

**3273**

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

**WESTERN ZONE, PUNE**

Original Application No.162 OF 2024 (WZ)

Pramod Dhanraj Khursange

**Applicant**

**VERSUS**

District Collector and others

**Respondents**

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**NAGPUR**

**COUNSEL FOR RESPONDENT NO. 10.**

**DATED : 20/04/2025**

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

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**Applicant**

**VERSUS**

District Collector and others

**Respondents**

**REPLY-AFFIDAVIT ON BEHALF OF THE RESPONDENT**

**No.10**

The Respondent No.10 respectfully submits as under –

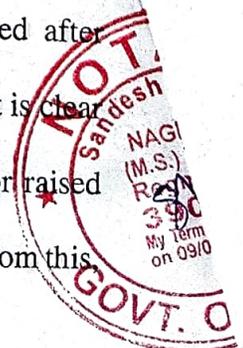
- 1) The applicant has sought a multitude of reliefs from this Hon'ble Tribunal. At the outset, the answering respondent submits that the original application is misconceived and fraught with false and baseless assertions. Accordingly, all assertions made in the application adverse to the answering respondent's interest are denied and no assertion or averment may be deemed to be admitted unless expressly admitted hereinafter. From a perusal of the record and the previous orders passed by this Hon'ble Tribunal, it is also clear that the applicant has misled the Hon'ble Tribunal by not pointing out the correct factual position on record. It is submitted that the



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concerned tenders for excavation, transportation and storage of sand were invited by the public notice dated 25.04.2023, possession of sand ghats was initially handed over to the successful bidders on 18.05.2023. The answering respondent was entrusted to excavate sand from Sirsoli and Chinchaghat sand ghats in the Taluka of Mouda as well as Rohna, Isapur-A and Kavdas Sand Ghats in the Taluka Saoner and it was further entrusted to manage the Sand Depot No.11 – Mahalgaon and Sand Depot 6 – Gosewadi.

2) The original application was premised on the allegation that only a draft District Survey Report was prepared, which itself was contrary to the Sustainable Sand Mining Management Guidelines, 2016 (“SSMMG”) and Enforcement and Monitoring Guidelines for Sand Mining, 2020 (“EMGSM”). The Respondents No.1 and 3 have clearly refuted this allegation and have also pointed out that a final DSR had been prepared in accordance with law. It has been specifically demonstrated that the final DSR was prepared after inviting objections and inputs from the public at large, and it is clear that the applicant had neither submitted any suggestion nor raised any objection to the draft DSR before its finalisation. Apart from this



there is no challenge to the final DSR in the present application. Thus, the applicant is now estopped in law from raising any grievance regarding the final DSR particularly when the DSR has been prepared in accordance with law. It is also falsely alleged in the amended synopsis of the original application, that the quantity of sand stated in the work order issued in favour of the answering respondent is at variance with what is stated in the draft DSR. It is clarified that there is no such variance and the impugned work orders are in conformity with the draft DSR.

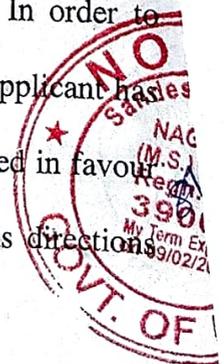
3) It is also reliably learnt, that the original application itself appears to have been filed with an ulterior motive at the behest of trade rivals based in other states. This is evident from the baseless allegations made in the original application as well the applicant's averments regarding his locus. The applicant has vaguely claimed that he is a public-spirited farmer, who is aggrieved by the alleged illegal sand mining. The applicant has not demonstrated as to how the sand mining is illegal and how he has been aggrieved by the mining activities. The applicant has not even claimed that he is either residing in the vicinity of a particular mine or that he has personally



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visited or inspected the sand mines situated in and around the District of Nagpur. The applicant has essentially objected to sand mining in and around the District of Nagpur based on a mere newspaper report published in a local daily, which does not even pertain to all the sand ghats in and around the District of Nagpur. Needless to say, a newspaper report is inadmissible in law and in any case, allegations which are purely based on a news report do not deserve credence or acceptance in absence of any corroborative material on record. Thus, the application under reply is liable to be dismissed *in limine*.

4) It is also pertinent to point out, that the applicant is essentially aggrieved by the environmental clearance granted to the answering respondent, which forms the basis of the work order issued in its favour. The applicant was fully aware of the fact, that a challenge to grant of environmental clearance could have been raised only in an appeal filed under Section 16 of the NGT Act, 2010 and therefore, the present application was not maintainable in law. In order to circumvent the provisions of the NGT Act, 2010, the applicant has attempted to challenge the order dated 02.02.2024 issued in favour of the answering respondent and further seek omnibus directions



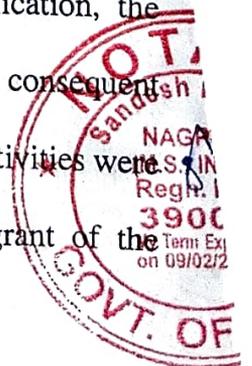
against mining operations in and around the District of Nagpur. It is submitted that in absence of a challenge to either the environmental clearance or the final DSR, the validity of any contract concerning the answering respondent cannot be examined in the present application, particularly when the applicant has not even challenged the initial agreement/work order pursuant to which the answering respondent is carrying out mining activities. On this count also, the original application is misconceived and defective.

5) It is also pertinent to point out that the applicant's contentions are premised on the applicability of the State Government's sand mining policy dated 16.02.2024. It is submitted that the concerned tenders for excavation, transportation and storage of sand were invited by the public notice dated 25.04.2023, possession of sand ghats was initially handed over to the successful bidders on 18.05.2023 and even the impugned orders were issued on 02.02.2024. It is therefore, submitted that at the relevant time, the new sand mining policy dated 16.02.2024 was not even in existence, and all mining activities were governed by the existing sand policy which was implemented by the Government Resolution dated



19.04.2023. Consequently, any contention regarding the sand policy implemented on 16.02.2024 is irrelevant and inconsequential. Pertinently, the original application does not even refer to the said sand policy, which was eventually brought to notice of this Hon'ble Tribunal by the Respondents No.1 and 3. Thus, it is clear that the original application is devoid of substance and suffers from suppression of complete facts.

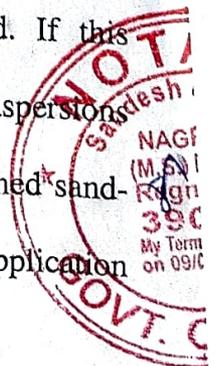
6) The applicant has misled the Hon'ble Tribunal by depicting that contractors such as the answering respondent are carrying out mining operations without authorization. As pointed out by the Respondents No.1 and 3, prior to the interim order of this Hon'ble Tribunal, the answering respondent was carrying out mining operations strictly in accordance with the work order after emerging as the successful bidder in a transparent, lawful tender process which was never challenged by the applicant before any competent forum. It is reiterated that even in the present original application, the applicant has not challenged the tender process or the consequent agreement/work order. It is submitted that the mining activities were carried out only in accordance with law and after grant of the



requisite environmental clearance. It is submitted that the applicant has miserably failed to demonstrate any illegality in this entire process. It is also not even pleaded, much less proved that the answering respondent was carrying out any mining activities without authorization. Be that as it may, it is most respectfully submitted that the Hon'ble Tribunal's *prima-facie* observations in its order dated 24.02.2025 regarding lack of authorization were actuated by applicant's misrepresentation of the facts and the failure on his part to place the complete and correct factual position on record. It is clarified, that a contractor such as the answering respondent is authorized and entitled to excavate sand throughout the contract period. The issuance of a work order or execution of an agreement pursuant to a tender process itself constitutes authorization for carrying out mining activities in terms of the work order or the agreement. It is submitted that since it is not advisable to excavate sand in the monsoon, possession of sand ghats is handed over to the authorities in a transparent process only for the limited period of monsoon. This ensures that mining activities are not carried out during this period under any circumstances. After the period of monsoon is over, possession of the sand ghat is duly returned to the

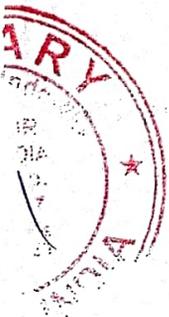


contractor to ensure that mining activities can be resumed. It is submitted that mere resumption of mining activities in terms of the contract does not require any additional authorization or grant of permission from the authorities. The possession letter dated 29.11.2024 was issued only in view of issuance of the fresh environmental clearance. In any case, the very act of returning possession of the sand ghats by the authorities by issuing a possession letter constitutes grant of express consent and permission to resume the mining activities. Thus, it is incorrect to even suggest that answering respondent does not have authorization to resume mining activities post the monsoon period. It is submitted that the applicant has failed to demonstrate the alleged non-compliance of law while resuming mining activities post monsoon period. Even otherwise, the applicant's imputation that mining activities were carried out during the monsoon period cannot be directed against a contractor such as the answering respondent, who was evidently not in possession of the sand-ghat during the said period. If this imputation is even entertained, it would amount to casting aspersions on the authorities who were in possession of the concerned sand-ghats. Considering these facts, it is clear that the present application



is devoid of substance, and it is liable to be dismissed. At the very least, the interim order passed on 24.02.2025 which was continued on 04.04.2025 deserves to be vacated forthwith, in the interest of justice.

7) As regards the issue of grant of consent to operate, it appears from this Hon'ble Tribunal's order dated 04.04.2025, that the Respondent-MPCB has already clarified on record, that it is not required to grant any such consent. In such circumstances, nothing survives in the original application. The applicant has failed to specify and substantiate any violation of law at the hands of the answering respondent or the other respondent-authorities. The application is clearly misconceived and the orders passed therein have caused great prejudice to the answering respondent. It is submitted that a contractor such as the answering respondent incurs great expenditure in building and managing the infrastructure for carrying out mining activities, transportation of sand and management of the depot. It is submitted that the stoppage of mining activities has resulted in great financial loss to the answering respondent. As stated by the Respondents No.1 and 3, sand is



required to be excavated, stored and transported for use in all infrastructure projects of public importance. It is submitted that if mining activities become financially unviable for contractors, it would be prejudicial to public interest, since the Government relies on sand contractors for proper excavation, storage and transportation of sand which can then be sold and utilized for all projects of public importance. It is submitted that the present original application is vexatious, frivolous and the bald allegations made therein are not even substantiated by any cogent material on record. At the most, the application has given rise to disputed questions of fact, which the applicant has miserably failed to prove. In view of the aforesaid facts, it is clear that the present original application is not tenable and devoid of merit. As stated above, it is reliably learnt that the application is filed with an ulterior motive at the behest of trade rivals of the answering respondent. Thus, the application deserves to be dismissed with exemplary costs.

**NAGPUR / PUNE**

**DATED:20/04/2025**

**COUNSEL FOR THE RESPONDENT No.10**



**SOLEMN AFFIRMATION AND VERIFICATION**

I, Ashwin S/o Mohan Karne, Aged about 42 years, Occupation – Business, Resident of C/o Mohan Karne. Kelibag Road, Mahal, Nagpur – 440032, do hereby take oath and state on solemn affirmation that I am the authorised signatory of respondent o.8 company and that the instant reply has been drafted by my counsel upon my instructions and that whatever has been stated herein above from paras 1 to 7 are true to the best of my knowledge and belief save and except the legal submission that are based on legal advice, which I believe to be true.

Hence verified and signed at Nagpur on this 19<sup>th</sup> Day of April, 2025.

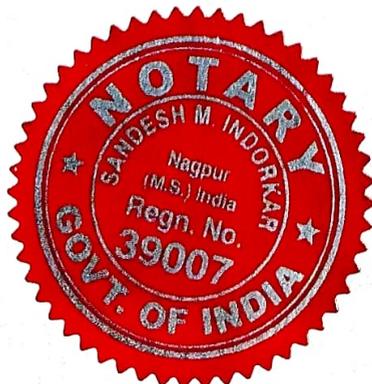
I Know & identify the deponent

**NOTARIAL REG.**  
ENTRY NO. 24  
DATE 20/4/25

  
ADVOCATE

  
DEPONENT





SWORN BEFORE ME ON THIS 20  
DAY OF 4 20 25 AT NAGPUR BY  
SHRI/SMT./KU. Ashwin Mohan Karne  
R/O Nagpur WHO HAS BEEN IDENTIFIED  
BY SHRI/SMT. self  
ADVOCATE, NAGPUR

  
NOTARY  
Govt. of India  
NAGPUR DIST, (M.S.) INDIA

I/we are not a member /members of the Welfare Fund. Therefore Stamp of Rs. 2/- is not affixed herewith

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N.B. Strike out whichever is not applicable.



## VAKALATNAMA

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL WESTERN ZONE

PUNE

On 16<sup>th</sup> April Case No. 162 / 2024 (WZ)

PLAINTIFF/COMPLAINANT : Pramod Dhanraj  
/APPELLANT/APPLICANT Khursange

VERSUS

DEFENDANT/RESPONDENT : District Collector  
/NON APPLICANT and others

I/We, Mr. Ashwin Mohan Karne director/authorized representative of Borele Build-Cons Pvt. Ltd Nagpur, the Resp. no. 10. in the said matter hereby appoint

**MUKESH SHUKLA,**  
(MAH/1756/1981)  
Mb. No.989000440

**PIYUSH SHUKLA,**  
(MAH/4089/2009)  
9975021352

**NEHA KINHEKAR**  
(MAH/3128/2022)  
7057934791

**MOHAN JAGDALE**

(MAH/3440/2023)  
9022244849

Office at Anand Vilas, Central Park Road,  
Dhantoli, Nagpur. e-mail: piyshukla@gmail.com

to appear and act for us as my/our Advocate/s in the said matter.

Witness my/our hand/s this.....20<sup>th</sup>..... day of April.....2025

Witness:

Accepted:

Signature of Advocates/s

Filed in court on.....20 / 04 / 2025.....

SIGNATURE

Ashwin.....



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# BORELE BUILD-CON PVT. LTD.

H.O.: 604/2, N.I.Mansion, N.M.V. Layout, Byramji Town, Nagpur - 440013 Ph : 0712- 2596543  
B.O.: Flat No. 1303, Shubhda Tower, 13th Floor, Sir Pochkhanawala Road, Worli, Mumbai - 400030  
Visit us at : www.dollygroup.in E-mail : info@dollygroup.in

CIN - U45201MH2002PTC135022

EXTRACT OF THE MINUTES OF THE BOARD MEETING OF BOARD OF DIRECTORS  
OF BORELE BUILD CON PRIVATE LIMITED HELD ON TUESDAY 15<sup>th</sup> DAY OF APRIL  
2025 AT THE REGISTERED OFFICE OF THE COMPANY AT NAGPUR AT 11.00 A.M

## RESOLUTION TO AUTHORIZE REPRESENTATION IN COURT

"RESOLVED THAT **Mr. Ashwin Mohan Karne** authorized representative of the Company, be and is hereby authorized to appear, represent, and act on behalf of the Company in all legal matters, hearings, or suits before any court of law, tribunal, or other legal authority.

RESOLVED FURTHER THAT the said **Mr. Ashwin Mohan Karne** authorized representative of the Company is hereby empowered to sign, verify and submit pleadings, affidavits, vakalatnama, petitions, written statements, applications, appeals, and any other necessary documents as may be required from time to time, and to do all such acts, deeds, and things as may be necessary and expedient in relation to the aforesaid.

RESOLVED FURTHER THAT a certified copy of this resolution be provided to concerned authorities as may be required."

Certified True Copy

FOR BORELE BUILD CON PVT.LTD

Mr. Mohd Israil Sheikh  
Director  
DIN :- 01686777



Mr. Mohd Imran Sheikh  
Director  
DIN :- 01798003