

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

ORIGINAL APPLICATION NO. 87/2023(WZ)

IN THE MATTER OF:-

VANASHAKTI & ANR.

APPLICANT(S)

VERSUS

MUNICIPAL CORPORATION OF GREATER  
MUMBAI & ORS.

RESPONDENT(S)

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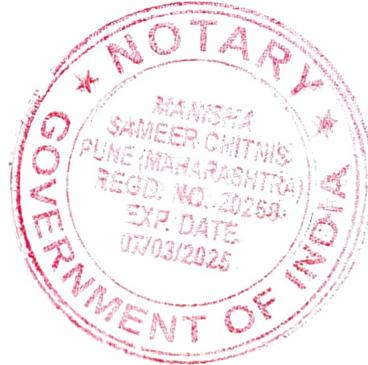
  
 क्षेत्रीय निदेशक / Regional Director  
 केंद्रीय प्रदूषण नियंत्रण बोर्ड  
 Central Pollution Control Board  
 क्षेत्रीय निदेशालय, पुणे / Regional Directorate, Pune  
 पर्यावरण, वन एवं जलवायु परिवर्तन विभाग, भारत सरकार  
 M/o Env. Forest & Climate Change, Govt. of India  
 सभे नं. ११०, हीरवाडी धनकुळे हॉल, बाणेर रोड, बाणेर, पुणे - ४११०४६  
 Sr. No. 110, Hirwadhi Dhankule Hall, Baner Road, Baner, Pune-411046

Place: Pune

Date: 11/01/2024

  
 (Pratik D. Bharne)

In-Charge: Regional Director



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

**ORIGINAL APPLICATION NO. 87/2023(WZ)**

**IN THE MATTER OF:-**

<b>VANASHAKTI &amp; ANR.</b>	<b>VERSUS</b>	<b>APPLICANT(S)</b>
<b>MUNICIPAL CORPORATION OF GREATER MUMBAI &amp; ORS.</b>		<b>RESPONDENT(S)</b>

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 5, i.e., CENTRAL  
POLLUTION CONTROL BOARD**

I, Pratik Dinkarrao Bharne, S/o Shri Dinkarrao Bharne, aged 50 years, working as Scientist 'E' and In-Charge: 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 'E' of the Central Pollution Control Board (hereinafter referred to as CPCB) am fully conversant with the facts of the case and hence, competent to swear this reply affidavit on behalf of the Respondent No. 5.

1. That the averments made under Paras 1 to 4 are about the details of the Applicants; Respondents and Applicants presenting the Memorandum of Application based on the grounds set out in the present Original Application, are matter of records and need no comments from this answering Respondent.
2. That the averments made under Paras 5 to 6 are about various Respondents which are matter of records. It is humbly submitted that, as per Rule 10 of the Construction and Demolition Waste Management Rules, 2016, the duties of CPCB are to prepare operational guidelines related to environmental management of construction and demolition waste management; analyse and collate the data received from the State Pollution Control Boards or Pollution

Control Committee to review these rules from time to time; coordinate with all the State Pollution Control Board and Pollution Control Committees for any matter related to the development of environmental standards; submit annual compliance report to Central Government based on reports given by State Pollution Control Boards or Pollution Control Committees.



3. That the averments made under Para 7 are about the cause of filing the application under reference and seeking urgent relief that includes removal of debris & restoration of soil, flood plains and overall environment of the illegal disposal site etc.

In this regard it is humbly submitted that violations, if any, under the concerned Acts/Rules are to be dealt by the respective agency as per provisions stipulated under such Acts/Rules.

4. That the averments made under Paras 8 to 11 are about the details of Mithi River and illegal dumping of various wastes on a stretch of approximately 500 on the banks of said River and even inside of the river near Tapeswar Mandir, Aarey Forest especially during late hours of the evening. Further averments are about clogging & restriction of natural flow of water during monsoon and dumping of debris into the Mithi River and Air & Water pollution due to illegal dumping of debris in the Mithi River bank.

In this regard, it is humbly submitted that violations, if any, under the concerned Acts/Rules are to be dealt by the respective agency as per provisions stipulated under such Acts/Rules.

5. That the averments made under Paras 12 to 14 are about the Applicants referring to the Section 3, 6 and 25 of the Environment (Protection) Act, 1986; definition of demolition construction waste as per Section 3 (vii) of the Municipal Solid Wastes (Management and Handling) Rules, 2000; responsibilities of Municipal Authority and the State Board or the Committees; responsibility of Municipal Authority to separately collect & dispose the horticulture & construction or demolition wastes or debris, as per the norms.

In this regard it is humbly submitted that Municipal Solid Wastes (Management and Handling) Rules, 2000 has been superseded by the Solid Waste Management Rules, 2016, further violations, if any, under the concerned Acts/Rules are to be dealt by the respective agency as per provisions stipulated under such Acts/Rules.

6. That the averments made under Para 15 is about notification of Rules for Management of Construction and Demolition Waste.

In this regard, it is humbly submitted that, in exercise of the powers conferred by sections 6 & 25 of the Environment (Protection) Act, 1986 (29 of 1986), and in supersession of the Municipal Solid Wastes (Management and Handling) Rules, 2000, except as respect things done or omitted to be done before such supersession, the Central Government notified the rules for Management of Construction and Demolition Waste and these Rules are called as "the Construction and Demolition Waste Management Rules, 2016."

7. That the averments made under Paras 16 to 17 are about the Rules notified by the Central Government in 2016 for Management of Construction and Demolition Waste; definition of waste generator as per Rule 3 (j); responsibility of waste generator as per Rule 4 (1) & Rule 4 (4) and utilization of construction & demolition waste in sanitary landfill, as per S. No. 3 of Schedule-I of the Construction and Demolition Waste Management Rules, 2016 (herein after referred to as C&D WM Rules, 2016). Further averments are about the responsibilities & duties of the local authority as per the Rule 3 (g) and Rule 6 of the C&D WM Rules, 2016. The same are matter of records and hence need no comments from this Answering Respondent.
8. That the averments made under Para 18 are about the duties of Central Pollution Control Board (CPCB) and State Pollution Control Board ( herein after referred to as SPCB) as per Rule 8 & 10 of the Construction and Demolition Waste Management Rules, 2016; preparation of Annual Report by the SPCB & implementation of the said Rules; submission of Annual Reports by the SPCB to the CPCB; grant of authorization to the Construction & Demolition Waste



Processing Facility by the SPCB or Pollution Control Committee (PCC) and duties of State Government or Union Territory Administration for providing suitable sites for setting up of storage, processing and recycling facilities for construction and demolition waste.



In this regard, it is humbly submitted that, as per Rule 10 of the Construction and Demolition Waste Management Rules, 2016, the duties of CPCB are to prepare operational guidelines related to environmental management of construction and demolition waste management; analyse and collate the data received from the State Pollution Control Boards or Pollution Control Committee to review these rules from time to time; coordinate with all the State Pollution Control Board and Pollution Control Committees for any matter related to the development of environmental standards; submit annual compliance report to Central Government based on reports given by State Pollution Control Boards or Pollution Control Committees.

9. That the averments made under Paras 19 to 24 are about the order dated 15/03/2018 of the Hon'ble Supreme Court in SLP no. 23708/2017 related to disposal of construction & demolition waste (C&D waste) as per the Rules stipulated under the C&D WM Rules, 2016; copy of circular dated 28/09/2018 issued by the Respondent no. 1 (Municipal Corporation of Greater Mumbai i.e. MCGM) w.r.t. standard operating procedure for disposal of C&D waste; and copy of the Maharashtra State Water Policy of 2019. Further averments are about the email communication dated 28/04/2023 addressed by the Applicants to the Respondent Authorities w.r.t. issue of extensive dumping of debris on the banks of the Mithi River inside Aarey Forest; copy of the news articles highlighting the plight of the Mithi River; Respondent Authorities not taking action against illegal dumping of debris in the banks of Mithi River at Aarey Forest; and the Applicants seeking the directions from the Hon'ble Tribunal.

In this regard it is humbly submitted that same are matter of records and hence need no comments from this Answering Respondent. Further it is humbly submitted that violations, if any, under the concerned Acts/Rules are to be dealt by the respective agency as per provisions stipulated under such Acts/Rules.

10. That the averment made under the heading "GROUNDS" (A to D) are about the dumping of C&D and other waste at the banks of Mithi River in violation of the Municipal Solid Waste (Management and Handling) Rules, 2000; Solid Waste Management Rules, 2016 and C&D WM Rules, 2016; failure of the Respondent Authorities to take action based on the complaint dated 28/04/2023 & to impart legal duty in protecting & conserving the Mithi River against illegal dumping of wastes; and identification, sorting & recycling of demolition & construction waste as per the stipulated norms.

It is humbly submitted that violations, if any, under the concerned Acts/Rules are to be dealt by the respective agency as per provisions stipulated under such Acts/Rules. It is further humbly submitted that this answering Respondent wants to reiterate the comments made at Paras 8 & 9, as above.

11. That the averment made under the heading "GROUNDS" (E to J) are about the failure of the Respondent no. 1 & 2 i.e. MCGM & Maharashtra Pollution Control Board (MPCB) to take cognizance on the repeated dumping of debris at the banks of Mithi River; disposal of C&D waste at the sites identified by the Municipal Authority; order dated 15/03/2018 of the Hon'ble Supreme Court in SLP no. 23708/2017 w.r.t. disposal of C&D waste as per the Rules stipulated under the C&D WM Rules, 2016; provisions of the Article 243 & Article 48-A of the Constitution of India; and order of the Hon'ble Tribunal dated 12/04/2023 in the matter in OA no. 370/2021, Manoj Kumar Rai Vs State of Uttar Pradesh.

In this regard it is humbly submitted that same are matter of records and hence need no comments from this answering Respondent.

12. That the averment made under the heading "GROUNDS" (K to O) are about the various provisions of the Rules stipulated under the C&D WM Rules, 2016 and the annual report prepared by the Respondent no. 2 i.e. MPCB.

In this regard it is humbly submitted that same are matter of records and this Answering Respondent wants to reiterate the comments made at Para 6, as above.

13. That the averment made under the heading "GROUNDS" (P to Q) are about the various provisions of the Rules stipulated under the Municipal Solid Waste (Management and Handling) Rules, 2000, which has been superseded by the Solid Waste Management (SWM) Rules, 2016. Further, as per Clause 16(1)(a) of the SWM Rules 2016, the concerned SPCB is responsible for enforcement of the Rules through local bodies.
14. That the averment made under the heading "GROUNDS" (R to V) are about the failure of Respondent no. 4 & 9 i.e. Deputy Commissioner of Police (Zone XII), Mumbai & Chief Executive Officer, Aarey Milk Colony, Mumbai in preventing dumping of debris on the banks of the Mithi River, Aarey Forest; responsibilities of the SPCB as per Section 17 of the Air (Prevention and Control of Pollution) Act, 1981; provisions of the Article 21 of the Constitution of India; enactment of the Environment (Protection) Act, 1986; and duty of the State to conserve & protect forests & forest lands under the Indian Forests Act, 1927 and the Conservation of Forests Act, 1980.

In this regard it is humbly submitted that same are matter of records and hence need no comments from this answering Respondent.

15. That the averment made under the heading "LIMITATION" (a & b), and under the heading "PRAYERS" (a to k) are about limitations for filing the present Original Application and various prayers, as submitted by the Applicants and need no comments from this answering Respondent.

That in light of the above submissions, it is respectfully prayed that this Answering Respondent No. 5 i.e. CPCB shall abide by any order or directions passed by Hon'ble Tribunal.

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  
 Mo Env. Forest & Climate Change, Govt. of India  
 सर्वे नं. 110, हिंजवडी सफाई हॉल, बाजर रोड, पुणे - 411045  
 Sr. No. 110, Hinjwadi Sanitation Hall, Bazar Road, Pune-411045

  
 DEPONENT

VERIFICATION

Verified at Pune on this ...10... day of January, 2024 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.

क्षेत्रीय निदेशक / Regional Director  
**केन्द्रीय प्रदूषण नियंत्रण बोर्ड**  
**Central Pollution Control Board**  
क्षेत्रीय निदेशालय, पुणे / Regional Directorate, Pune  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार  
M/o Env. Forest & Climate Change, Govt. of India  
सर्वे नं. ११०, हीरवाई धनकुळे हॉल, बाणेर रोड, बाणेर, पुणे - ४११०४६  
Sr. No. 110, Hirwai Dhankule Hall, Baner Road, Baner, Pune-411046

*Manisha Sameer Chitnis*  
DEPONENT

COUNSEL for Respondent no. 5

Noted & Registered  
At.Sr.No...33/2024...



BEFORE ME

*Manisha Sameer Chitnis*

MANISHA SAMEER CHITNIS  
NOTARY  
GOVERNMENT OF INDIA

11 JAN 2024