

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH
AT PUNE**

ORIGINAL APPLICATION NO. 113 OF 2023(WZ)

**(Under section 18(1) r/w s.14, 15 and 17 of the National Green Tribunal Act,
2010)**

IN THE MATTER OF

Shri. Kapil Baliram Bomnale & Ors.

... Applicants

Versus

Twenty-One Sugars Limited & Ors.

... Respondents

INDEX

Sr. No.	Particulars	Page No.
1.	Reply by and on behalf of Respondent No. 1 to the Report dated 26/09/2024 uploaded 27/09/2024.	1770 – 1779
2.	Affidavit in support of Reply.	1780 – 1781
	Last Page	1781

Place: Mumbai

Date: 17/02/2025



Advocate for Respondent No. 1



Respondent No. 1



**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH
AT PUNE**

ORIGINAL APPLICATION NO. 113 OF 2023(WZ)

**(Under section 18(1) r/w s.14, 15 and 17 of the National Green Tribunal Act,
2010)**

IN THE MATTER OF

Shri. Kapil Baliram Bomnale & Ors.

... Applicants

Versus

Twenty-One Sugars Limited & Ors.

... Respondents

**Reply by and on behalf of Respondent No. 1 to the Report dated 26/09/2024
uploaded on 27/09/2024 is as under:**

The Respondent states at the outset that the contents of the Report dated 26/09/2024 are false, incorrect and therefore denied in toto. The objections taken herein are without prejudice to each other. The Respondent further states that the Respondent has filed its Reply to the Original Application dated 18/11/2023 and a Composite Reply on 20/04/2024 to Joint Committee Report and Form II filed by the Applicants. The said Replies may kindly be read as part and parcel of the present Reply. Delay, if any, in filing the present reply may kindly be condoned.

I. Objections –

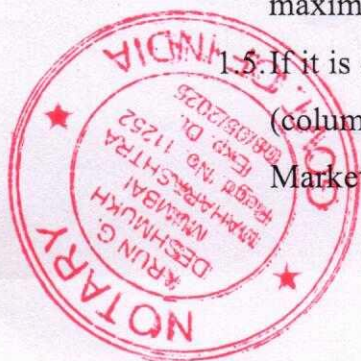
1. Lack of past yield record to demonstrate the actual impact on the earnings of the Applicants:

1.1. The Respondent states that the Applicants have claimed alleged losses suffered based on bills drawn up by the Applicants themselves. The Report dated 26/09/2024 is nothing but a compilation of the Letter dated 25/07/2024 filed by the Applicants, Report dated 06/09/2024 by the Superintendent Agricultural Officer, Nanded and the Reply dated 20/09/2024 filed by the Respondent. The



Report dated 06/09/2024 drawn up on the basis of the Form II submitted by the Applicants and the proceedings before the Hon. SRO, Nanded also takes into consideration the Minimum Support Price (MSP) and the Local Nodal Market Rates. It is the case of the Applicants that *"losses are to be assessed always to the best available rate"*. It is also the case of the Applicants that the actions of Respondent No. 1 have had an effect on the yield of the Applicants. However, the Applicants have failed to establish that the Applicants have consistently been able to sell their produce at the high rates claimed by them prior to 2019 (as claimed by the Applicants). The Applicants have also failed to establish that the Applicants were harvesting a higher yield prior to 2019 (as claimed by the Applicants).

- 1.2. The Respondent states that the Applicants ought to have shown that the Applicants have, regularly and for a long period of time, been able to earn the rates and yield claimed by them and only and only due to the alleged actions of the Respondent, the Applicants have suffered a loss.
- 1.3. Without prejudice to the above, the Respondent states that upon a bare perusal of said report from page Nos. 1539 to 1554 it can be seen that in most cases, the yield has been more than the average expected yield for the areas of the Applicants. In fact, there has been a significant growth in the yield of most of the crops cultivated by the Applicants in their respective farmlands. The Respondent states that such a significant increase is not possible if the soil is as polluted as claimed by the Applicants.
- 1.4. The Respondent further states that if the Actual Yield (column I) claimed by the Applicants is multiplied by the Minimum Support Price (column K) then the Applicants would have earned Rs.2,03,01,019/-. However, the Applicants' claim (though not admitted) that they have earned only Rs.1,87,94,472/- Therefore, the maximum compensation payable would be Rs.15,06,547/-.
- 1.5. If it is considered that the actual yield was equal to the Average Expected Yield (column H) for the respective farmlands and that is multiplied by the Local Market / Nodal Rates (column L) then the Applicants would have earned



Rs.1,03,90,030.56/-. Therefore, the Applicants have earned Rs.84,04,441.44/- more than what they would have earned had their yield not increased as claimed.

2. The Respondent not liable for claims prior to 01/12/2022 –

The Respondent purchased and took over operations of the said factory from 01/12/2022 onwards. Therefore, this Respondent cannot be held liable for any alleged damage that may have occurred prior to 01/12/2022. This Respondent reiterates that this Respondent took over the said factory vide a registered slump sale agreement dated 01/12/2022. The Respondent states that the Respondent is not liable for any actions or omissions by the erstwhile owner of the factory.

3. No demur raised by the Applicants prior to December 2022 –

The Applicants have not brought on record any document which shows any complaints and/or grievances with respect to the alleged emission of effluents and / or pollution by the factory prior to December 2022. It is the claim of the Applicants, as per Form II, that they have suffered loss of income and yield since 2019 however, while the factory was under the operations of the erstwhile owner, the Applicants never raised a single complaint about any pollution being caused by the said factory. Pertinently, the Applicants raised complaints only after the said factory was acquired by this Respondent and after this Respondent took steps to augment and improve the ETP and APCS.

4. Form II & alleged damage not brought on record at the time of filing O.A. No. 113/2023 –

4.1. It appears that the Report dated 06/09/2024 is based on Form II and the reply dated 25/07/2024 filed by the Applicants. It is pertinent to note that in the Original Application filed by the Applicants, the Applicants have not made a single averment with regards to the period from when onwards the applicants were allegedly facing losses due to damage to crops. However, in their Form II, the Applicants have resorted to showing alleged losses suffered from 2019 onwards. This Respondent states that this, coupled with the delayed filing of the



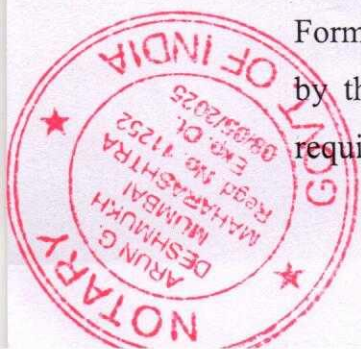
Form II itself is indicative of the entire action of the Applicants being an afterthought with an intent to harass this Respondent.

4.2. From the above it is apparent that the Applicants are using the findings of the Joint Committee to claim exorbitant damages. Needless to say, that the claim of compensation filed by the Applicants is vehemently opposed and categorically denied by this Respondent. In fact, during the pendency of the present proceedings, the Applicants have resorted to making false statements before the print and television media and have published defamatory statements against this Respondent. This substantiates the claim of this Respondent that these proceedings are nothing but a politically motivated vendetta and an arm-twisting tactic to extort money from this Respondent.

5. Discrepancies in Form II, Reply dated 25/07/2024 and the documents filed in support thereof filed by the Applicants –

5.1. Upon a bare perusal of the averments in Form II filed by the Applicants, it appears that it is the case of the Applicants that the Applicants are farmers and have been conducting agricultural activities on their lands since at least 2019. The Applicants have also annexed to their Form II, a working sheet of the losses allegedly suffered by them since 2019. The Applicants have quantified the alleged damages suffered by them to the tune of Rs. 2,12,85,078/- (Rupees Two Crore Twelve Lakh Eighty-Five Thousand & Seventy-Eight Only).

5.2. The Applicants have produced several bills evidencing sale of crops at lower price as Annexure B to their Reply dated 25/07/2024 before the Hon'ble Committee since 2019 onwards to the tune of INR 1,85,06,238/- (Rupees One Crore Eight-Five Lakh Six Thousand Two Hundred & Thirty-Eight Only). The Applicants, claiming to have numerous such bills evidencing sale of their crops were always supposed to be in a position to produce these bills along with the Form II. However, they have produced these bills only after several reminders by the Hon'ble Committee only on 25/07/2024, further delaying the report required to be submitted by the Hon'ble Committee. The veracity and



authenticity of the said bills is in serious doubt in light of these aforesaid circumstances.

- 5.3. The crops claimed to have been grown by the Applicants in their Form II do not match with the 7/12 Extracts. The Applicants in their Form II have claimed that they have informed Talathi about the change in their crops, however, have not produced any proof of such intimation and in absence of any proof the same cannot be relied upon and thus claims in Form II are false and untenable. The Respondent No. 1 further states that in the absence of the mention of several crops in the 7/12 extract, it is not possible to ascertain any alleged losses suffered.
- 5.4. It is reiterated that the Applicants have not served the Respondent with the entire copy of the letter dated 25/07/2024. The Applicants have conveniently enclosed only Annexure B to their letter dated 25/07/2024 and Annexures A, C and D have not been annexed in the Copy of the said letter supplied to the Respondent. Thus, the Respondent's objections with reference to the Report dated 06/09/2024 are limited to the documents annexed therewith and received by the Respondent.
6. Applicants are claiming losses as per APMC rates – Receipts do not show sale of produce to APMC licensed vendors / traders –
- 6.1. The Applicants have access to APMC registered markets and the licensed dealers / vendors / traders. As per the Form II as well as the Reply dated 25/07/2024 filed by the Applicants, it appears that the Applicants have sold their produce at rates determined by the APMC. However, several bills produced by the Applicants appear to be issued by persons who are not licensed dealers / vendors / traders registered with APMC.
- 6.2. As per the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 receipt of sale issued to the farmer after sale of agricultural produce in the market committee must contains the details of the farmer's name, the name of the commission agent and his license number, the name of the purchaser / trader, the name and weight of the agricultural produce,



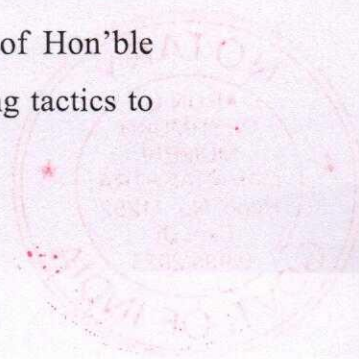
the rate and the total price. However, upon a bare perusal of Annexure B annexed to the Reply dated 25/07/2024 it appears that most of the said bills are handwritten 'Kachha' bills, without any license numbers, GST registrations or charges except those issued by the Respondent factory itself.

6.3. The rates of sugarcane provided to the Applicants from the factory as per the bills produced by them are the standard rates given by the factory to all farmers, which again reveals the fact that there has been no damage caused to the crops. Various such observations are noticed in the said bills which bring serious doubt on the veracity of the said bills produced. The said observations are annexed to the Reply dated 20/09/2024 as Annexure A.

7. Loss in quality of produce due to environmental factors –

7.1. The Respondent further states that, the Government record reveals that the Applicants have also been obtaining grants and compensation on account of damage to crops due to excess rainfall / flood from the Government. Government records obtained from Tehsil Office, Loha reveal that such grants and compensations were awarded to 28 applicants in the year 2022 due to heavy rain in June, July and August 2022. The said record is annexed to the Reply dated 20/09/2024 as Annexure B. The Applicants have on the one hand been claiming grants and compensation from the Government for damage to crops due to heavy rain or other reasons and on the other are also claiming damages from the factory due to alleged pollution. Both are contradictory statements and casts grave and serious doubt as to the truth and veracity of the claim of the Applicants. Therefore, it is necessary that the Applicants be directed to bring on record all other compensation claimed or obtained from Government or any other sources for damage to crops.

7.2. Above facts very clearly demonstrate that the Applicants claims are false and baseless in fact the Applicants are using the judicial machinery of Hon'ble National Green Tribunal for vindictive purposes and as arm twisting tactics to extort money from this Respondent.



8. No deterioration of soil quality from discharge from industry –

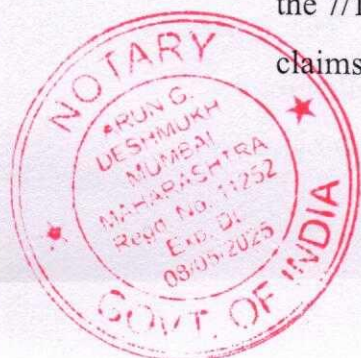
The Respondent states that para. No. 5 (xix) of the Report of the Hon'ble Joint Committee appointed vide Hon'ble NGT Order dated 01/09/2023 clearly mentions that the representative soil samples collected across the alleged locations does not show the degraded soil quality due to industrial emissions or due to industrial effluent discharges. Thus there is no effect to the yield of the land and thus no compensation can be considered towards loss of yield as falsely claimed by the Applicants in their Form II.

9. Loss in yield not substantiated – Surplus in several crops –

The Applicants have claimed loss of yield, however, not provided any documents evidencing the expected yield from the respective land. In fact, on a bare perusal of the Form II filed by the Applicants and the Report dated 06/09/2024 it appears that there is an exponential surplus yield of several crops. The sale of such produce has surpassed the average income expected.

10. Types and quantities of produce not disclosed – fetch varying prices as per APMC or market rates –

10.1. The Respondent states that the Applicants have failed to provide the true and correct information of the crops produced by them. The Applicants have stated that crops such as cotton, turmeric, gram, sorghum, wheat, tur, sugarcane are cultivated by them. The Report dated 06/09/2024 also captures the same. However, it is pertinent to note that there are several varieties and types of cotton, turmeric, gram, sorghum, wheat, tur, sugarcane etc. Each such type and variety fetches a different market rate as well as APMC rate. The Applicants appear to have chosen the highest rate leviable for each of these crops in determining the alleged loss sustained by them. The Respondent reiterates here that the crops claimed to have been grown by the Applicants in their Form II do not match with the 7/12 Extracts. Therefore, in the absence of correct and lawful documents, the claims for compensation on account of loss made by the Applicants is untenable.



formulating a draft report. The Respondent states that the Report was already formulated on 06/09/2024 by the Superintendent Agricultural Officer, Nanded and thereafter on 13/09/2024 the reply of the Respondent was called and the matter is posted on 24/09/2024. The Respondent filed its Reply on 20/09/2024. The Respondent states that the Reply dated 20/09/2024 of the Respondent was not considered for arriving at the conclusions mentioned in the Report dated 06/09/2024. The Committee had thereafter uploaded the entire compilation of documents on 27/09/2024 without taking into consideration the Reply dated 20/09/2024 filed by the Respondent and without making any changes to the Report dated 06/09/2024.

12.2. The Report dated 06/09/2024 is nothing but a compilation of the data submitted by the parties. The said report does not come to any substantive findings in favour of or against either party. In fact, vide Order dated 22/04/2024 this Hon. Tribunal had directed the constitution of the Joint Committee to verify and ascertain the claims of the Applicants under Form II. However, the Joint Committee has failed to meet the directive of the Hon Tribunal and has proceeded to merely compile data without verifying the authenticity or veracity of the same.

12.3. In such circumstances, the Joint Committee Report dated 06/09/2024 cannot be relied upon to affix any liability upon the Respondent for the alleged losses faced by the Applicants.

13. In light of the above, the Respondent states that the personal compensation calculated vide Report dated 26/09/2024 cannot be relied upon. Hence, the claim of the Applicants is liable to be dismissed as the Applicants are not entitled to any reliefs and / or compensation much less the same sought for in their petition, Form II, application.

II. In light of the above, it is therefore humbly prayed that:



- a. Delay, if any, in filing the present Reply may kindly be condoned and the present Reply may kindly be taken on record.
- b. The claim of the Applicants be dismissed with costs.
- c. Any other order in the interest of justice may kindly be passed.

Place: MUMBAI

Date: 17/02/2025

Advocate for Respondent No. 1

Respondent No. 1



Verification

I, Shailesh Sawant, Age: Adult, Occ.: Service, R/at: B-2, Om Shanti Co-op. Hsg. Soc. Ltd., Borivali (E), Mumbai – 400066, the Authorised Representative of Respondent No. 1 herein do state on solemn affirmation that whatever is state above is true and correct to the best of my knowledge, belief and information and hence I have signed the same on this17th..... day of February, 2025 at Mumbai.



Respondent No. 1



BEFORE ME

NOTARY REGISTER ENTRY
Sr. No: 1973 Page: 87
Date: 17/2/2025

ARUN G. DESHMUKH
REGD. No. 11252 B.Com., LL.B.,
ADVOCATE HIGH COURT
NOTARY GOVT. OF INDIA
Pascal Kinny House, Office No. 2,
1st Floor, Beside Excel Germent,
Worli, Mumbai - 400 030



**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH
AT PUNE**

ORIGINAL APPLICATION NO. 113 OF 2023(WZ)

(Under section 18(1) r/w s.14, 15 and 17 of the National Green Tribunal Act,
2010)

IN THE MATTER OF

Shri. Kapil Baliram Bomnale & Ors.

... Applicants

Versus

Twenty-One Sugar Limited & Ors.

... Respondents

AFFIDAVIT

I, Shailesh Sawant, Age: adult, Occ.: Service, R/at: B-2 303, Om Shivai Co-op. Hsg. Soc. Ltd., Borivali (E), Mumbai – 400066, the Authorised Representative of the Respondent No. 1 herein do state on solemn affirmation as under:

1. That I am working as the Accounts Manager with Twenty One Sugars Ltd. (the Respondent No. 1 herein) and have been, vide Board Resolution dated 17/10/2023, duly authorized to sign & verify the accompanying Reply / Submissions, to file the documents, to sign the Vakalatnama and to as such other acts as may be necessary for filing the accompanying Reply / Submissions.
2. The accompanying Reply / Submissions have been drafted under my instructions. I repeat, reiterate, confirm, verify and affirm the statements and averments made in the said Reply / Submissions and for the sake of brevity the same may be treated as forming part of this Affidavit.
3. Hence this Affidavit.



Whatever is stated above is true and correct to the best of my knowledge, information and belief and hence I have signed the same on this ...17th... day of February 2025 at Mumbai.

I Identify the Affiant.

Arun G. Deshmukh

Advocate

Sh. Shailesh Sawant

Affiant

Mr. Shailesh Sawant
Authorised Representative of
Twenty One Sugars Ltd.
Respondent No. 1



BEFORE ME

NOTARY REGISTER ENTRY
Sr. No.: 1974 Page: 87
Date: 17/2/2025

ARUN G. DESHMUKH
REGD. No. 11252 B.Com., LL.B.,
ADVOCATE HIGH COURT
NOTARY GOVT. OF INDIA
Pascal Kinny House, Office No. 2,
1st Floor, Beside Excel Garment,
Worli, Mumbai - 400 030