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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

**WESTERN ZONE BENCH**

**ORIGINAL APPLICATION No. 105 of 2019**

Tanaji Gambhire

....Applicant

Versus

The Principal Secretary Env. Dept & Ors.

....Respondents

**MOST RESPECTFULLY SHEWETH:**

31 AUG 2023

I, Sandip Shinde, Age: 33 years, Deputy Engineer (Bldg. Permission Department), Pune Municipal Corporation do state on solemn affirmation as under:

1. It is submitted that I am working as Deputy 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. 09-10, the PMC.
2. I, Sandip Shinde, Age: 33 years, Deputy Engineer (Bldg. Permission Department), Building Permission Department, PMC, 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 on behalf of the Respondent No. 09 and 10 in the Original Application No. 105 of 2019 filed by the present Petitioner before the Hon'ble National Green Tribunal, Western Zone Bench.

4. At the outset, I deny all the contentions and/or statements and/or allegations and nothing will be deemed to be admitted only on the ground of non-traverse, unless specifically being admitted herein.

5. I state that the village Undri was not in the limits of PMC till year 2017. I state that vide notification dated 04/10/2017 issued by Urban Development Department, Government of Maharashtra village Undri is merged within the limits of PMC.

6. 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&CC depending upon the

size of the project. It is relevant to be note that in the projects under question most of the building permissions, occupancy certificate etc. were granted either by District Collector, Pune or by the Pune Metropolitan Regional Development Authority (PMRDA) prior to the merging of the village Undri in PMC limits.

7. **“Nyati Eternity-I”**

Nyati Eternity-I is the project developed on the S No. 24/1/2 village Undri. It is pertinent to be noted that no building permission, in respect of the said project is granted by the PMC.

Pursuance to the building permission, Pra. Kra. 918/16-17 dated 29/12/2016 issued by the District collector, Commercial building is developed at Amenity area. Part Occupancy Certificate was already issued by the PMRDA. After following due procedure, vide OCC/0705/19 dated 06/12/2019, PMC has granted Part Occupancy certificate to the said Commercial Building.

8. **“Nyati Eternity-II”**

Nyati Eternity-II is the project developed on the land of S No. 25/1/1/2/4/5/6. Vide order number, BHA/CR 3445 dated 18/02/2016

issued by the PMRDA. It is relevant to be noted that PMC has not granted any of the building permission in respect of the said project. PMC sanctioned only a lay out in respect of the said project. It is relevant to be noted that the said lay out is sanctioned by the PMC, only for the reason that the amenity area is to be handed over to the PMC by the developer.

9. "Nyati Embrace"

Respondent No. 11 is developing the land S. No. 25/1/3, Undri. The building permission is granted in respect of the said project by the District Collector, Pune. The Building permissions granted in respect of the said project are as below,

Sr No.	Permission No.	Date	Granting Authority
1.	PRH/NASR/150/2013	28/06/2013	District Collector, Pune
2.	PRH/NASR/745/2014	24/09/2014	District Collector, Pune
3.	CC/0317/2022	11/05/2022	PMC (19,801.00 sq.m. Total Built Up Area)

It is relevant to be noted that on 09/08/2021 site visit conducted by Joint committee, that time no construction was found on the project site.

I say that after following due procedure, PMC granted revision to the said project vide CC/0317/2022 dated 11/05/2022 for the Total Built Up Area, (TBUA) 19,801.00 sq meter. The presently the construction work is going on.

**10. "Nyati Eternity-IV"**

Nyati Eternity-IV is the project developed on the land of S No. 25/1/1 Undri. It is relevant to be noted that PMC has neither granted building permission nor Occupancy Certificate in respect of the said project.

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

12. 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.

13. 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 open spaces or the height of the building. No such alterations shall be carried out 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."*

14. I crave leave of this Hon'ble Tribunal to file additional Affidavit as and when the occasion so arises.

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 the permissions accordingly.

16. It is submitted that PMC has not committed violation to any provision under law therefore it is humbly submitted that no adverse order may be passed against PMC.

Pune

13<sup>th</sup> AUG 2023

Date 31<sup>st</sup> day of August, 2023

*Rejaleg*

Advocate for the Respondent No.09-10

*[Signature]*

Respondent No 09-10

उप अभियंता  
वाधकाम विकास विभाग झोन क्र  
पुणे महानगरपालिका

2082

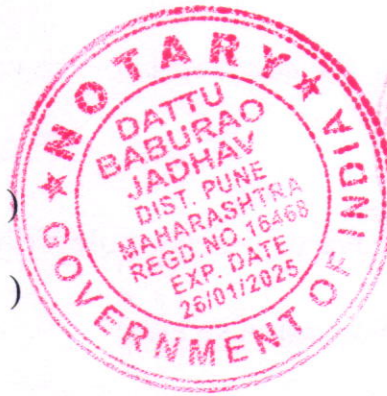
**VERIFICATION**

I, Sandip Shinde, Age: 33 years, Deputy Engineer (Bldg. 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 31<sup>st</sup> day of August, 2023 )

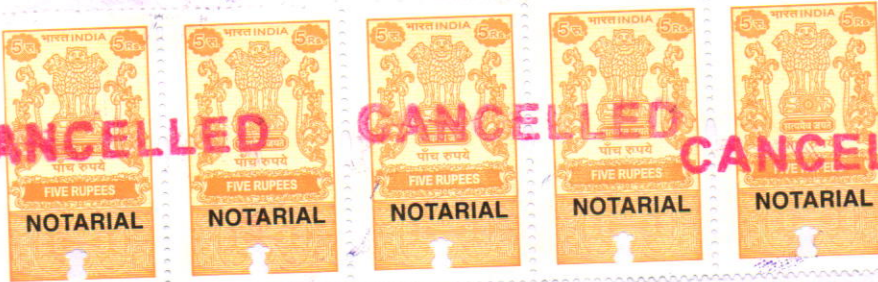
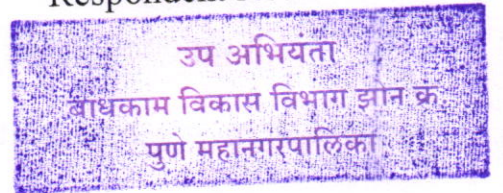
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*[Handwritten signature]*

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Advocate for the Respondent No. 09-10

Respondent No. 09-10



BEFORE ME

*[Handwritten signature]* 31/08/2023

DATTU BABURAO JADHAV  
ADVOCATE & NOTARY  
GOVERNMENT OF INDIA  
DIST. PUNE (MAHARASHTRA)  
REGD. NO. 16468  
EXP. DT. 26/01/2025

सदर दस्ताबाबत भविष्यात काही वाद / तंटा उपस्थित झाल्यास आम्ही उभयंता पक्षकार व्यक्तिज जबाबदार राहू.



NOTED AND REGISTERED  
AT SR. NO. 897/2023  
DATE \_\_\_\_\_

13 1 AUG 2023