

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 111/2022 (WZ)



IN THE MATTER OF: -

ELEMENTA PHASE-I CO-
OPERATIVE HOUSING SOCIETY

APPLICANT

VERSUS

THE MINISTRY OF
ENVIRONMENT, FOREST &
CLIMATE CHANGE & ORS

RESPONDENT(S)

REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2
CENTRAL POLLUTION CONTROL BOARD (CPCB)

I, Bharat Kumar Sharma, S/o Shri. D.P Vishwakarma, aged 49 years, working as Scientist 'F' and Regional Director in the Regional Directorate, Central Pollution Control Board, Pune, do hereby solemnly affirm and declare as under:

That I, in the capacity of Scientist 'F' of the Central Pollution Control Board (hereinafter referred as CPCB) am fully conversant with the facts of the case and hence, competent to swear this reply affidavit on behalf of Respondent No. 2.

1. That the averments made in Para A and Para B (1 to 6) are about details of the Applicant and Respondents, which are matter of records and need no comments from this Answering Respondent No. 2.
2. That the averments made under Para C (1 to 13) under the heading "FACTUAL MATRIX IN BRIEF" are about details of Applicant's Society, location of school, college and hospital situated within 200 metres proximity of said society, Pimpri



Chinchwad Municipal Corporation started construction work of Metro Project at next to the said society without keeping space & margin, noise and air pollution caused due to construction work of the Metro by Respondent No. 6 i.e. M/s Tata Projects Ltd. Further averments are about adverse effects of noise pollution on the residents of the said society, the noise pollution being above permissible limit in residential area, air pollution caused due to operation of ready mix concrete plant installed by Respondent No. 6, the Applicant approaching Respondent No. 6 with a request to prevent noise & air pollution, grievance letter dated 25/01/2022 submitted by the Applicant to Sr, Police Inspector, Wakad Police Station, meeting dated 17/02/2022 between the Applicant and Respondent No. 6. The same are matter of records and need no comments from this Answering Respondent No. 2.

It is humbly submitted that that Government of India has notified Noise Pollution (Regulation and Control) Rules, 2000, under the Environment (Protection) Act, 1986. The said rules prescribe ambient air quality standards in respect of noise for various areas/zones; responsibility as to enforcement of noise control measures; restrictions on the use of horns; sound emitting construction equipment; complaints to be made to the authority; power to prohibit, etc. continuance of music, sound or noise; etc.

It is further humbly submitted that a person may, if the noise level exceeds the ambient noise standards by 10 dB(A) or more given in the corresponding columns against any area/zone (or, if there is a violation of any provision of these rules regarding restrictions imposed during night time,) make a complaint to the authority, as prescribed under Rule 7 of the said rules. Further, the authority shall act on the complaint and take action against the violator in accordance with the provisions of these rules and any other law in force.

Rule 8 of the said Rules prescribes about the Authority being satisfied from the report of an officer in-charge of a police station or other information received by him (including from the complainant) that it is necessary to do so in order to prevent annoyance, disturbance, discomfort or injury or risk of annoyance, disturbance, discomfort or injury to the public or to any person who dwell or occupy property on the vicinity, he may, by a written order issue such directions as he may consider necessary to any person for preventing, prohibiting, controlling or regulating the incidence or continuance in or upon stipulated premises and the carrying on in or upon, any premises of any trade, avocation or operation or process resulting in or attended with noise.



Further, "authority" has been defined under Rule 2(c) as - "authority" means and includes any authority or officer authorized by the Central Government, or as the case may be, the State Government in accordance with the laws in force and includes a District Magistrate, Police Commissioner, or any other officer not below the rank of the Deputy Superintendent of Police designated for the maintenance of the ambient air quality standards in respect of noise under any law for the time being in force.

Copy of the said Noise Pollution (Regulation and Control) Rules, 2000 is available at http://cpcbenvs.nic.in/noisepollution/noise_rules_2000.pdf

It is also submitted that CPCB has published "AUTHORITY LIST FOR IMPLEMENTATION OF NOISE RULES 2000". It provides information on the relevant authorities for implementation of the said rules for various States and Union territories including Maharashtra and the same are available on the following link of the CPCB website-

<https://cpcb.nic.in/displaypdf.php?id=Tm9pc2UtU3RhbmRhcmRzL0Fl dGhvcml0eU xpc3QucGRm>

3. That the averments made under Para C (14 and 15) are about applicant stating that all statutory authorities shall follow the principle of sustainable development while executing the construction project and the Applicant approaching the Hon'ble Tribunal in light of Precautionary principle, Polluters Pay principle and considering the Substantial Environment Issue.

It is humbly submitted that as per Rule 3(4) of the aforesaid Rules, all development authorities, local bodies and other concerned authorities while planning developmental activity or carrying out functions relating to town and country planning shall take into consideration all aspects of noise pollution as a parameter of quality of life to avoid noise menace and to achieve the objective of maintaining the ambient air quality standards in respect of noise. The Authority as defined under Rule 2(c) of the said Rules are responsible for the enforcement of noise pollution control measures and the due compliance of the ambient air quality standards in respect of noise, as stipulated under Rule 4(2), and has been vested with power to prohibit etc. continuance of noise, as stipulated under Rule 8 of the said Rules. Further, it is humbly submitted that violations, if any, of provisions of the Noise Pollution (Regulation and Control) Rules, 2000 are to be dealt by the authority as submitted at

Para 2 above.

4. That the averments made under Para D (a to f) are about Grounds for filing of present application by the Applicant, which have already been mentioned/commented in above paras of this affidavit by this Answering Respondent.
5. That the averments made under Para 16 to 19 are about the Applicant approaching the Hon'ble Tribunal under the National Green Tribunal Act, 2010, payment of necessary stamp duty, and other declarations by the Applicant, which are matter of records and need no comments from this Answering Respondent No. 2.
6. That the averments made under Para E are about the limitations for filing the present original application by the Applicant, and need no comments from this Answering Respondent No.2

That in light of the above submissions, it is respectfully prayed that this Answering Respondent No. 2 i.e. CPCB shall abide by any order or directions passed by this Hon'ble Tribunal.

DEPONENT

VERIFICATION

Verified at Pune on this day of January, 2023 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therein.

भरत कुमार शर्मा/Bharat Kumar Sharma
 क्षेत्रीय निदेशक / Regional Director
 केंद्रीय प्रदूषण नियंत्रण बोर्ड
 Central Pollution Control Board
 क्षेत्रीय निदेशालय, पुणे/Regional Directorate, Pune
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
 M/o Env't. Forest & Climate Change, Govt. of India
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DEPONENT – Respondent No. 2

Counsel for Respondent No. 2



ATTESTED

MANISHA SAMEER CHITNIS
 NOTARY
 GOVERNMENT OF INDIA

16 JAN 2023