

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**WESTERN ZONE BENCH****Appeal No. 68 of 2019**

Vishal Arinjay Shah

....Petitioner

Versus

Sou. Smita Pradeep Shah & ors.

....Respondents

**MOST RESPECTFULLY SHEWETH:**

I, Hemant More, Age: **55** years, Executive Engineer (Bldg. Department), Pune Municipal Corporation do state on solemn affirmation as under:

1. It is submitted that I am working as Executive Engineer, Building Dept. in Pune Municipal Corporation (Henceforth referred as "**PMC**" for the sake of brevity) and I am authorized to file an affidavit before the Hon'ble National Green Tribunal on behalf of Respondent No. 3, the PMC.
2. I, Hemant More, Age: 53, Executive Engineer, Building Permission Department, Pune Municipal Corporation, do solemnly state that I am competent to swear this affidavit and this affidavit has been prepared on



the basis of information given to me and documents made available to me.

3. I state that I am filing this affidavit in reply to the Appeal no. 68 of 2019 filed in relation to the by the present Petitioner before the Hon'ble National Green Tribunal, Western Zone Bench.
4. At the outset, I state that all the allegations made by the petitioner are false and baseless and failure to deny each and every averment by the present Respondent does not amount to admission thereof.
5. I state and submit that para 1 contains the details of the Appellant and the impugned construction project and hence does not require a response from the present Respondent no. 3.
6. I state and submit that para 2 contains brief details about the impugned project as well as steps taken by the project proponent (henceforth "PP") and the present Appellant and hence does not require a response from the present Respondent no. 3.
7. I state and submit that para 3 alleges that the PP had submitted a proposal for approval to the SEIAA. This requires no response from the present Respondent no.3 because it falls within the knowledge of Respondent no.5 & 6 SEIAA.



8. I state and submit, with respect to para 4 & 5, that the allegations contained in the above mentioned paragraphs falls within the knowledge of SEIAA and hence requires no response from the present Respondent.
9. I state and submit, with respect to the Grounds, that it contains a well-known principle of Environmental Jurisprudence and hence requires no response from the present Respondent. PMC is responsible only for the issuance of commencement certificate, plinth checking certificate and occupation certificate. PMC is not responsible for issuing EC which may be issued either by the SEIAA or the MOEF depending upon the size of the project.
10. It is submitted that inspection of site in question was taken on 05/07/2016 by the Pune Municipal Corporation and prepared the status Report, which is as below,

Sr No.	Item	FSI (In sq meter)	Non-FSI (In sq meter)
01	FSI	7144.60	
02	Balcony		1,064.03
03	Staircase		262.56
04	Fire Staircase		248.76



05	Staircase Lobby		14.96
06	Passage		410.71
07	Lift Lobby		122.94
08	Lift		13.10
09	Fire Lift		12.78
10	Adjacent Terrace		1563.42
11	Lift Machine Room		231.63
12	Top Terrace		985.32
13	O.H. Water Tank		54.90
14	Parking		13,171.28
	Total	7,144.60	18,153.39
<u>Total Built Up Area (i.e F.S.I. + Non F.S.I.) = 25,297.99 sq. m.</u>			

11. It is submitted presently no construction work is going on at the said site.

12. It is submitted that the plans are sanctioned on the application made under sec. 44 of MRTP Act. 1966 through a licensed Architect, thereafter proposals are sanctioned under sec 45 of MRTP Act. Hence there is no bar on planning Authorities on sanctioning of the plans.



13. It is submitted that once a construction is complete Licensed Architect submits a completion certificate to PMC certifying that all the conditions are fulfilled and the building is ready for occupation. On receiving the completion certificate PMC verifies all the permissions are in place and grants occupation certificate there are specific times in the Rules.

14. Relevant Rules regarding plinth checking, completion certificate and occupancy certificate in DC Rules, are reproduced below: -

“7.4 Checking of Plinth /Column up to Plinth Level — *The owner shall give notice in prescribed form given in Appendix G to the Authority after the completion of work up to plinth level with a view to enable the Authority to ensure that the work is carried out in accordance with the sanctioned plans. The Authority shall carry out inspection within seven days from the receipt of such notice and give permission, for carrying out further construction work as per sanctioned plans in prescribed Proforma given in appendix H. Within the above period if the permission is not refused, the permission shall be deemed to have been given.*



7.5 Deviation During Construction — *If during the construction of building any departure which is not of a substantial nature from the sanctioned Plan is intended to be made by way of addition which does not violate any provisions regarding general building requirements structural stability and fire safety requirements of the rules alteration may be made and sanction of the authority shall be obtained immediately and in any case before application for occupation certificate and the procedure laid down for original plans shall apply to all such amended plans except the building permission fee. Provided further that if any such alterations are likely to result in increasing the number of tenements, the built-over area/FSI or change in the marginal opens spaces or the height of the building. No such alterations shall be carried unless sanction to the amended plans is first obtained.*

7.6 Completion Certificate — *The owner through the licensed architect, engineer, structural engineer, as the case may be who has supervised the constructions, shall give notice to the Authority regarding completion of work described in the building permission. The completion certificate shall be submitted in the prescribed form*



by four sets of completion Plan. One of the sets, duly certified as Completion Plan shall be returned to the owner along with the issue of full occupancy certificate (see rule NO. 7.7)

7.7 Occupancy Certificate —The Authority, on receipt of the completion certificate, shall inspect the work and sanction or refuse an occupancy certificate in the Proforma given in Appendix K within 21 days from the date of receipt of completion certificate, after which period it shall be deemed to have been approved by the Authority for occupation provided the building has been constructed as per the sanction plans. Where the occupancy Certificate is refused, the various reasons shall be quoted for rejection, at the first instance itself.

7.7.1 Part Occupancy Certificate - Upon the request of the holder of the building permission the Authority may issue a part occupancy certificate for a building or part thereof, before completion of the entire work as per building or part thereof, before completion of the entire work as per building permission provided sufficient precautionary measures are taken by the holder of the building



permission to ensure public safety and health safety, The part occupancy certificate shall be given by Authority subject to the owner indemnifying the authority as per the Proforma given in Appendix. 1

7.7.2 In the case of building identified in rule No. 6.2.6.1 the work shall also be subject to the inspection of the Chief Fire Officer, Pune Fire Brigade and the occupancy certificate shall be issued by the Authority only after the clearance from the Chief Fire officer regarding the completion of the work from the fire protection point of view."

15. PMC has strictly abided with the DC Rules, Maharashtra Regional and Town Planning Act, 1966 and Maharashtra Provincial Municipal Corporation Act, 1949 and has granted all the permissions accordingly.
16. It is submitted that PMC has not committed violation therefore it humbly submitted that no adverse order passed against PMC.

Pune

Date 17/07/2023

Rajesh

Advocate for the Respondent No.3

Rajesh

Respondent No.3
कार्यवगरी अभियंता
बांधकाम विकास विभाग ज्ञोन क्र. १
पुणे महानगरपालिका



VERIFICATION

I, Hemant More, Age: 55 years, the Executive Engineer (Building Permission Department), Pune Municipal Corporation the authorized signatory for PMC, do hereby state on solemn affirmation that what is stated in Para No. 01 to 16 are true and correct to my own knowledge and belief.

Solemnly affirmed at Pune

This 17 day of July, 2023



Rgareg

Advocate for the Respondent No. 3

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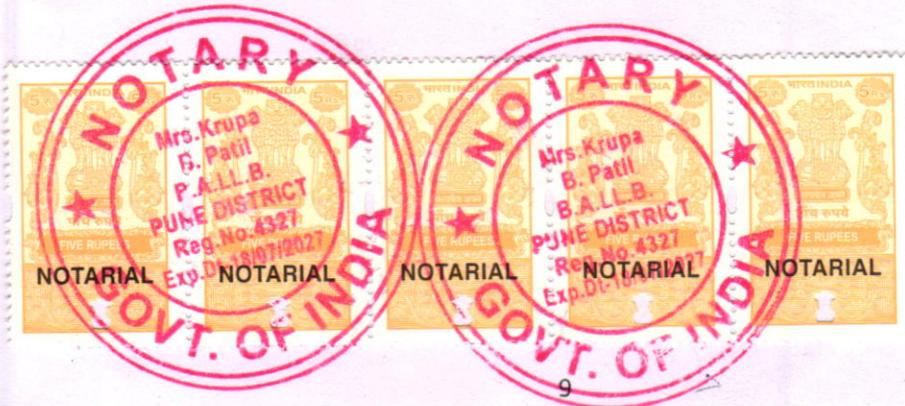
Respondent No. 3

कार्यकारी अभियंता
बांधकाम विकास विभाग झोन क्र. ९
पुणे महानगरपालिका

BEFORE ME

Krupa B. Patil

**MRS. KRUPA B. PATIL
ADVOCATE & NOTARY
GOVT. OF INDIA
PUNE DISTRICT**



**NOTED & REGD.
Sr.No. A161/23**

17 JUL 2023