

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**WESTERN ZONE AT PUNE****ORIGINAL APPLICATION NO. 91 OF 2019/WZ****IN THE MATTER OF:**

Pohra Bachav Samiti

...Applicant

Versus

Amravati Municipal Corporation & Ors.

...Respondents

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THROUGH


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DATED:- 18.01.2023

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
ORIGINAL APPLICATION NO. 91 OF 2019/WZ

IN THE MATTER OF:

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**REPLY TO THE ADDITIONAL AFFIDAVIT ON BEHALF OF THE
RESPONDENT NO. 1 DATED 01.12.2022**

MOST RESPECTFULLY SHOWETH:

1. That this reply is in response to the Additional Affidavit dated 01.12.2022 on behalf of the Respondent No. 1, i.e., the Amravati Municipal Corporation, Amravati, Maharashtra. At the outset, the Applicant denies the contents of the Counter Affidavit filed by Respondent No. 1 unless expressly admitted or are of matter of record.
2. The above titled Original Application before the Hon'ble NGT has been filed raising substantial question relating to the environment arising out of massive reclamation and concretization of and construction in Chhatri tank, a wetland situated in Amravati District, Maharashtra in violation of the Wetland (Conservation and Management) Rules, 2010 (hereinafter referred to as "**Wetland Rules, 2010**") and the Hon'ble Supreme Court order dated

14.10.2017 in ***M. K. Balakrishnan & Ors. v. Union of India & Ors. (WP (Civil) 230 of 2001)*** and the Wetland Rules, 2017 (hereinafter referred to as "**Wetland Rules, 2017**") The reclamation is being carried out by Amravati Municipal Corporation, in complete and utter disregard to the consequences of these activities on the biodiversity of the region and on the ecology of the wetland.

3. That the Applicant submitted an Additional Affidavit on 03.12.2022 and that should be read as part and parcel of this Reply to the Additional Affidavit of Respondent No.1 and same is not repeated for the sake of brevity.

PARA WISE REPLY

4. That the contents of paragraph 1 are matter of record and need no response.
5. That in response to the paragraph 2, it is submitted that the Applicant is made aware of the fact that Maharashtra Jeevan Pradhikaran, Maharashtra is the owner of the Wetland through Written Submission dated 14.12.2020 and the Additional Affidavit dated 01.12.2022 of the Respondent No. 1. The Applicant is taking necessary step to implead the Maharashtra Jeevan Pradhikaran, Maharashtra as a party Respondent to the above titled Original Application.
6. That in response to paragraph 3, it is submitted that that the Applicant is made aware of the fact that District Collector,

Amravati, Maharashtra is heading the committee approving the project in Wetland through Written Submissions dated 14.12.2020 and Additional Affidavit dated 01.12.2020 of the Respondent No.

1. The Applicant is taking necessary step to implead the District Collector, Amravati, Maharashtra as a party Respondent to the above titled Original Application.

7. That in response to paragraph 4, it is submitted that the Respondent is liable for violation of the Wetland Rules, 2017 and also in violation of Wetland Rules, 2010 and it is denied that the Original Application is to be rejected. That Chhatri tank wetland is protected under the Wetland Rules, 2010 as directed in the order dated 14.10.2017 Hon'ble of Supreme Court in ***M. K. Balakrishnan & Ors. v. Union of India & Ors. (WP (Civil) 230 of 2001)*** and also Wetland Rules, 2017 (**paragraphs 6-8, pages 148-149 of the Additional Affidavit of Applicant**). Rule 4 (1)(i) of the Wetland Rules, 2010 prohibits reclamation of wetlands and Rule 4(1)(vi) prohibits construction of permanent nature except boat jetties within 50 metres from the HFL of the wetland. Rule 4(2)(i) of Wetland Rules, 2017 prohibits conversion of wetland for non-wetland uses including encroachment of any kind and Rule 4(2)(vi) prohibits construction of a permanent nature except for boat jetties within 50 metres from the High Flood Line (HFL) of the wetland. The activities carried out as a part of the beautification work by the Respondent include construction of

pathways, choupati, amusement park, suspension bridge, etc. in the name of provision of basic amenities. Such acts involves reclamation of the wetland and are in the nature of permanent construction as well are for non-wetland use, therefore, in violation of Wetland Rules, 2010 and also Wetland Rules, 2017. Hence, Respondent is liable for violation of the Wetland Rules, 2010 and Wetland Rules, 2017.

8. That the response to sub-paragraphs of the paragraph 5 is as below:

A) That the contents of paragraph 5(A) are denied for being false. It is submitted that as per the over laid image of the Google image of the Chhatri talao over the map of wetlands as mapped in the National Wetland Atlas of the MoEF&CC (**Annexure A-3 of Additional Affidavit of Applicant, page 154**), the entire Chhatri talao is a wetland, therefore, it cannot be said by the Respondent that there is no wetland on the northern side of the Chhatri talao where the beautification work has been sanctioned. It is also submitted that the beautification work to strengthen the talao on the northern side is in violation of Wetland Rules, 2010 and Wetland Rules, 2017, because as per Rule 4(1)(vi) of Rules, 2010 and Rule 4(2)(vi) of Rules, 2017, construction of permanent structure cannot be carried out within 50 metres from the High Flood Line of the wetland and construction of

the strengthening structure has been done inside the wetland which is well within 50 metres from the High Flood Line as can be seen from the photographs attached in the Application (**Annexure A-6, pages 36-45**).

- B) That the contents of paragraph 5(B) are denied for being misleading and false. It is submitted that the beautification work around the Chhatri talao includes chain link fencing, pathway, parking, boating, skywalk, landscaping, etc., all of which will obstruct the natural pathway and course of the animals to access the talao for drinking water. There is no other water source for the animals in an area of 10 sq. km. available for wildlife as stated in the letter dated 24.04.2019 of the Dy. Conservator of Forests (**Annexure A-7 of the Application, pages 47-49**). However, without prejudice to the submissions above, it is submitted that the Respondent has executed the development work in violation of the Wetland Rules, 2010 and Wetland Rules, 2017. It is further submitted that the contention of the Respondent that the beautification work has not been carried out on the wetland and that the wetland is intact is false and is denied. The entire of Chhatri talao is a wetland as can be seen from the overlaid image of the Google image of the Chhatri talao over the map of wetlands as mapped in the National Wetland Atlas of the MoEF&CC (**Annexure A-3 of Additional Affidavit of**

the Applicant) which means that the beautification work has been carried out in and around the Chhatri talao wetland, in violation of the Wetland Rules, 2010 and Wetland Rules, 2017.

- C) That the contents of paragraph 5(C) are denied for being false. It is submitted that the beautification work being done in and around the Chhatri talao wetland will obstruct the natural pathway and course of the animals to access the talao for water as submitted in paragraph 8(B) of the present Reply and is not repeated here for the sake of brevity.
- D) That in response to paragraph 5(D), it is submitted that Chhatri Talao is a major source of drinking water for the wild animals and the beautification work will obstruct their natural path and source of drinking water. The response for the same has been substantiated in paragraph 8(B) of the present Reply and is not repeated here for the sake of brevity.
- E) That the contents of paragraph 5(E) are denied for being false. It is submitted that irrespective of the status of ownership over talao or the responsibility for water supply, the Respondent will be liable for violation of Wetland Rules, 2010 and the Wetland Rules, 2017 as it is the agency responsible for the execution of the beautification work. The response for the same has been substantiated in paragraph

8(A) of the present Reply and is not repeated here for the sake of brevity.

- F) That in response to paragraph 5(F) it is submitted that the Respondent will be held liable for violations of the Rules, 2017 as its role as the executing agency for the beautification work. The submissions for the same has been substantiated in paragraph 8(A) of the present Reply and is not repeated here for the sake of brevity.
- G) That the contents of paragraph 5(G) is denied. It is submitted that as per Rule 4(1)(vi) of the Wetland Rules, 2010 and Rule 4(2)(vi) of the Wetland Rules, 2017, construction of permanent structure within 50 metres from the HFL of Chhatri talao wetland is prohibited and therefore, is in violation of Wetland Rules, 2010 and Wetland Rules, 2017. Therefore, the contention of the Respondent that the beautification is to be done at a height where the water of the tank does not reach and that the construction will be done in a certain way that there are remote chances of water reaching to that height, is misleading. This is because all these activities fall within the prohibited area of 50 metres from the HFL, irrespective of whether the water reaches till that height. Further, the Respondent is liable for the violations of both the Wetland Rules, 2010 and Wetland Rules, 2017 because the

execution work of prohibited activities under both the Rules, 2010 and Rules, 2017 is being carried out by the Respondent.

- H) That the contents of paragraph 5(H) is denied for being false. It is submitted that the activities that are a part of the beautification work do not include any such activity that will strengthen the talao. Activities of permanent construction such as suspension bridges, pathways, laser show area, fountain, amusement park will only increase the vulnerability of the talao and destroy its natural ecology. As submitted in the Application (**Annexure A-2 of the Application, Pages 24- 27**) the talao is a habitat of many species of birds and the laser show is going to create light pollution for the birds, therefore harmful to the biodiversity of the area.
9. That the contents of paragraph 6 that the respondent is not liable for the violation of Wetland Rules, 2017 is denied for being false. The response for the same has been substantiated in paragraph 7 of the present Reply and is not repeated here for the sake of brevity.
10. That the contents of paragraph 7 are denied as they are misleading. The response to the same has been substantiated in the above paragraphs of the present Reply and is not repeated here for the sake of brevity.
11. Thus, in light of the above, the prayers in the Original Application should be allowed.

12) Pass any such orders as this Hon'ble Tribunal may deem fit in the facts and circumstances of the case.

APPLICANT

THROUGH

I do swear in the name of God solemnly affirm That, This is my name and signature or mark and that the Contents of this my affidavit are true and correct

ATTESTED THE SIGNATURE OF THE EXECUTANT NOT RESPONSIBLE FOR THE CONTENTS OF THIS DOCUMENT
N.R.S. No. 1539/2023 Date: 14/01/2023

RITWICK DUTTA

Sign. of deponer

Sign. of Notary

14/01/2023

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N.R.S. No. 1539/2023
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PLACE:- Pune/Delhi

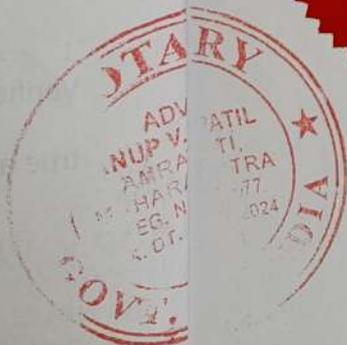
DATED:- 14.01.2023

ANUP V. PATIL

Advocate & Notary

Reg. No. 15877

14/01/2023



Notary



I/1599/2023,
N.R.S. No.....

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IN THE MATTER OF:

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Versus

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...Respondents

AFFIDAVIT

I, Sagar Ashokrao Midankar, son of Ashokrao Gulabrao Maidankar, resident of 40/1 Vijay colony, tower line, VMV road, Amravati- 444604, do hereby solemnly affirm and state as under:

1. That I am the authorized representative of the Applicant Committee in the above titled Application and that I am conversant with the facts and circumstances of the case and competent to swear this Affidavit.
2. That content of the accompanying Reply are true and correct to the best of my knowledge and is drafted on my instruction and nothing material has been concealed therefrom.

Notary

DEPONENT

VERIFICATION

I, Sagar. A. Maidankar, Age-36, R/o Jayashri APP. U.M.V. AMT.
Verified on this 14 day of January, 2023 that the contents of the above affidavit are

true and correct and nothing material has been concealed therefrom.

ANUP V. PATIL
Advocate & Notary
Reg. No. 15877

14/01/2023

ATTESTED THE SIGNATURE OF THE
EXECUTANT NOT RESPONSIBLE
FOR THE CONTENTS OF THIS DOCUMENT
N.R.S. No I/1599/2023...Date: 14/01/2023

DEPONENT

I do swear in the name of God
solemnly affirm That,
This is my name and signature or
mark and that the Contents of this
my affidavit are true and correct

Sign. of deponent

Sign. of Notary

14/01/2023