



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE
REVIEW APPLICATION NO. 09/2023
IN
APPEAL NO. 68/2019**

M/s. Grenesiis Constro Pvt. Ltd.

... Applicant

v/s.

Vishal Arinjay Shah & Ors.

... Respondents

REPLY AFFIDAVIT BY RESPONDENT NO. 5, SEIAA

I, Dattatray Suryakant Bhalerao, working as Scientist I & Deputy Secretary, Environment and Climate Change Department, Government of Maharashtra do hereby state on solemn affirmation as under –

I am well conversant with the facts of the present case and I am competent to swear this Affidavit based upon the records available with this office.

1. It is submitted that at the very outset this respondent denies each averment made in the present application which is contrary to and inconsistent with the averments made and facts states in the present

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reply. It is submitted that nothing stated in the application may be deemed to have been admitted by this respondent unless and until the same has been admitted by the respondent.

2. The present case pertains to review of the judgment dated 09-08-2023 initiated by the project proponent. Vide the said judgment, this Hon'ble Tribunal quashed and set aside the impugned EC dated 09-08-2019. PP had initiated construction at site without obtaining prior EC and hence had committed violation of the EIA Notification, 2006. The said EC was granted under the violation category by SEIAA, ex-post facto, under the Amnesty Scheme declared by the MoEF&CC dated 14-03-2017.
3. Environment and Climate Change Department, Government of Maharashtra and SEIAA Maharashtra wanted to streamline the process of evaluation of the 'environmental damage assessment' for such violation cases to bring reasonable consistency and uniformity in approach and assessment while dealing with such cases. The assessment of environmental damage is a very specialised study and the parameters, approach, weightages, techniques are likely to vary significantly from project to project and also, from area to area.



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4. For streamlining the process, the Department brought in an approach paper for providing general guidelines for effective evaluation and dealing with the proposals received under the Amnesty Scheme. The SEACs are free to incorporate any new specific aspect of evaluation, based on project type, damages anticipated and sensitivity of project area by making special reference to such compelling factors to incorporate additional evaluation aspects.
5. The methods and techniques to assess the damage would vary from project to project and also, has significant correlation with project site. Considering this, the scope of the approach paper has been limited to preparation of broad guidelines and framework to assess the damage, rather than detailing actual procedure and methodology.
6. The said approach paper is the result of detailed consultations with all stakeholders, including the NABET approved consultants and also, the associations of the project proponents. SEIAA has not laid down any different procedure contrary to the Amnesty Scheme. Approach Paper is a platform for the environmental consultants to have uniformity for calculating damage.



7. The said approach paper has not been challenged by anyone in any court of law in India. The said approach paper has also not been challenged by neither by the original appellant nor the present Review Applicant, and therefore it is valid. The Review Applicant is indirectly challenging the approach paper by filing this Review Application which cannot be permitted.
8. If the Review Applicant is aggrieved by the impugned judgment, they should challenge it by filing an appeal. It doesn't qualify under review.
9. Bank Guarantee is asked by the SEAC / SEIAA to the PP, which is to be deposited for time bound implementation of the Natural and Community Resource Augmentation Plan (NCRAP) and Environment Management Plan (EMP). By submission of the Bank Guarantee, the PP is not absolved from the responsibility of implementation of NCRAP and EMP. The Bank Guarantee has to be deposited prior to the grant of environmental clearance and is released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after the recommendation by regional office of the Ministry, Expert Appraisal Committee and approval of the Regulatory Authority.



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10. The objection which the PP is raising, should have been raised by them when their application for EC was considered by SEIAA. PP has never raised that objection before SEIAA / SEAC. Now because the EC has been quashed and set aside, PP is raising those objections now in a Review, which cannot be allowed. PP is interpreting the EC as per their convenience.

11. Amnesty Scheme doesn't refer to any time limit within which the NCRAP and EMP has to be implemented. The letter dated 30-01-2019 issued by the Environment Department also doesn't refer to any time bound action plan. The approach paper also doesn't refer to any time limit for implementation of the NCRAP and EMP. NCRAP and EMP are implemented parallelly alongwith execution of the project. At times it is difficult to predict how much time will be taken not only for execution of the project but even for implementation of the NCRAP and EMP, and therefore, the MoEF&CC in their wisdom, might not have given an outer limit within which the NCRAP and EMP have to be implemented.

12. However, if the Hon'ble Tribunal believes that an outer time limit should be prescribed for implementation of the NCRAP and EMP, then views can be sought from the MoEF&CC as they are the



appropriate authority to lay down such policy by bring appropriate notification.

13.It is suggested on behalf of SEIAA that the progress of implementation of NCRAP and EMP can be mentioned by the PP in the 6 monthly monitoring report which they have to submit to the Regional Office, MoEF&CC.

14.SEIAA has followed the due procedure under EIA Notification, 2006 and the Office Memos and Circulars issued by MoEF&CC from time to time while granting of the impugned EC. There are no procedural lapses on part of the SEIAA while granting the EC. SEIAA grants the EC on the basis of the documents submitted by the PP.


15.This respondent craves leave to file any additional reply as and when required. In light of the above submissions, it is respectfully prayed that Environment Department shall abide by any orders and directions issued by the Hon'ble Tribunal.

Whatever is stated above is true and correct to the best of my knowledge, ability and belief and I affirm it to be true.

Mumbai

Date 27/01/2025




Dattatray Suryakant Bhalerao
Scientist-I & Deputy Secretary,
Environment & CC Department,
Government of Maharashtra

VERIFICATION

I, Dattatray Suryakant Bhalerao, Scientist-I & Deputy Secretary, Environment and Climate Change Department, Government of Maharashtra, having my office address at room no. 217, 2nd floor, Mantralaya, Mumbai – 400 032 do hereby verify and declare that the statements made in the aforesaid paras are true and correct to the best of my knowledge and information and I believe the same to be true and that no material is has been concealed therefrom.

Solemnly affirmed on this 27th day of January 2025 at Mumbai.



BEFORE ME

[Signature]

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[Signature]

Dattatray Suryakant Bhalerao
Scientist-I & Deputy Secretary,
Environment & CC Department,
Government of Maharashtra

NOTED & REGISTERED
Page No. 176 Sr. No. 1854
Date: 27 JAN 2025



