Respondent No. 13-PP has not provided number of fire hydrants as per the standards required per buildings at certain floors.

**12.17** Therefore, Joint Committee has misled on account of above important points in protecting environments, human life and giving them right to decent life and failed to make sustainable development and with these objections I can state that, Joint Committee has misled on account of two different projects against single project, ground water abstraction from four bore wells, illegal construction of basements, ground water test, top layer of fertile soil preservation, solid & dry waste treatment, energy conservation by installing solar panels & solar water heaters, rain water harvesting systems, tree plantation, swimming pool construction giving burden on ground water, non-operation & installation of scientific STP, fire tender movement, Ramp Slope in the ration 1:10, Marginal Spaces around buildings, 10% Open Spaces on virgin land and fire hydrant system etc.

**13. SUPPRESSION AND MISLEADING FACTS BY RESPONDENTS ON THE FACE OF THIS HON'BLE TRIBUNAL:**

**13.1** I state that, the Respondent No. 3-PS-DoE, Respondent No. 4-MS SEIAA, Respondent No. 5-MS-



MPCB, Respondent Nos. 9 to 11-PMC & Respondent No. 13-PP are guilty of ***suppressio veri and suggestio falsi*** and PP has suppressed many important facts, events, permissions, documents causing irreparable environmental damage and degradation as listed below;

- 13.2** SEIAA, MPCB, PP & PMC have intentionally suppressed the sanction plans dated 03.08.2013, which shows the project under challenge is single project and it is just sub-division as Plot No. 1 & Plot No. 2 for convenient development.
- 13.3** PP has intentionally suppressed the PMC sanctioned plans vide dated 11.08.2010, 08.11.2012, 03.08.2013, 12.03.2014, 08.10.2015, 10.07.2017 etc.
- 13.4** PP and Joint Committee have intentionally suppressed various sanction plans of PMC and more specifically sanction plan dated 03.08.2013 while procuring the communication dated 16.11.2019 from PS-DoE and submitted false and misleading reply dated 10.10.2019 to the PS-DoE and PP in Point No. 3 on Page No. 62 of his reply affidavit intentionally avoided to refer the sanction plan dated 03.08.2013 clarifying the sub-division of plots from same project and it is single project.
- 13.5** PP and Joint Committee have intentionally suppressed Commencement certificate and sanctioned plan of PMC and more specifically sanction plan dated 10.07.2017 wherein condition no. 19 is imposed on



PP for obtaining Environment Clearance and it is the cause of action first arose for filing of OA.

- 13.6** PP has intentionally attached only first page of commencement certificate dated 10.07.2017 and intentionally suppressed remaining three pages.
- 13.7** PP has intentionally suppressed Non-agricultural permissions dated 11.05.2007 & 09.01.2015, wherein mandatory conditions for obtaining prior EC were imposed on PP.
- 13.8** PP has intentionally suppressed Applications dated 05.09.2019 & 04.01.2020 filed before SEIAA Maharashtra seeking ex-post facto Environment Clearance.
- 13.9** PP have intentionally suppressed minutes of 105<sup>th</sup>, 114<sup>th</sup> SEAC-III meeting and minutes of 218<sup>th</sup> SEIAA meeting.
- 13.10** PP have intentionally suppressed PMC stop work Order dated 21.09.2019.
- 13.11** PP has intentionally suppressed MPCB Order dated 10.12.2020 rejecting Consent to Establish for Plot No. 1.
- 13.12** PMC and PP have intentionally suppressed Occupancy Certificate dated 21.05.2021 granted to Building H.
- 13.13** PMC have not filed their reply affidavit intentionally and suppressed vital information for this Hon'ble Tribunal and supporting violations of PP as well as the illegalities committed by the PMC officer by accepting bribe and illegal activities against public at large.



- 13.14** Also PS-DoE, SEIAA, MPCB, Collector of Pune, have not filed their reply affidavit intentionally and suppressed vital information for this Hon'ble Tribunal and supporting violations of PP as well as illegal activities against public at large and acting as mute spectators.
- 13.15** PMC has intentionally suppressed Plinth Check Certificates and Occupancy Certificates.
- 13.16** PMC has intentionally suppressed the grant of additional TDR allowing illegal construction damaging natural resources used as building material for construction and its exploitation.
- 13.17** PMC has intentionally suppressed the directions of MoEF & CC for strict implementation EIA Notification-2006 and its acknowledgment by City Engineer of PMC.
- 13.18** PMC has intentionally misled on account of Built-up Area and FSI, despite there being clear cut findings of Hon'ble Supreme Court in Civil Appeal No. 10901/2016 distinguishing BUA & FSI, Wherein Hon'ble Tribunal and Hon'ble Supreme Court has passed stricture against PMC officer & Respondent No. 9 and specifically ordered the enquiry and action with imposition of Rs. 5 lack fine for filling false affidavits.
- 13.19** PMC is intentionally failed to take action against the PP, despite there being clear cut violation and seating in line with the Polluter to protect their vital interests well known to them.



**13.20** PP is suppressing the three phases of project viz. permission phase, construction phase and operation phase. In the present case, project is partly completed and partly under operation, therefore the cause of action is recurring cause of action in the present case and application is well within the limitation.

**14. LAYOUT SANCTIONS AND BUILDING SANCTIONS PROCURED BY RESPONDENT NO. 13-PP FROM RESPONDENT NO. 9-PMC:**

a) I state that, admittedly the Respondent No. 13-PP has procured the four Layout sanction with proposal number VDB/0071/06 from PMC for single project in the following manner;

Sr	Commencement No.	Case Type	Date of Sanction
1.	DPO/11116/PLU-4/Wadgaon Bk/205	New	29.03.2007
2.	DPO/II/1038/PLU-4/Wadgaon Bk/227	Revised	06.09.2007
3.	DPO/PLU-4/0005/Wadgaon Bk/250	Revised	02.04.2008
4.	CC/1446/2013	Revised	03.08.2013

b) I state that, admittedly the Respondent No. 13-PP has obtained the nine building sanction with proposal number VDB/0071/06 from PMC for single project in the following manner;

Sr	Commencement No.	Case Type	Date of Sanction
1.	CC/4871/2006	New	30.03.2007



2.	CC/1857/2007	Revised	20.09.2007
3.	CC/0436/2008	Revised	07.05.2008
4.	CC/1515/2010	Revised	11.08.2010
5.	CC/2311/2012	Revised	08.11.2012
6.	CC/1446/2013	Revised	03.08.2013
7.	CC/4050/2014	Revised	12.03.2014
8.	CC/2107/2015	Revised	08.10.2015
9.	CC/1001/2017	Revised	10.07.2017

- c) I state that, the PP has obtained original building sanction vide No. VDB/0071/06 on 30.03.2007 and thereafter PP has obtained 9 revisions and last revision is obtained on 10.07.2017 and the scope of the project is increased by Plot-2 in addition to Plot-1

**15. PLINTH CHECK CERTIFICATES OBTAINED BY RESPONDENT NO. 13-PP FROM RESPONDENT NO. 9-PMC:**

I state that, the Respondent No. 13-PP as well as PMC have suppressed the details of Plinth Check Certificates. However, this Original Applicant would like to bring it on records as follow;

Sr.	Plinth Certificate No.	Building	Date
1.	DA/3A/27	C1, C2, C3, B	27.06.2007
2.	PCC/0036/08	C4, E1	22.10.2008
3.	PCC/0312/14	A1	07/06/2014
4.	PCC/0995/14	D, F2, F	21.10.2014
5.	PCC/0508/15	FULL	25.05.2015



6.	PCC/0720/16	H	14.10.2016
----	-------------	---	------------

I state that, the Respondent No. 13-PP as well as PMC have suppressed the details of Plinth Check Certificates dated 14.10.2016 & others 5 buildings.

**16. OCCUPANCY CERTIFICATES OBTAINED BY RESPONDENT NO. 13-PP FROM RESPONDENT NO. 9-PMC:**

I state that, the Respondent No. 13-PP has admittedly procured the Occupancy certificates in the following manner;

Sr.	Occupancy Certificate No.	Date	Building	Flats	Sub-Total
<b>Plot-1</b>					
1.	<b>Part-I</b> OCC/1219/12	29.12.2012	A B1 B2 C1 C2 C3 C4	126 36 37 36 36 36 43	350
2.	<b>Part-II</b> OCC/1506/13	09.01.2014	E1	43	43
<b>Total of Plot-1</b>					393
<b>Plot-2</b>					
3.	OCC/0122/21	21.05.2021	H	95	95
Plot No. 2 Buildings are under construction					

I state that, the PMC has issued Occupancy certificate only for 393 units and there is no occupancy for other flats & shops.

I state that the PMC as well as PP has suppressed the occupancy certificate for buildings A1, E2, D, F1+F2



& G and despite there being no prior environment clearance & CTE, PMC has issued the occupancy certificate dated 21.05.2021 for building H on Plot-2. This occupancy certificate has been granted by PMC Officer Mr. Rahul Saluke by accepting bribe.

**17. GROUNDS FOR ALLOWING ORIGINAL APPLICATION:**

- A. **BECAUSE**, the OA No. 33/2020 is fully admitted case of violation & supported by Joint Committee, SEIAA, MPCB & PMC on one hand and the Respondent No. 13-PP in collusion with the former PS-DoE & PMC Officers is bidding to overcome the illegality adopting abuse of process of law.
- B. **BECAUSE**, the infringements alleged in OA are admitted by the PP and other Respondent Authorities in their own documents. Therefore, this is admitted case of violation in totality.
- C. **BECAUSE**, the PP himself have admitted the total carried out the construction of BUA to the tune of have carried out the construction of BUA **67492.19** M<sup>2</sup> out of total BUA **93387.13** M<sup>2</sup> in this project comprising of two phases viz. Prayeja City-I & Prayeja City-II. And PP have further sought expansion in Phase-II by 25894.94 M<sup>2</sup> comprising 16 (Eighteen) multistoried Residential Building having 889 total number of flats, One Commercial Building having 7 (Nine) Shops, causing damage to the Air, Water, Natural Resources and further due to illegal operations, generation of



sewage water, solid waste, electricity consumption and these are adverse impact, however PP is mighty and resourceful entity and knowledgeable experts at service. Even though such reply /Counter are filed to circumvent the admitted position of violation by creating nuisance in view to prolong the proceeding by knocking the doors of politicians having access to power corridors.

- D. **BECAUSE**, the PP himself have admitted non-compliance of mandatory prior Environment Clearance and Consent to Establish.
- E. **BECAUSE**, the PP himself have admitted non-compliance of mandatory prior Consent to Operate.
- F. **BECAUSE**, the PP himself have admitted the non-compliance of mandatory prior permission for ground water extraction.
- G. **BECAUSE**, the PP himself admitted in his reply affidavit that the entire proposal for Layout Sanctions & Buildings Sanctions is treated under single Proposal No. "VDB/0071/06" for single project and obtained four (4) layout sanctions and nine (9) Building sanctions with revision for their convenient development violating Environmental enactments. Therefore, it is single project.
- H. **BECAUSE**, the PP himself admitted in his reply affidavit that the four layout sanctions are obtained on occasion of 30.03.2007, 20.09.2007, 02.04.2008 & 03.08.2013 and as per the last revision in layout dated 03.08.2013, project "Prayeja City" is divided



into two phases viz. Phase-I from the existing development called "Prayeja City-I" and Phase-I from part of land from existing development along newly purchased land called as "Prayeja City-II".

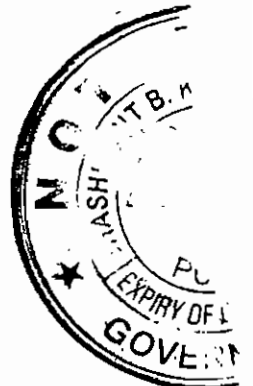
- I. **BECAUSE**, the amalgamation & sub-division of project land cannot constitute the separate project and these are phases of same project.
- J. **BECAUSE**, there is single layout sanction to entire project as single project and building sanction can be procured building wise, phase wise or plot wise as per the sub-division obtained under DCR of PMC and this sub-division cannot constitute the concept of different project.
- K. **BECAUSE**, the Hon'ble Supreme Court in Goel Ganga Case has settled the dispute on issue of "Built-up Area (BUA) i.e. total construction (Covered) Area which includes FSI, Non-FSI & other utility areas". However, PP is misleading on account of total BUA by misrepresenting the total BUA as FSI.
- L. **BECAUSE**, the in the case of Goel Ganga, there was one single layout sub-divided in to Plot-1, Plot-2, Cultural Centre (CC-3) Reservation and Amenity Building of Primary School (PS-4) etc. However, Hon'ble Supreme Court has considered One Single Project as whole. Therefore, PP in this Case should not get any benefits on account of two different project arising from amalgamation & sub-division having same beneficiary. That, the so called misleading concept of two different project induced by PP is alien



to the environmental jurisprudence as no specific details are provided in EIA Notification-2006. Further, PMC sanctions are in continuation of Original Sanction vide dated 30.03.2007 with amalgamation & sub-division of project vide sanction dated 03.08.2013 in two Phases viz. Phase-I carried out on Plot-I and Phase-II carried out on Plot-II. That, this practices of amalgamation & subdivision of projects are adopted under Development Control Regulations for convenient development to avoid the confusion in the records and to avoid the burden of documentation for the completed parts of the project. However, this practices has no reference to the EIA Notification-2006 and moreover, PP is the single beneficiary from the project under violations.

- M. **BECAUSE,** the EIA (Amendment) Notification, 07.07.2004 clearly state that the project can be either modules or phases and Sub-paras (g) & (h) are nothing but Construction and Industrial Estate projects as defined at Serial No. 8 of Schedule to the EIA Notification-2006. Therefore, Statement of PP on account of two different project viz. "Prayeja City-I on Plot-1 & Prayeja City-II on Plot-2" is totally false, misleading and it is made just to overcome the mandates of prior EC and Consents and to get escape from the violation issue.

*"(iii) Any project proponent intending to implement the proposed project under sub-paras (g) and (h) in a phased manner or in modules, shall be required to*



*submit the details of the entire project covering all phases or modules for appraisal under this notification”;*

- N. **BECAUSE**, the PP himself have admitted that the it is single project having two phases while obtaining permission from RERA vide dated 31.08.2017 and word “phase” is used.
- O. **BECAUSE**, the SEIAA Maharashtra & PS-DoE have issued show cause notice cum directions dated 29.08.2019 to the entire project as single.
- P. **BECAUSE**, the PMC have issued direction dated 21.09.2019 for single project after giving sufficient opportunity to PP and after due verification of site.
- Q. **BECAUSE**, the PP has suppressed the revised layout sanction dated 03.08.2013 from PS-DoE while procuring favourable remark vide letter dated 16.11.2019 and said personal level hearing conducted in the officer of former PS-DoE Mr. Anil Diggikar is out of huge bribe given by PP to the handler cum personal assistant Mr. Kartikey Langote of former PS-DoE and with help of his political connection, as director of PP were active member of BJP & close to MP.
- R. **BECAUSE**, the PP himself has admitted the violations levelled in OA by filing applications dated 05.09.2019 and 04.01.2020 before SEIAA Maharashtra.
- S. **BECAUSE**, the SEIAA Maharashtra have rejected the proposal dated 05.09.2019 in its 183<sup>rd</sup> meeting held on 13.12.2019 and deferred proposal dated 04.01.2020 in its 218<sup>th</sup> meeting held on 01.04.2021.



- T. **BECAUSE**, the MPCB have rejected the CTE for Plot No. 1 vide its Order dated 10.12.2020.
- U. **BECAUSE**, the CTE dated 11.02.2021 granted to plot No. 2 by MPCB is challenged before Competent Authority under Air Act, 1981 & Water Act, 1974.
- V. **BECAUSE**, the PP have got encouragement from the illegal letter/ communication dated 16.11.2019 passed by former PS-DOE and Also joint committee of sub-ordinate officer to PS-DOE have filed the same remark on the issue of single project mentioning them as two different project.
- W. **BECAUSE**, the MPCB Officer Mr. Y. B. Sontakke being opportunist have filed false report dated 20.08.2020 and also has issued CTE dated 11.02.2021 in illegal manner without application of mind.
- X. **BECAUSE**, the even the Joint Committee Report dated 20.08.2020 is filed on the behest of PP with casual, cursory, unscientific & without statistical data, But the same report is fully supporting the allegations levelled in OA and it is admitted case of violation.
- Y. **BECAUSE**, the statements made by the Joint Committee and PP on account of two different projects for single project with two phases is self-contradictory.
- Z. **BECAUSE**, the PP & Government Authorities cannot go beyond their records showing the present development as single project.
- AA. **BECAUSE**, it is admitted position that the PP, PS-DOE MPCB, SEIAA & PMC have misled on account of



two different projects, in fact this is single project sub-divided into two phases in continuation.

- BB. **BECAUSE**, it is admitted position that the PP has constructed illegal basement damaging ground water level.
- CC. **BECAUSE**, it is admitted position that the PP has not made any test for ground water contamination and quality of water and there is serious ground water contamination.
- DD. **BECAUSE**, the PP has not provided any energy conservation system for energy saving like Solar Energy System and Solar Water Heater System and joint committee have provided false & misleading information on solar system.
- EE. **BECAUSE**, the PP has not provided any rain water harvesting system for ground water recharge and joint committee have provided false & misleading information on RWH.
- FF. **BECAUSE**, it is admitted position that the PP has not provided 10% recreational open space on virgin land and open space is provided on the stilt of the building which is totally illegal in respect of the environmental measures and any circular of PMC cannot replace the statutory provisions & mandate of law by such circular & office memorandum and joint committee is misleading on this OS/RG Area.
- GG. **BECAUSE**, it is admitted position that the PP has not preserved top layer of fertile soil and there is no soil test for contamination.



- HH. **BECAUSE**, it is admitted position that the PP has installed 4 DG sets at project site and operation of DG set is causing air pollution.
- II. **BECAUSE**, it is admitted position that the huge quantity of sewage water is generated and there is no scientific treatment of sewage water as PP has installed just scrap skeleton STP, which is not in operation till today. There is direct discharge of sewage water in PMC seaware line.
- JJ. **BECAUSE**, it is admitted position that the PP is creating huge burden on the environment due to day to day waste generation by consumption of natural resources and it is causing huge burden on the public facilities and services on account of environment damage.
- KK. **BECAUSE**, it is admitted position that the PP has committed the illegal activities and given rise to the violation of environmental protection enactments and further caused degradation of environment & ecology intentionally.
- LL. **BECAUSE**, it is admitted position that the PP has not complied the conditions of commencement certificate mandating prior environment clearance and consents from the MPCB.
- MM. **BECAUSE**, it is admitted position that the PP has not complied the conditions of commencement certificate related to installation of environment infrastructure to avoid the degradation.



- NN. **BECAUSE**, the PP has not provided site margin, which is required for easy turning of fire engine and also there is no approach road for fire engine and Joint Committee is misleading on this count.
- OO. **BECAUSE**, it is admitted position that the PP in connivance with PMC officer has violated the provisions of Environment enactment and PMC officers are also equally responsible.
- PP. **BECAUSE**, it is admitted position that the PP has violated the principle of sustainable development by not installing pollution control devices.
- QQ. **BECAUSE**, it is admitted position that the PP has not implemented any environment management plan and also have not conducted any impact assessment with remedial measures.
- RR. **BECAUSE**, it is admitted position that there is involvement of bureaucratic nexus in the illegal act to help PP and Misuse of position by Government officers and thus provisions of EIA Notification-2006 r/w Environment Acts-1986, Water (P & CP) Act-1974 and Air (P & CP) Act-1981 are not complied by PP.
- SS. **BECAUSE**, the PP is unapologetic and PP has adopted careless and reckless attitude towards the environment protection.
- TT. **BECAUSE**, it is admitted position that the PP has caused substantial damage of more than Rs. **650** Crores to environment and ecology, which shall be recovered from PP.



- UU. **BECAUSE**, the PP has committed scam on account of FSI of internal road, amenity spaces, open spaces etc.
- VV. **BECAUSE**, it is mandatory to stop the project construction permanently till the compliance / rectification of the above illegal act and removal of the defects from the construction.
- WW. **BECAUSE**, the Respondent No. 13-PP & PMC Officers are equally responsible for the careless, reckless & intentional infringement of environmental enactments with non-compliance to the installation of environmental infrastructure causing environment by excess generation wastes and non-treatment of water waste & solid wastes with their unscientific disposal, not adopting conventional energy generation & non-generation of energy from solar system & saving of energy by solar water heater installation, non-installation of rain water harvesting, ground water level extraction in illegal manner, non-providing of Open Space (RG) area on virgin Land, illegal construction of basement etc.
- XX. **BECAUSE**, the director of PP Mr. Ashok Yenpure being the elected member of PMC have promoted & protected this illegal construction without EC & Consents and this illegal construction does not deserve any equity from this Hon'ble Tribunal. If protected, it will send wrong message in the society at large.
- YY. **BECAUSE**, the reply of PP dated 06.03.2021 is meritless, casual, cursory, luxury class of litigation,

baseless, false, frivolous, misleading and with manipulating the facts deserves to be ignored at the threshold with exemplary cost.

ZZ. **BECAUSE**, the preliminary objections of PP have become infructuous in view of judgement passed by this Hon'ble Supreme Court in the matter of "*Mantri Technoze Pvt. Ltd. Vs. Forward Foundation, Civil Appeal No. 5016/2016*" reported in (2019) 18 SCC 494 has specifically held vide judgement dated 05.03.2019 and have categorically dealt with the issues raised here also and even the Review petition of the same has been dismissed vide order dated 06.08.2019 and has thus become final and binding;

*"42. The Tribunal has also jurisdiction under Section 15(1)(a) of the Act to provide relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule I. Further, under Section 15(1)(b) and 15(1)(c) the Tribunal can provide for restitution of property damaged and for restitution of the environment for such area or areas as the Tribunal may think fit. It is noteworthy that Section 15(1)(b) & (c) have not been made relatable to Schedule I enactments of the Act. Rightly so, this grants a glimpse into the wide range of powers that the Tribunal has been cloaked with respect to restoration of the environment.*

*43. Section 15(1)(c) of the Act is an entire island of power and jurisdiction read with Section 20 of the*

Act. The principles of sustainable development, precautionary principle and polluter pays, propounded by this Court by way of multiple judicial pronouncements, have now been embedded as a bedrock of environmental jurisprudence under the NGT Act. Therefore, wherever the environment and ecology are being compromised and jeopardized, the Tribunal can apply Section 20 for taking restorative measures in the interest of the environment.

**44.** The NGT Act being a beneficial legislation, the power bestowed upon the Tribunal would not be read narrowly. An interpretation which furthers the interests of environment must be given a broader reading. (See *Kishore Lal v. Chairman, Employees' State Insurance Corpn.* (2007) 4 SCC 579, para 17). The existence of the Tribunal without its broad restorative powers under Section 15(1)(c) read with Section 20 of the Act, would render it ineffective and toothless, and shall betray the legislative intent in setting up a specialized Tribunal specifically to address environmental concerns. The Tribunal, specially constituted with Judicial Members as well as with Experts in the field of environment, has a legal obligation to provide for preventive and restorative measures in the interest of the environment

**45.** Section 15 of the Act provides power & jurisdiction, independent of Section 14 thereof.



Further, Section 14(3) juxtaposed with Section 15(3) of the Act, are separate provisions for filing distinct applications before the Tribunal with distinct periods of limitation, thereby amply demonstrating that jurisdiction of the Tribunal flows from these Sections (i.e. Sections 14 and 15 of the Act) independently. The limitation provided in Section 14 is a period of 6 months from the date on which the cause of action first arose and whereas in Section 15 it is 5 years. Therefore, the legislative intent is clear to keep Section 14 and 15 as self contained jurisdictions.

**46.** Further, Section 18 of the Act recognizes the right to file applications each under Sections 14 as well as 15. Therefore, it cannot be argued that Section 14 provides jurisdiction to the Tribunal while Section 15 merely supplements the same with powers. As stated supra. the typical nature of the Tribunal, its breadth of powers as provided under the statutory provisions of the Act as well as the Scheduled enactments, cumulatively, leaves no manner of doubt that the only tenable interpretation to these provisions would be to read the provisions broadly in favour of cloaking the Tribunal with effective authority. An interpretation that is in favour of conferring jurisdiction should be preferred rather than one taking away jurisdiction.

**47.** Section 33 of the Act provides an overriding effect to the provisions of the Act over anything inconsistent contained in any other law or in any instrument



having effect by virtue of law other than this Act. This gives the Tribunal overriding powers over anything inconsistent contained in the KIAD Act, Planning Act, Karnataka Municipal Corporations Act, 1976 ("KMC Act"); and the Revised Master Plan of Bengaluru, 2015 ("RMP"). A Central legislation enacted under Entry 13 of List I Schedule VII of the Constitution of India will have the overriding effect over State legislations. The corollary is that the Tribunal while providing for restoration of environment in an area, can specify buffer zones around specific lakes & water bodies in contradiction with zoning regulations under these statutes or the RMP.

**48.** The second question raised by the appellants is that the petition is barred by time. According to appellants, environmental clearance was granted to the respondent No. 9 on 17.02.2012 for which notice was published in the leading newspaper on 12.03.2012 and 14.03.2012. Modified building plan was approved on 30.08.2012, which was followed up to 10.08.2014. Similar events had taken place in regard to the project of respondent No. 10 who had been granted environmental clearance on 30.09.2013. The application had to be filed within a period of six months from the date on which cause of action for such dispute has first arisen in terms of Section 14 of the NGT Act. Admittedly, the present application has been filed in March, 2014 and according to them, it is much beyond the prescribed



































































































jurisprudence and it has liberalised concept by this Hon'ble Court in environmental issues while enacting the NGT Act, 2010 by Central Government from the Orders of this Hon'ble Court while replacing the previous Environment Appellate Authority and it is well settled principle that the meaning of word 'aggrieved person' or 'person aggrieved' shall receive very liberal interpretation and shall not be hyper technical to exclude bonafide individual to seek redressal at the hands of Tribunal to protect environment in the large interest of the society and this applicant being informer to the court of law have locus to file present application.

**18.58** Further I state that, the locus shall not be interpreted applying acid litmus test or straight jacket formula. The interpretation must be tailor made keeping in mind liberality of legal remedies provided under the provisions of the NGT Act for which enactment has been legislated.

**18.59** Further I state that, the Original Applicant is performing his constitutional duties under article 48A, 51A(g) to protect environment and Respondent No. 13 have shown dare to bring these violation before Hon'ble Tribunal, as the conduct of authorities appointed for protection of environment is against their statutory duties and helping PP to cause pollution.

**18.60** Further I state that, the NGT, Act 2010 specifically states that, "any person aggrieved, including any







supported by the government authorities in their reply affidavit to OA.

**18.65** Further I state that, the OA before NGT has established the good case for the damage to the environment shared commonly by Original Applicant and vary fact is not disputed. Therefore, the Original Applicant is not the *de hors* with in the domain of Section 18 (2) (e) of the NGT Act, 2010 and duty bound to protect environment, to develop clean environment with sustainable development, have legal right to be informer to the court of law for reporting the intentional infringement of unapologetic Respondent No. 13-PP as they thinking themselves above the law and to make them complying the environmental supremacy.

**18.66** Further I state that, the Original Applicant is common man, vigilant citizen, whistle blower, informer of environmental cause to the court of law, performing his fundamental duties casted by constitution and by Hon'ble Supreme Court and acted punctually, diligently & promptly, to protect environment & having legal right to enforce the environmental enactments to protect the common sharing of natural resources, then his locus cannot be doubted. The Original Applicant acted as per the responsibility casted by the Hon'ble Supreme Court in (1996) 5 SCC 281 @ para 47 at Pg. 302 and therefore applicant is an aggrieved person having locus standi to file OA.









































However, in this regards I state that the PMC sanction dated 03.08.2013 clearly shows the amalgamation & sub-division of project into two phases for convenient development and it does not attract the alien concept of two different project in afterthought manner after the exposing the PP and in view to get escape PP intentionally have not attached the sanction dated 03.08.2013. Therefore, it is clear cut admitted case of violation and PP is not entitle for any mercy from this Hon'ble Tribunal.

46. I state that, the contents of **Para-29** of Respondent No. 13-PP reply dated 06.03.2021 are totally false, misleading and baseless and denied by this Applicant. Further I state that, the notice/complaint dated 29.07.2019 filed this applicant before the respondent Government authorities has been misused as capital of their corruption business, specifically by former PS-DoE Mr. Anil Diggikar and accepted huge bribe through his Office bearer Mr. Kartik Langote and in this respect this Original Applicant has lodged complaint with Anti-Corruption Bureau of Maharashtra and ACB has taken cognizance on the same. It is important to note here that the communication dated 16.11.2019 is issued by PS-DOE in personal capacity whereas the show cause notice is issued in the capacity of Member Secretary of SEIAA & PS-DoE, then without providing opportunity of hearing to this Original Applicant such illegal communications are issued in violation of























	<p>except the sand Carbon Filter. Also, there is no ventilation for collection and filtration treatment area.</p>	<p>waste generated per person is 0.45 Kg per day, therefore total solid waste generated is = 0.45 Kg per day per person x 4500 persons = 2025 Kg per day.</p> <p>There is Fresh water consumption of 816440 liters per day, Waste water generated is 653152 liters per day and Solid waste generated is 2025 Kg per day.</p> <p>There is ground water extraction to meet the fresh water requirement.</p> <p>STP is just scarp skeleton and not in operation since its installation.</p> <p>There is no installation of vermin-composting pits at site in actual. In fact, scrap teen boxes are kept in illegally constructed shed in marginal space for wet garbage collection and its smell is to much and it cannot be called as</p>
--	---	---









PMC officers have allowed the PP for commercial development instead of Residential Development in violation of DC Rules and their by PMC officers have neglected to perform duties as per the norms. As per the modified DC rules of PMC it is mandatory for the project having 150 units and more should install the STP at site, but there is no installation of STP at site. Reservation of HDH is removed in illegal manner and this notice Mr. Prashant Waghmare being the DP officer has involved in the matter. PP has not handed over the area of 18 Mtrs DP road wining, 30 Mtrs. DP Road winding and 15% amenity space to the PMC, but PMC officers have neglected towards this act. PMC has caused huge financial loss. PP has manipulated in the water bodies and also PP has made illegal tree cutting without any permission from the concern department. PMC officers have committed many illegal acts to provide undue support to the PP. Therefore, PMC officers including City Engineer of PMC-Mr. Prashant Waghmare are directly responsible for such violations.

- 60.** I state that, the contents of **Para-42** of Respondent No. 13-PP reply dated 06.03.2021 are false, baseless & misleading and denied by this Applicant. Further I state that, the contents of Para-23 of the OA are true & correct and from the word "PRAYEJA", "YE sands for YENPURE ASHOK" and "JA stands for JANI SANDIP", and unapologetic conduct of the PP to satire in the eyes of law by committing very serious illegalities of not obtaining prior EC and Consents

from the MPCB is really shocking only due to the direct interest of the former elected member of PMC Mr. Ashok Yenpure, who had holding the position for more than 10 years. it is important to note that such type of white collar crimes are committed by rich offenders only with ulterior motive of earning benefits at the cost of environment and ecology and these white collar crimes should not be tolerated at the cost of Mother Nature. Therefore, this Hon'ble Tribunal may kindly imposed highest, exemplary compensation to have deterrent effect on these defaulters and to send clear message in society.

61. I state that, the contents of **Para-43** of Respondent No. 13-PP reply dated 06.03.2021 are false, baseless & misleading and denied by this Applicant. Further I state that, the contents of Para-24 of the OA are true & correct and it is admitted position that the PP has carried out illegal construction to the tune of TBA of more than 67492.19 M<sup>2</sup> and also sought further expansion of more than 25894.94 M<sup>2</sup> on Plot No. 2 as disclosed in application for EC dated 04.01.2020 (submitted on 22.01.2022). Therefore, total BUA of the entire project is going to cross 93387.13 M<sup>2</sup> without prior EC & Consents. Even though the report of joint committee is casual & cursory and prepared to protect the PP, but the report have pointed out substantial damage to the environment and ecology on the basis of non-compliance to the environment norms. This illegal construction is raised by consuming huge

quantity of the building material prepared from natural resources like Cement, metal/ aggregates, steel, timber, water, fuel, bricks, sand, aluminium, copper for wirings, marble, stainless steel, PVC etc. for the construction of the project without any impact assessment and caused irreparable damage to the environment and ecology in substantial nature. GHG emission especially carbon from the material process and its use during the construction and operation phase is huge and it has adverse impact on the environment and therefore the prior impact assessment is required for the better protection and improvement of the environment due to the activity of the PP. But PP intentionally failed to prepare such Impact Assessment and further neglected to implement such assessment in his project and caused huge damage to environment. PP has made illegal excavation of two basements and this is one of the major damage to the environment. PP is illegally extracting the ground water from four (4) number of bore wells. PP is not doing any treatment on the solid waste and it is directly dumped to the PMC dumping location by overburdening the PMC infrastructure. PP has used traditional clay bricks instead of fly ash bricks and PP has not used any scientific construction method. The environmental issues are very complex and its restoration is more difficult than complexity. But PP has callous attitude for environmental protection and adopted careless, reckless, attitude





true & correct and Original Applicant, after collecting information from various government authorities and through online search issued a notice to PP and complaint to authorities on 29.07.2019 through Adv. Nitin Lonkar for violations of EIA Notification-2006 r/w Environment (Protection) Act-1986, Air (P&CP) Act-1981 and Water (P&CP) Act-1974, wherein it was specifically requested to take appropriate steps to demolish the illegal structure and to stop further construction and to restoration and restitution of the environment and ecology damaged by PP. Further I state that, in response to the said notice PMC issued stop work notice dated 21.09.2019 to the PP and SEIAA & PS-DoE also issued direction to Commissioner PMC to take appropriate action. Also, PP himself has admitted the entire violations by filling application dated 05.09.2019 for ex-post facto EC for Plot No. 1 under EIA (Violation) Notification-2017 dated 14.03.2017 and Application dated 04.01.2020 for Plot No. 2 after procuring partly clean chit letter dated 16.11.2019 from PS-DoE . However, despite there being multiple directions, conditions by various government authorities for obtaining prior EC and consents, PP has ignored the same intentionally. Thereafter, PP has in view to cover-up his illegality and get escape from the clutches of legal proceeding applied for Environment Clearance through online application dated 05.09.2019 on "http://environmentclearance.nic.in/state/Form\_8A























concerned. The Water Act prohibits the use of streams and wells for disposal of polluting matters. It also provides for restrictions on outlets and discharge of effluents without obtaining consent from the Board. Prosecution and penalties have been provided which include sentence of imprisonment. The Air Act provides that the central Pollution Control Board and the State Pollution Control Boards constituted under the Water Act shall also perform the powers and functions under the Air Act. The main function of the Boards, under the Air Act, is to improve the quality of the air and to prevent, control and abate air pollution in the country. We shall deal with the Environment Act in the latter part of this judgment.

(14) IN view of the above-mentioned constitutional and statutory provisions we have no hesitation in holding that the Precautionary Principle and the Polluter Pays Principle are part of the environmental law of the country.

(15) EVEN otherwise once these principles are accepted as part of the Customary International Law there would be no difficulty in accepting them as part of the domestic law. It is almost an accepted proposition of law that the rules of Customary International Law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law







*environmental safety and to give direction to, and coordinate a system of speedy and adequate response to emergency situations threatening the environment.*

*IN view of what has been stated above, there is urgent need for the enactment of a general legislation on environmental protection which inter alia, should enable coordination of activities of the various regulatory agencies, creation of an authority or authorities with adequate powers for environmental protection, regulation of discharge of environmental pollutants and handling of hazardous substances, speedy response in the event of accidents threatening the environment and deterrent punishment to those who endanger human environment, **safety and health.**"*

**70.4** In *M. I. Builders Pvt. Ltd. Vs. Radhey Shyam Sahu & Ors.* 1999 (6) SCC 464, Hon'ble Supreme Court Observed that;

*"74. High Court has directed dismantling of the whole project and for restoration of the park to its original condition. This Court in numerous decisions has held that no consideration should be shown to the builder or any other person where construction is unauthorised. This dicta is now almost bordering rule of law. Stress was laid by the appellant and the prospective allottees of the shops to exercise*



the nature of imposition of fine as well as or imprisonment or either of them, depending upon the nature and extent of violation. The fine that may be imposed alone may extend even to one lakh of rupees. Keeping in view all these and the very object underlying the imposition of imprisonment and fine under the relevant laws to be not only punish the individual concerned but also to serve as a deterrent to others to desist from indulging in such wrongs which we consider to be almost similar to the purpose and aim of awarding exemplary damages, it would be both in public interest as well as in the interests of justice to fix the quantum of exemplary damages payable by Span Motels Pvt. Ltd. at rupees ten lakhs only. This amount we are fixing keeping in view the undertaking given by them to bear a fair share of the project cost of ecological restoration which would be quite separate and apart from their liability for the exemplary damages. The question relating to the said quantum of liability for damages on the principle of "polluter pays", as held by this Court against the Span Motels Pvt. Ltd. and undertaken by them, will be determined separately and left open for the time being. ...."













are of the view that the appellant-company should be held liable for a compensation of Rs. 100 crores for having polluted the environment in the vicinity of its plant and for having operated the plant without a renewal of the consents by the TNPCB for a fairly long period and according to us, **any less amount, would not have the desired deterrent effect on the appellant-company.** The aforesaid amount will be deposited with the Collector of Thoothukudi District, who will invest it in a Fixed Deposit with a Nationalized Bank for a period of five years. The interest therefrom will be spent for improving the environment, including water and soil, of the vicinity of the plant after consultation with TNPCB and approval of the Secretary, Environment, Government of Tamil Nadu.”

41. Before we part with this case, we would like to put on record our appreciation for the writ petitioners before the High Court and the intervener before this Court for having taken up the cause of the environment both before the High Court and this Court and for having assisted this Court on all dates of hearing with utmost sincerity and hard work. In *Indian Council for Enviro-Legal Action and Others v. Union of India and Others* [(1996) 3 SCC 211],

this Court observed that voluntary bodies deserve encouragement wherever their actions are found to be in furtherance of public interest. Very few would venture to litigate for the cause of environment, particularly against the mighty and the resourceful, but the writ petitioners before the High Court and the intervener before this Court not only ventured but also put in their best for the cause of the general public.”



**70.8** In Goa Foundation Vs Union Of India & Ors, 2014 (6)

SCC 590, Hon'ble Supreme Court Observed that;

“62. Regulatory and monitoring measures enforced by the Departments of Mines and Geology, the Goa State Pollution Control Board and the Regulator appointed by the Central Government under sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 cannot, however, restore entirely the environment that is damaged in course of mining operations. The Expert Committee has, therefore, recommended that a permanent fund for inter- generational equity and sustainability of mining for all times to come named as Goan Iron Ore Permanent Fund be created and an expert group may be constituted by the State for working out the details of this fund. Mr. Harish Salve, learned Amicus Curiae, submitted that as the lessees of mining leases earn out of the sale proceeds of

the iron ore excavated by them, they should be directed to contribute 10% of the sale proceeds of all iron ore excavated in the State of Goa and sold by them towards the Goan Iron Ore Permanent Fund. He cited the judgment of this Court in Samaj Parivartana Samudaya and Ors. v. State of Karnataka and Ors. (supra) in which this Court has similarly directed for creation of a Special Purpose Vehicle out of 10% of the sale proceeds of the ore sold by e-auction. There is a lot of force in the aforesaid submission of Mr. Salve".

**70.9** In Krushn Kant Singh & Ors. Vs National Ganga River Basin Authority & Ors. In Application No. 299/2013 Decided on 16.10.2014, Hon'ble NGT (PB) held that;

"51. It is not possible to assess exact environmental damage and the cost of restoration thereof in view of the long period involved in the present case and the fact that the statutory Boards empowered to prevent and control pollution have not performed their statutory duties in accordance with the spirit and object of the environmental Acts and jurisprudence. This unit is responsible for causing great environmental pollution of different water bodies including Phuldera drain, the Syana Escape canal, the River Ganga and even the groundwater in and around the area of this industrial unit. Besides scientific data of



inspection by the Expert teams, officers of the Pollution Control Board, analysis report and the fact that the water in the Phuldera drain had turned brown, even to the naked eye, demonstrates the extent of pollution caused by this unit. Considering the magnitude of the pollution caused by unit, its capacity and prosperity, responsibility of the unit to pay compensation cannot be disputed on any plausible cause or ground. The Supreme Court in the case of *Sterlite Industries (India) Ltd. v. Union of India & Ors. (2013) 4 SCC 575, enunciated the principle that a company which has caused the damaged to the environment and for operating the plant without valid renewal of consent for a fairly long period would obviously be liable to compensate by paying damages. while relying upon the judgment of the Constitution Bench of the Supreme Court in the case of M.C. Mehta v. union of India (1987) 1 SCC 395, the court further stated that the plea of reasonable care and that the damage to environment occurred without specific negligence on the part of the unit is not a sustainable defence to a direction for payment of compensation for causing environmental damage. The court further held that magnitude, capacity and prosperity of the unit are the relevant considerations for determining the*



extent of the liability in such case. Applying these principles to the facts of the present case, there can hardly be any dispute that it is a polluting unit. It is also beyond controversy that this unit has operated without consent of the Boards from 1974 till the year 1991, thereafter, it committed default in compliance of the conditions of the consent right up to the year 2000. Even thereafter, it did not strictly comply with the conditions and directions issued by the respective Boards. This unit is a direct source of polluting River Ganga.

The PP is a profit making unit. No record has been produced before the Tribunal to establish anything to the contrary. Though, it may not be possible to determine with exactitude the exact amount of compensation payable on account of damage to environment because of the long period involved and also for the reason that even scientifically the extent of damage and amounts required for restoration and restitution thereof cannot be determined at this stage now. Cleaning and removal of sludge from Phuldera drain, treatment of other pollutants flowing in the said drain, preventing any discharge into the Syana Escape Canal and making River Ganga pollution free are the basic needs which require attention of the Expert bodies particularly, in the facts and circumstances of

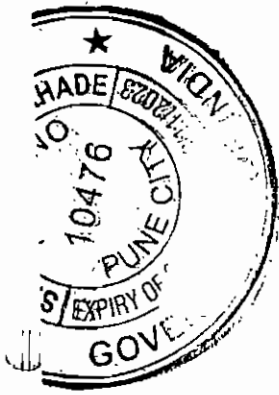


*this case. We fix a compensation of Rs 5 crores which shall be deposited with the UPPCB and shall be spent for that purpose alone by and joint team of CPCB, UPPCB, MoEF including for removal of sludge and all pollutants in the Syana Escape Canal till it joins river Ganga. This amount shall also be used for preventing ground water pollution.*

*The unit has caused serious pollution persistently. There is sufficient material before the Tribunal to establish both direct and indirect pollution being caused by this unit. The unit has even intentionally failed to comply with the directions and conditions of the consents order passed by the respective boards. Not even submitting an application to the board for obtaining consent to operate and shows complete disregard towards law and its statutory obligations by the unit. It is not only case where it is a threat to cause environmental pollution but is a case of causing environmental pollution. Right to carry on business cannot be permitted to be misused or to pollute the environment so as to reduce the quality of life of others. Risk to harm to environment or to human health is to be decided in the public interest according to 'a reasonable person's test'. The man's perception with reference to the facts of*



*this case cannot return a finding any different than the one recorded by us.”.....*



*“59. Reverting to the case of Simbhaoli sugar and distillery unit which has been a serious polluter for all this time and has damaged the ground water as well as polluted the River Ganga through Phuldera Drain, now for years. This unit has failed to take all remedial measures despite service of show cause notices, closure orders and directions issued by the CPCB. The trade effluent discharged by the unit had often been found to be in violation of the prescribed standards. The unit had also failed to dismantle the underground pipeline through which the effluent containing the pollutants was being discharged into the Phuldera drain, despite specific directions issued by the respective Boards. Large extent of sludge which could only be generated from a sugar and distillery unit was found in the Phuldra drain and on its banks. The inspections on different occasions even noticed that the unit was bypassing the ETP and throwing untreated effluent into the drain and/or on the land. This Unit, on the one hand violated the conditions of the consent order from time to time while on the other, it even operated without consent of the Board for short duration subsequent to 1991, till*

which year it operated totally without consent. These are the few circumstances which fully establish the fact that this unit is a seriously polluting unit and has been polluting the different water bodies including the groundwater now for a considerable time. There can hardly be any doubt in inspecting the case advanced on behalf of the respective Boards that this unit has continuously failed to comply with the requirements of law and discharge its statutory obligations on the one hand while on the other it has also failed to fulfil its corporate social responsibilities. Therefore, the unit is liable to make good and to restore damage, degradation and pollution of environment caused by its activity particularly, the water bodies and with greater emphasis, the River Ganga. Thus, in our considered view, this unit must be held liable to pay heavy compensation for restitution, restoration, prevention and control of pollution of various water bodies and more emphatically River Ganga. Consequently, in exercise of the powers conferred upon this Tribunal under Section 15 and all other enabling provisions of the NGT Act and the legislative mandate contained under Section 20 of the said Act,



**70.10** In *Indian Council for Environ Legal Action Vs Union of India and Ors*, (1996) 5 SCC 281, Hon'ble Supreme Court of India Observed that:



*“Enactment of a law, but tolerating its infringement, is worse than not enacting a law at all. The continued infringement of law, over a period of time, is made possible by adoption of such means which are best known to the violators of law. Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the enforcement authorities encourages lawlessness and adoption of means which cannot, or ought not to, be tolerated in any civilized society. Law should not only be meant for the law-abiding but is meant to be obeyed by all for whom it has been enacted. A law is usually enacted because the legislature feels that it is necessary. It is with a view to protect and preserve the environment and save it for the future generations and to ensure good quality of life that Parliament enacted the anti-pollution laws, namely, the Water Act, Air Act and the Environment (Protection) Act, 1986. These Acts and Rules framed and notification issued thereunder contain provisions which prohibit and/or regulate certain activities with a view to protect and preserve the environment. When a law is enacted containing some*

provisions which prohibit certain types of activities, then, it is of utmost importance that such legal provisions are effectively enforced. If a law is enacted but is not being voluntarily obeyed, then, it has to be enforced. Otherwise, infringement of law, which is actively or passively condoned for personal gain, will be encouraged which will in turn lead to a lawless society. Violation of antipollution laws not only adversely affects the existing quality of life but the non-enforcement of the legal provisions often results in ecological imbalance and degradation of environment, the adverse effect of which will have to be borne by the future generations."



**70.11** In Indian Council For Enviro Legal Action Vs Union Of India 1996 (3) SCC 212, Hon'ble Supreme Court Observed that;

"(71) RESPONDENTS 4 to 8 shall pay a sum of Rupees fifty thousand by way of costs to the petitioner which had to fight this litigation over a period of over six years with its own means. Voluntary bodies, like the petitioner, deserve encouragement wherever their actions are found to be in furtherance of public interest. The said sum shall be deposited in this court within two weeks from today. It shall be paid over to the petitioner."





























































































- b) Also this is supplementary to the Title Report dated 31/12/2012 and Supplementary Title Report dated 25/07/2014 and 30/12/2015 issued by me to you & now instructed to issue this supplementary title report in respect of the "B" Property.
- c) Also this is supplementary to the Title Report dated 30/12/2015 issued by me to you & now instructed to issue this supplementary title report in respect of the "C" Property and be read as the part of the said Title Reports.

PUNE



**ADVOCATE**







Acceptance of allotment of the said Apartment I/ We hereby acknowledge to have checked the said Disclosures and have received a hard copy of the above said documents and information. We also have received a copy of above said User Manual.

We have read and understood the above said Allotment Letter and we hereby accept the allotment of the said Apartment from you subject to above said terms and conditions.

Thanks and regards,  
Name and signature of the Allottee No.1)

(Name and signature of the Allottee No.2)

**TRUE COPY**

Bgmbrise



























the said various documents, I did not find any transaction encumbering the said property.

7. Relying upon the Search and Title Report submitted by me in the year of 2015 in respect of the said "A" "B" & "C" properties. At that time certain important documents were not made available to me by the said Developer in respect of the said "A" "B" & "C" properties.
8.
  - a) Later on said Developer being one of the constituents of **"PRAYEJA CITY"** viz. M/s. Bhandari Geleda Associates was converted into limited liability partnership i.e. **BHANDARI GELEDA ASSOCIATES LLP**, a Certificate of Registration on Conversion whereof was issued by the Registrar, Maharashtra, Pune, vide Identification No. AAC-9426 dated 19.11.2014,
  - b) Similarly, the other constituents of **PRAYEJA CITY** viz. M/s. Prayeja Developers was also converted into limited liability partnership i.e. **PRAYEJA DEVELOPERS LLP**, a Certificate of Registration on Conversion whereof was issued by the Registrar, Maharashtra, vide Identification No. AAC-9429 dated 19.11.2014,
  - c) Thus, the said Developer have continue the development and construction work of the said Ownership Scheme of "A" "B" & "C" properties under the name and style of **"PRAYEJA CITY"**, a JV of (i) Bhandari Gelada Associates LLP, (ii) Prayeja Developers LLP,
  - d) It appears that and as per documents supplied to me, that said Developer i.e. **"PRAYEJA CITY"** a JV of (i) Bhandari Gelada Associates, (ii) M/s. Prayeja Developers have executed a Deed of Transfer dated 31.10.2014, duly registered in the office of the Sub Registrar Haveli No. 22 at Serial No. 9471/2014 on same day, unto and in favour of Municipal Corporation of city of Pune thereby







- b) Also this is supplementary to the Title Report dated 31/12/2012 and Supplementary Title Report dated 25/07/2014 and 30/12/2015 issued by me to you & now instructed to issue this supplementary title report in respect of the "B" Property.
- c) Also this is supplementary to the Title Report dated 30/12/2015 issued by me to you & now instructed to issue this supplementary title report in respect of the "C" Property and be read as the part of the said Title Reports.

PUNE



**ADVOCATE**









Acceptance of allotment of the said Apartment I/ We hereby acknowledge to have checked the said Disclosures and have received a hard copy of the above said documents and information. We also have received a copy of above said User Manual.

We have read and understood the above said Allotment Letter and we hereby accept the allotment of the said Apartment from you subject to above said terms and conditions.

Thanks and regards,

Name and signature of the Allottee No.1)

(Name and signature of the Allottee No.2)









































































































be adopted as follows:

Power Capacitors are proposed for common services load power factor correction and to maintain a healthy power situation. This also results in less demand load factor for the project.

Most of the common area lighting is proposed to work on high energy efficient lamps (LED) as specified in bureau of energy efficiency, which again results in saving in general consumption.








Bank / ATM	HDFC Bank	2km
Entertainment Centre	Funtime multiplex	1.5 km
Health Club	Power Pack Fitness Club	850 m
Park / Play Ground	Shinde Maidan	1.6 km







Sr. no	Photo		Description
10	Awala 		Light Canopy, bright green new leaves
11	Gorakh-Chincha 		Evergreen deciduous tree
12	Jambhul 		Light green colored foliage



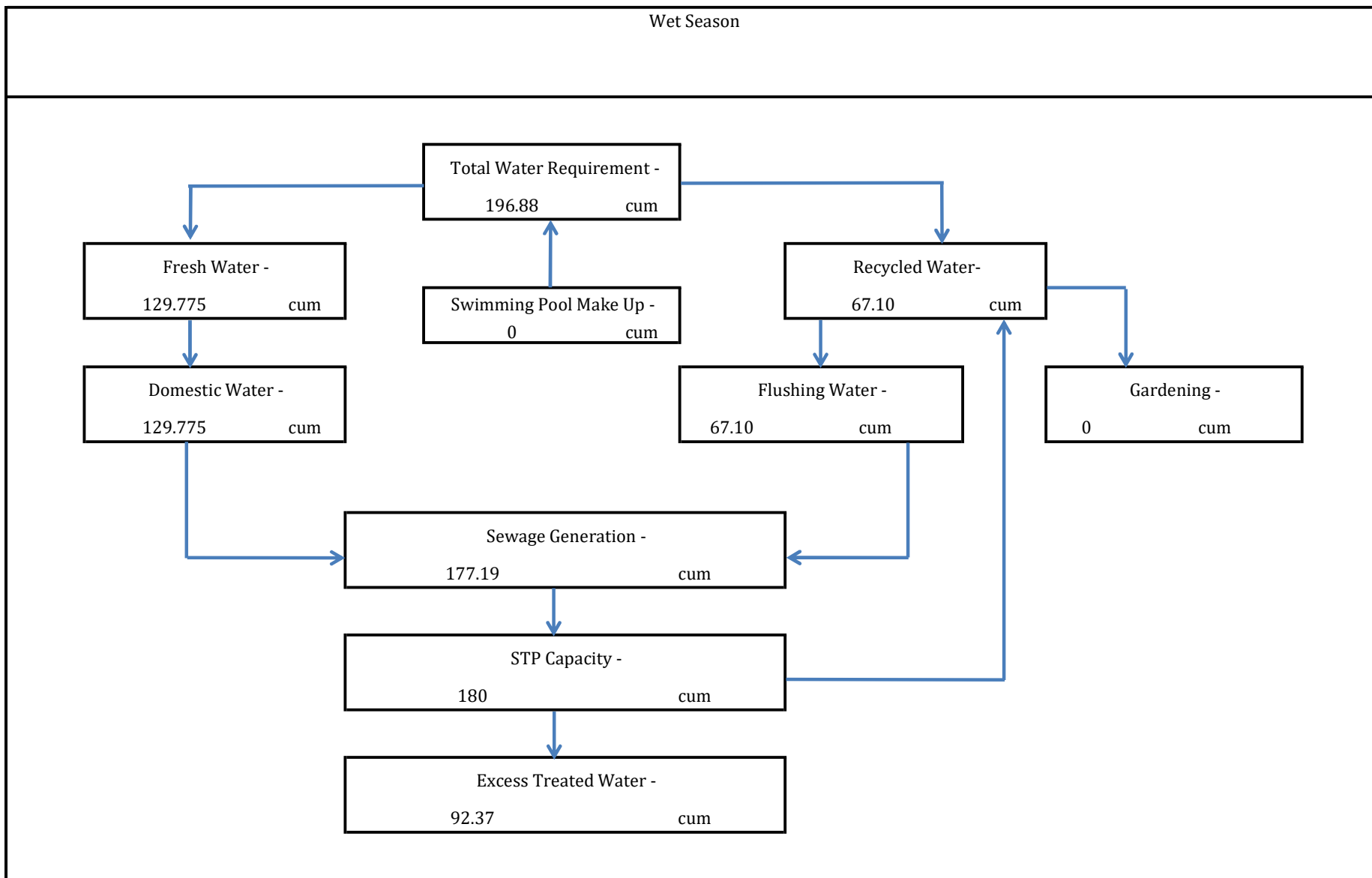












































































































































Schedule to the EIA Notification-2006. Therefore, Statement of PP on account of two different project viz. Prayeja City Plot-1 & Prayeja City Plot-2 is totally misleading and to overcome the mandates of prior EC and Consents.

4. That, the MoEFCC issued S.O. (E) 1533, EIA Notification-2006 dated 14.09.2006 mandating prior Environment Clearance and consent to establish to the Building and Construction and Township Project as described in item-8 of schedule to the notification.
5. That, the PP has carried out the construction with original sanction dated 29.03.2007 and thereafter revisions dated 30.03.2007, 06.09.2007, 20.09.2007, 02.04.2008, 07.05.2008, 11.08.2010, 08.11.2012, 03.08.2013 (Layout), 03.08.2013(Building Plan), 12.03.2014, 08.10.2015 & 10.07.2017 submitted under single proposal No. VDB/0071/06. It is important to note here that, the PP has carried out 13 revisions and increased the project scope from 0 M<sup>2</sup> to 650000 M<sup>2</sup> and PP has plan for further expansion of 25000 M<sup>2</sup>.
6. That, the proposal sanctioned by PMC vide its CC/1446/13 dated 03.08.2013 is clearly states that, the land development charges are already paid for an area admeasuring 24734 Sq. Mtrs. on 28.03.2007.
7. That, the PP submitted the revised layout in respect of the portion of the land admeasuring 7895 Sq. Mtrs. which



























	Number of trees to be cut:	0		
	Number of trees to be transplanted:	0		
Power requirement:	Source of power supply:	MSEDCL		
	During Construction Phase (Demand Load):	71 kW		
	During Operation phase (Connected load):	1909 kW		
	During Operation phase (Demand load):	788 kW		
	Transformer:	630 kVA X 2 + 315 kVA X 1		
	DG set:	200 kVA X 1 Nos.		
	Fuel used:	HSD		
Details of Energy saving	Most of the common area & external lighting are proposed to work on high energy efficient lamps(LED) as specified in bureau of energy efficiency which again results in saving in general consumption			
	Low loss Transformers due to which 6.22% losses are saved against conventional transformer.			
	Power Capacitors are proposed for load power factor correction and to maintain a healthy power situation. This also results in less demand load factor for the project.			
	Solar PV, Hot Water, Solar Street Lights, Energy Efficient Motors are proposed			
Environmental Management plan budget during Construction phase	No.	Details	Cost	
	1	Water for Construction & labour	Rs. 3.0 Lacs	
	2	Site Sanitation & Safety	Rs. 1.0 Lacs	
	3	Environmental Monitoring	Rs. 3.0 Lacs	
	4	Disinfection	Rs. 0.5 Lacs	
	5	Health Check up	Rs. 0.5 Lacs	
Environmental Management plan Budget during Operation phase	Component	Details	Capital (Rs.)	O&M (Rs./Y)
	Sewage treatment	Waste Water Management	14.5	8.6
	RWH	RWH Pits	1.75	0.1
	Solid Waste	Organic Waste Composting	7.4	1.0
	Green belt development	Tree Plantation	14.81	1.48
	Energy saving	Energy Conservation	46.16	4.61
	Environmental Monitoring	Pollution Control	0	4
	Disaster Management	Fire & LA	88.12	4.41
Parking details	Type	Required as per DCR	Actual Provided	Area per parking (m <sup>2</sup> )

  
Member Secretary

  
Chairman

Minutes of 218<sup>th</sup> (Part-A) meeting of SEIAA held on 01.04.2021

4- Wheeler	296	298	3704
2- Wheeler	617	620	1234
Bicycles	296	296	207

**SEAC Deliberation –**

The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a)B2. The Committee noted the letter issued by Environment & Climate Change Department vide no. Comp-2019/CR-23/SEIAA dt. 16.11.2019, withdrawing the Proposed Directions issued under section 5 of Environment (Protection) Act, 1986 vide letter dt.29.08.2009.

**During discussion following points emerged:**

1. PP to obtain Fire NOC.
2. PP to submit IOD / Plan Approval or any other form of documents as applicable clarifying its conformity with local planning rules and provisions there under.

**Recommendations of SEAC-**

SEAC decided to recommend the proposal for prior environmental Clearance subject to outcome of the Civil Appeal no. 4/2021 pending at Hon'ble Supreme Court of India.

**Deliberation in SEIAA-**

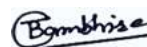
Proposal was recommended in 114<sup>th</sup> meeting of SEAC-3 for total plot area of 17063.63 m<sup>2</sup>, FSI area of 17875.09 m<sup>2</sup>, Non FSI area of 19220.00 m<sup>2</sup> and total BUA of 37095.09 m<sup>2</sup>.

As the Civil Appeal no. 4/2021 pending at Hon'ble Supreme Court of India.

**SEIAA after deliberation decided to defer the case till the outcome of the court case.**

**SEIAA Decision-**

**SEIAA after deliberation decided to defer the case till the outcome of the court case.**

**TRUE COPY**


  
 Member Secretary

  
 Chairman



# ANNEXURE-A-44



State Environment Impact Assessment  
Authority  
Maharashtra



“Pro Active and Responsive facilitation by Interactive, Virtuous and Environmental

Home Services Blog Contact Us

### Environment Clearance Status Query Form

\* Status :  Year :

\* Category :  State :

Enter text for Search :

[SEARCH](#)

### List of the proposals as per above given/selected query (As on 24-07-2021)

Help : \* Kindly click on image button to open the attached files ( e.g. Form1,PFR,TOR letter,Form1 for EC,EIA/EMP Report, Public hearing, EC letter, Additional information,Compliance Report,Monitoring Report etc.)

S.No	Proposal Details	Location	Important Dates	Category	Company/Proponent	Current status	* Attached Files	View TimeLine Details
1	Proposal No : SIA/MH/MIS/117936/2019 File No : SIA/MH/MIS/117936/2019 Proposal Name : Prayeja City - Plot 2	State : Maharashtra District : Pune Tehsil : Haveli	Date of Submission for TOR : N/A Date of Submission for EC : 22 Jan 2020	INFRA-2	PRAYEJACITY A JV BHANDARI GELADA ASSOCIATES LLP & PRAYEJA DEVELOPERS LLP	ADS by SEIAA		
2	Proposal No : SIA/MH/MIS/116410/2019 File No : SIA/MH/MIS/116410/2019 Proposal Name : Prayeja City Plot 1	State : Maharashtra District : Pune Tehsil : Haveli	Date of Submission for TOR : N/A Date of Submission for EC : 05 Sep 2019	INFRA-2	PRAYEJACITY A JV BHANDARI GELADA ASSOCIATES LLP & PRAYEJA DEVELOPERS LLP	Rejection Letter Granted		



© Content Owned, Updated and Maintained by Ministry of Environment, Forest and Climate Change, Government of India  
 Terms & Conditions | Privacy Policy | Copyright Policy | Hyperlinking Policy | Accessibility Statement | Disclaimer | Site Map | Contact Us  
 For any Technical support, Please Contact EFCCID, NIC, New Delhi, monitoring-fc(at)nic(dot)in

**TRUE COPY**